
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 331

**The Prisons and Young Offenders
Institutions (Scotland) Rules 2011**

PART 10

SECURITY

SUPERVISION AND CONTROL OF VISITORS

Admission of visitors

105.—(1) Any person seeking access to the prison as a visitor for any purpose must, on the request of an officer—

- (a) state his or her name and address and the purpose of his or her visit;
- (b) produce a valid form of identification if so required by an officer;
- (c) deposit for the duration of the visit any article in the visitor's possession which the officer considers may be prejudicial to the security and good order of the prison or to the safety of any person.

(2) Where a person seeks access to the prison as a visitor for any purpose, an officer may request the visitor's consent—

- (a) to have the visitor's photo taken; and
- (b) to have that photo retained on a database under the control of the Governor.

(3) Where a visitor consents to have their photo taken and retained in accordance with paragraph (2), that photo shall be retained by the Governor—

- (a) only for the purposes of prison order and security, the prevention and detection of crime and the safety of any person within the prison;
- (b) in accordance with such conditions as may be prescribed in a direction by the Scottish Ministers;
- (c) where the visitor is visiting a prisoner, until the prisoner whom the visitor is seeking to visit has been released from prison whereupon it must be destroyed; and
- (d) where the visitor is not visiting a prisoner, for a maximum period of six months, upon the expiry of which it must be destroyed.

(4) An officer may refuse access to the prison to any person seeking access as a visitor where the officer is satisfied that—

- (a) the person has failed to comply with paragraph (1);
- (b) the person does not satisfy the officer as to his or her identity;
- (c) the person refuses to consent to have his or her photo taken and retained under paragraph (2);

- (d) the person refuses to consent to a search for the purposes of rule 106 or is obstructive in the course of such a search;
 - (e) the person has possession of a prohibited article or any unauthorised property relative to the prisoner being visited;
 - (f) the officer has reasonable grounds for suspecting that the person may attempt to breach rule 102 or 103; or
 - (g) it is necessary to refuse the person access to the prison in the interests of the security and order of the prison or the safety of any person within the prison.
- (5) Where an officer refuses access to the prison to any person under paragraph (2), the officer must keep a written record of the particulars of that decision including the reasons for taking the decision.
- (6) A person to whom rule 73 applies who seeks to enter the prison for the purposes of a visit as mentioned in that rule must, immediately on arrival, inform an officer of that fact.
- (7) The Governor must ensure that a notice is displayed in a prominent position in the entrance and visiting areas of the prison explaining the effect of—
- (a) this rule and rules 106 and 107;
 - (b) section 41 of the Act; and
 - (c) any direction made under rule 77.
- (8) A visitor must not smoke on any part of the prison premises.
- (9) In this rule, and in rules 106 and 107, “visitor” does not include—
- (a) an officer or employee;
 - (b) a healthcare professional; or
 - (c) a person providing contracted out services to the prison.

Searching of visitors

- 106.**—(1) An officer may request a visitor to consent to a search which may involve any number of the following processes—
- (a) a search of the visitor’s person;
 - (b) a search of the visitor’s clothing;
 - (c) a visual examination of the visitor’s open mouth but no equipment or force may be used;
 - (d) a search of any items of property in the visitor’s possession;
 - (e) where the visitor is in charge of any vehicle which they intend to take into any restricted area of the prison, a search of that vehicle and any items of property found in that vehicle.
- (2) Where the visitor has given his or her consent to be searched following a request made under paragraph (1), the officer may conduct a search of the visitor—
- (a) prior to the visitor’s admission to the prison;
 - (b) at any time whilst the visitor is in the prison where the Governor considers that—
 - (i) the visitor has failed to comply with rule 105(6);
 - (ii) in the case of any visit taking place in terms of rule 73, the terms of an undertaking given for the purposes of rule 73(3), have been breached;
 - (iii) there has been a contravention of any restrictions or conditions specified in a direction made under rule 77(3); or

