
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 94

**The Prisons and Young Offenders
Institutions (Scotland) Rules 2006**

PART 17

VISITING COMMITTEES

Application of Part 17

154.—(1) Except as mentioned in paragraphs (2) and (3), this Part shall apply to visiting committees for prisons and young offenders institutions.

(2) Rule 156 does not apply to visiting committees for prisons.

(3) In the application of this part to young offenders institutions and visiting committees for such institutions—

(a) in rule 157—

(i) paragraph (2) shall not apply; and

(ii) in paragraph (5), the words “required to be” shall be omitted; and

(b) rules 155 and 164 and Schedule 2 and 3 shall not apply.

Constitution of visiting committees

155.—(1) There shall be a visiting committee constituted in accordance with this rule for each prison specified in column 1 of Schedule 2.

(2) The members of a visiting committee constituted in accordance with this rule for each prison specified in column 1 of Schedule 2 shall be appointed in accordance with this rule by the council or councils specified in column 2 of that Schedule in relation to that prison and each such council shall appoint the number of members of the committee specified in column 3 of that Schedule in relation to that council.

(3) In appointing the members of a visiting committee for each prison specified in column 1 of Schedule 2 each council responsible for appointing the members shall ensure that the total number of members specified in column 3 of that Schedule in relation to that prison and council shall include not fewer than the number of members specified (where a number is specified) in column 4 of that Schedule in relation to that prison and council being persons who are not members of the council which appoints them.

(4) Any person with a direct financial interest in any contract for the supply of goods or services to any prison shall not be eligible for appointment to a visiting committee in terms of this rule.

(5) The member or members of a visiting committee to be appointed by a council in terms of paragraph (2) shall be appointed at a meeting of the council and thereafter shall be so appointed at a meeting of that council held not later than 2 months after the date of the ordinary election of councillors.

(6) Any member of a visiting committee appointed by a council in accordance with paragraphs (2) and (5) shall take office on the day which falls 2 months after the date of the respective ordinary election of councillors and shall hold office, unless they earlier cease to hold office by virtue of paragraph (7), until the day prior to the day which falls 2 months after the date of the next ordinary election of councillors.

(7) A member of a visiting committee shall cease to hold office if—

- (a) he or she resigns;
- (b) either the council who appointed the member or the Scottish Ministers terminate the member's appointment if either is satisfied that—
 - (i) the member has failed satisfactorily to perform his or her duties;
 - (ii) the member is for any other reason incapable of carrying out his or her duties;
 - (iii) subsequent to his or her appointment, the member has been convicted of such a criminal offence, or their conduct has been such, that it is not fitting that he or she should remain a member; or
 - (iv) the member has a direct financial interest contrary to the terms of rule 163; or
- (c) having been appointed a member whilst also a member of the council, the council terminate his or her appointment by reason of having ceased to be a member of the council.

(8) The chairman of a visiting committee shall report to the council responsible for appointing any member of the visiting committee any circumstances which the chairman considers might reasonably give cause for termination in terms of paragraph (7) of the appointment of the member appointed by that council.

(9) If for any reason the requisite number of members of a visiting committee is not appointed at the proper time in terms of paragraph (5), or if for any cause a vacancy occurs in a visiting committee, the council responsible for the appointment may at any time and as soon as possible after the vacancy occurs appoint a person to fill the vacancy.

Minimum number of women members of visiting committees for young offenders institutions

156. Of the total membership of the visiting committee for each young offenders institution appointed by the Scottish Ministers under section 19(3) of the Act, not fewer than one third, with a minimum of two, shall be women.

Proceedings of visiting committees

157.—(1) At the first meeting of a visiting committee, the members shall—

- (a) elect from the membership, a chair and a deputy chair each for a period of 4 years, and thereafter shall fill any vacancy in that office promptly; and
- (b) appoint a person (not being an officer of the Scottish Ministers) to act as a clerk to the Committee.

(2) The chair of the visiting committee shall report to the Scottish Ministers the names and addresses of the members of the committee immediately after the first meeting and, thereafter, whenever a change in these details or in the membership occurs.

(3) The visiting committee for a prison shall meet at the prison at least once in every period of 3 months.

(4) A visiting committee may appoint from its membership sub committees and may delegate specific duties to any such sub committee for the purpose of carrying out its functions.

(5) A visiting committee shall fix a quorum of not less than one-third of the total number of members required to be appointed to that committee for the purpose of its proceedings, and for the proceedings of any sub committee appointed under paragraph (4).

(6) The proceedings of a visiting committee shall not be invalidated by any vacancy in the membership or any defect in the appointment of a member.

(7) A visiting committee shall keep minutes of its proceedings and shall send a copy of such minutes to the Governor and to the Scottish Ministers as soon as reasonably practicable after the relevant proceedings.

General duties of visiting committees and members of committees

158.—(1) A visiting committee shall co-operate with the Scottish Ministers and the Governor in promoting the efficiency of the prison and shall inquire into and report to the Scottish Ministers upon any matter into which they may ask it to inquire.