- (iv) the visitor may have in his or her possession a prohibited article or any unauthorised property in relation to the prisoner being visited; and
- (c) in the case of a search of any vehicle in accordance with paragraph (1)(e)—
 - (i) prior to the vehicle entering any restricted area of the prison; and
 - (ii) prior to the vehicle leaving any restricted area of the prison.
- (3) Where a search is conducted under this rule—
 - (a) in the case of a search mentioned in paragraph (1)(a) or (b) the officer conducting the search must be of the same gender as the visitor;
 - (b) the search must be conducted as quickly and decently as possible; and
 - (c) the use of force by the officer conducting the search is not permitted.
- (4) A visitor who is being searched under this rule cannot be required to remove, and a search under this rule must not involve the removal of, any clothing other than an outer coat, jacket, headgear, gloves and footwear.
- (5) A search conducted under paragraph (1), other than a search carried out under paragraph (1)(c), may be carried out by—
 - (a) hand;
 - (b) the use of equipment involving the application of a suction device or a swab on or to the visitor's clothing, any items of property mentioned in paragraph (1)(d) or (e), or any vehicle mentioned in paragraph (1)(e) in order to collect substances from their surface;
 - (c) the use of equipment involving the analysis of substances collected under sub-paragraph (b) for the purpose of ascertaining whether any of them consists of a controlled drug or an explosive substance;
 - (d) the use of equipment designed to detect the existence of metal objects or prohibited articles; and
 - (e) the use of trained sniffer dogs under the control of a trained officer.
- (6) Where a search conducted under this rule involves the use of equipment under paragraph (5)(b), (c) or (d), that equipment must be used in accordance with the manufacturers instructions.
- (7) Where an officer finds any prohibited article in the course of a search conducted under this rule, he or she may seize that article and deal with it in accordance with rule 104.
- (8) Where a visitor is searched by an officer under section 41(2A) of the Act(1)—
 - (a) an officer of the same gender as the visitor must conduct the search and another officer of the same gender must be present during the search;
 - (b) subject to sub-paragraph (c), the search must be conducted outwith the sight of any person who is not an officer;
 - (c) where the visitor is under 16 years of age, the search must be conducted in the presence of an accompanying adult;
 - (d) the search must be conducted as quickly and decently as possible; and
 - (e) if it is necessary to use reasonable force under section 41(2B)(d) of the Act(2), the force used must be proportionate to the threat or resistance posed by the visitor.
- (9) For the purposes of this rule—

(1) 1989 c.45; section 41(2A) was added by the Criminal Justice and Public Order Act 1994 (c.33), section 153(3) and was amended by the Criminal Justice and Licensing (Scotland) Act 2010 asp 13, section 34(1).

(2) 1989 c.45; section 41(2B) was added by the Criminal Justice and Public Order Act 1994 (c.33), section 153(3) and was amended by the Criminal Justice and Licensing (Scotland) Act 2010 asp 13, section 34(1).

- (a) any power to search includes the power to examine; and
- (b) a “restricted area of the prison” means any area of the prison to which access is controlled but does not include car parks provided for the use of visitors, persons providing contracted out services, healthcare professionals, officers or employees.

Removal of visitors

107.—(1) An officer may terminate a visit and remove a visitor from the prison where—

- (a) the officer has reasonable grounds for suspecting that the visitor—
 - (i) has in his or her possession any prohibited article or unauthorised property relative to the prisoner being visited;
 - (ii) is taking out or attempting to take out any unauthorised property or prohibited article;
 - (iii) has failed to comply with rule 105(6); or
- (b) the officer considers that—
 - (i) the conduct of any visitor is prejudicial to the security and order of the prison or the safety of any person within the prison;
 - (ii) it is necessary to terminate the visit and remove the visitor in the interests of the security and order of the prison or the safety of any person within the prison;
 - (iii) it is necessary to terminate the visit and remove the visitor for the prevention of crime;
 - (iv) in the case of any visit taking place in terms of rule 73, the terms of any undertaking given for the purposes of rule 73(3) have been breached;
 - (v) there has been a contravention of any restrictions or conditions specified in a direction made by virtue of rule 77(3); or
 - (vi) the visitor has breached rule 105(8).