(2) The visiting committee shall—

- (a) immediately bring to the notice of the Governor any circumstances relating to the administration of the prison or the condition of any prisoner which appear to it to be expedient to report for the Governor's consideration; and
- (b) bring such circumstances to the notice of the Scottish Ministers if it appears to the committee that the Governor has not remedied any matter which the Committee has notified to the Governor in terms of sub paragraph (a) within such period as appears to the committee to be reasonable.

(3) The visiting committee shall from time to time inquire into the state of the prison premises and shall—

- (a) inspect, in particular, the food and drink provided to prisoners; and
- (b) in relation to any such inquiry—
 - (i) record particulars of every visit made, together with any deficiencies found during such visits, in the committee's minute book; and
 - (ii) promptly send a copy of such particulars to the Scottish Ministers and to the Governor.

(4) The visiting committee shall also discharge such other duties as the Scottish Ministers may from time to time assign to it.

(5) No person who is or has been a member of a visiting committee shall disclose any information mentioned in paragraph (6) which the person holds or has held as a member.

(6) The information referred to in paragraph (5) is any information obtained—

- (a) by any member of a visiting committee which relates to the prison, any officer of the prison or any prisoner; and
- (b) on terms or in circumstances requiring it to be held in confidence.

(7) Paragraph (5) does not apply to any disclosure of information mentioned in paragraph (6) made to any person, or for any purpose, permitted by the provisions of this Part.

Investigation of complaints

159.—(1) The visiting committee and any member shall hear and investigate any complaint which a prisoner makes to the committee and the member.

(2) Where a member of the committee wishes to see any prisoner in connection with a complaint, the Governor shall make arrangements for the member to do so, whether in the prisoner's room or

cell or in some other part of the prison, but in any case outwith the sight and hearing of an officer unless either party requests otherwise.

- (3) The visiting committee shall—
- (a) record particulars of its findings in relation to its investigation of a prisoner's complaint in its minute book;
 - (b) promptly send a copy of such findings to the Scottish Ministers and to the Governor; and
 - (c) orally inform the prisoner concerned of its findings.

Visits to prisons by members of visiting committees

160. Not fewer than 2 members of a visiting committee shall visit the prison at least fortnightly and for this purpose the committee shall arrange a rota of attendance at the prison.

Inspection of prison records

161.—(1) The visiting committee or any member of the committee may inspect prison records other than—

- (a) personnel records;
- (b) prisoners' records; and
- (c) security manuals or other papers which have implications for security.

(2) The visiting committee shall record particulars of any inspection of prison records in its minute book.

Annual report

162.—(1) The visiting committee shall make an annual report for the period of 12 months ending on 31st March each year to the Scottish Ministers concerning the state of the prison and its administration and may include in it any advice and suggestions it considers appropriate.

(2) The said annual report shall be delivered as soon as possible after the last day of March in each year.

Conflicts of interest

163. A member of the visiting committee shall not have any direct financial interest in any contract for the supply of goods or services to the prison for which the committee is appointed or any other prison.

Visiting committees for legalised police cells

164.—(1) There shall be a visiting committee constituted in accordance with this rule for the legalised police cells specified in column 1 of Schedule 3 to these Rules.

(2) The members of a visiting committee for the legalised police cells specified in column 1 of Schedule 3 shall be appointed in accordance with this rule by the council or councils specified in column 2 of that Schedule in relation to those cells and each such council shall appoint the number of members of the committee specified in column 3 of that Schedule in relation to that council.

(3) In relation to the legalised police cells specified in Schedule 3 and to the visiting committees constituted in accordance with this rule and to the members and officers of any such committees, the following provisions of these Rules shall apply subject to the modifications specified in paragraphs (4) to (7):—

- (a) in rule 155, paragraphs (4) to (8);

- (b) in rule 157, paragraphs (1) to (3) and (6) and (7);
 - (c) rule 158;
 - (d) rule 159;
 - (e) rule 160;
 - (f) rule 161;
 - (g) rule 162; and
 - (h) rule 163.
- (4) The provisions specified in sub paragraphs (a) to (h) of paragraph (3) shall apply as if–
- (a) any reference to “prison” were a reference to the relevant legalised police cells;
 - (b) any reference to “Governor” were a reference to the constable who is in charge of the cells.
- (5) Rule 157(7) shall apply as if the words “the Governor and to” were omitted.
- (6) Rule 160 shall apply as if for the words from the beginning to the word “fortnightly” read “A member of a visiting committee shall visit the legalised police cells on at least one occasion in a month if any prisoners have been detained in the cells within the preceding month”.
- (7) Rule 161 shall apply as if–
- (a) in paragraph (1), the words after “inspect” read “records relating to the legalised police cells and any record kept at the cells which relates to a prisoner who is or has been detained in them.”; and
 - (b) in paragraph (2), the words “prison records” read “any such records as mentioned in paragraph (1)”.