(2) Where an officer terminates a visit and removes a visitor under paragraph (1) the officer must record this decision and the reasons for taking it in writing.

Searching of specified persons

108.—(1) This rule applies to—

- (a) persons providing contracted out services to the prison; and
- (b) healthcare professionals.

(2) The Governor may authorise the search, at any time, of a person to whom this rule applies and this search may involve any number of the following processes—

- (a) a search of their person;
- (b) a search of their clothing;
- (c) a visual examination of their open mouth but no equipment or force may be used;
- (d) a search of any items of property in their possession including any items of property kept by them in a locker or any other place within the prison;
- (e) a search of any equipment, plant, machinery or laptop or desktop computers used or installed by them within the prison;
- (f) where they are in charge of any vehicle which they intend to take into any restricted area of the prison, a search of that vehicle and any items of property found in that vehicle.

(3) Where a search is conducted under this rule—

- (a) in the case of a search mentioned in paragraph (2)(a) or (b) the officer conducting the search must be of the same gender as the person being searched;
 - (b) the search must be conducted as quickly and decently as possible;
 - (c) except in the case of a search under paragraph (2)(c), the use of reasonable force is permitted where it is necessary and such force must be reasonable and proportionate to the threat or resistance posed by the person being searched.
- (4) A person who is being searched under this rule cannot be required to remove, and a search under this rule must not involve the removal of, any clothing other than an outer coat, jacket, headgear, gloves and footwear.
- (5) A search conducted under paragraph (2), other than a search carried out under paragraph (2)(c), may be carried out by—
- (a) hand;
 - (b) the use of equipment involving the application of a suction device or a swab on or to the person's clothing, any items of property mentioned in paragraph (2)(d) or (f), any item mentioned in paragraph (2)(e) or any vehicle mentioned in paragraph (2)(f) in order to collect substances from their surface;
 - (c) the use of equipment involving the analysis of substances collected under subparagraph (b) for the purpose of ascertaining whether any of them consists of a controlled drug or an explosive substance;
 - (d) the use of equipment designed to detect the existence of metal objects or prohibited articles; and
 - (e) the use of trained sniffer dogs under the control of a trained officer.
- (6) Where a search conducted under this rule involves the use of equipment under paragraph (5)(b), (c) or (d), that equipment must be used in accordance with the manufacturers instructions.
- (7) Where an officer finds any prohibited article in the course of a search conducted under this rule, he or she may seize that article and deal with it in accordance with rule 104.
- (8) Where a person to whom this rule applies is searched by an officer under section 41(2A) of the Act—
- (a) an officer of the same gender as the person being searched must conduct the search and another officer of the same gender must be present during the search;
 - (b) the search must be conducted outwith the sight of any person who is not an officer;
 - (c) the search must be conducted as quickly and decently as possible; and
 - (d) if it is necessary to use reasonable force under section 41(2B)(d) of the 1989 Act, the force used must be proportionate to the threat or resistance posed by the person being searched.
- (9) For the purposes of this rule—
- (a) any power to search includes the power to examine; and
 - (b) a “restricted area of the prison” means any area of the prison to which access is controlled but does not include car parks provided for the use of visitors, persons providing contracted out services, healthcare professionals, officers or employees.

Viewing of prisons

- 109.**—(1) A person may only view a prison if that person is authorised to do so—
- (a) under any enactment;
 - (b) under the EU treaties or any EU instrument;
 - (c) under any international treaties to which the United Kingdom is party; or

(d) by the Governor or the Scottish Ministers.

(2) Any person who is authorised to view the prison must not—

(a) take photographs, images, drawings or sketches;

(b) make any live or recorded broadcast;

(c) make any film or sound recording; or

(d) interview or communicate by any means with a prisoner,

unless authorised to do so by any enactment or treaty or by the Governor or the Scottish Ministers.

(3) Without prejudice to paragraph (2), a person who is authorised by the Governor or the Scottish Ministers to view the prison must not take photographs or make any film or sound recording of a prisoner or an officer without the prior consent of the prisoner or officer.