
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 331

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

PART 17

VISITING COMMITTEES

Application of Part 17

145.—(1) Subject to paragraphs (2), (3) and (4), this Part applies to visiting committees for prisons and young offenders institutions.

(2) Rules 147 and 155 and Schedule 3 do 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) rule 146 and Schedule 2 do not apply;

(b) in rule 148—

(i) paragraph (4) does not apply; and

(ii) in paragraph (7), the words “required to be” are to be omitted;

(c) rule 155 and Schedule 3 do not apply; and

(d) without prejudice to rule 2(4), any reference to a visiting committee for a prison in this Part shall be construed as including a visiting committee for a young offenders institution.

(4) Rule 155 and Schedule 3 apply to visiting committees for legalised police cells.

Constitution of visiting committees for prisons

146.—(1) A visiting committee must be constituted, in accordance with this rule, for each prison specified in column 1 of Schedule 2.

(2) In relation to each such visiting committee—

(a) the members of the visiting committee must be appointed by the council or councils specified in column 2 of Schedule 2 opposite to the name of the prison specified in column 1 of that Schedule;

(b) the number of members that each council must appoint to the visiting committee is specified in column 3 of that Schedule; and

(c) the number of members who must be appointed by each council but who must not be members of that council is specified in column 4 of that Schedule .

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

(4) The member or members of a visiting committee to be appointed by a council in terms of paragraph (2) must be appointed—

- (a) subject to the following sub-paragraphs, at a meeting of that council held no later than 2 months after the date of the ordinary election of the council;
 - (b) if for any reason the requisite number of members of a visiting committee is not appointed at the proper time in terms of sub-paragraph (a), at a meeting of the council held as soon as possible after that time;
 - (c) if a member of the visiting committee ceases to hold office by virtue of paragraph (7), at a meeting of the council held as soon as possible after that member ceases to hold office; and
 - (d) if for any other reason a vacancy occurs in a visiting committee, at a meeting of the council held as soon as possible after the vacancy occurs.
- (5) A member of a visiting committee appointed by a council under—
- (a) paragraph (4)(a), will take office on the day which falls 2 months after the date of the ordinary election of the council;
 - (b) paragraph (4)(b), (c) or (d), will take office on the day following the appointment.
- (6) A member of a visiting committee appointed by a council under paragraph (4) holds office until—
- (a) he or she ceases to hold office by virtue of paragraph (7); or
 - (b) until the day prior to the day which falls 2 months after the date of the next ordinary election of the council.
- (7) A member of a visiting committee ceases to hold office if—
- (a) he or she resigns;
 - (b) the council who appointed the member terminates the member's appointment on being 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 the member's 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 154; or
 - (c) having been appointed a member whilst also a member of a relevant council under Schedule 2, that council terminates his or her appointment by reason of having ceased to be a member of the council.
- (8) The chair of a visiting committee must report any circumstances which he or she considers might reasonably give cause for termination, in terms of paragraph (7), of the appointment of a member of the visiting committee to the council responsible for appointing the member of the visiting committee.
- (9) In this rule, “the ordinary election of the council” means the first ordinary election of councillors of the council under section 5 of the Local Government Etc. (Scotland) Act 1994⁽¹⁾.

Constitution of visiting committees for young offenders institutions

147. 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, must be women.

⁽¹⁾ 1994 c.39; section 5 was amended by the Local Governance (Scotland) Act 2004 (asp 9), section 5(2); the Scottish Local Government (Elections) Act 2002 (asp 1), section 4(2); and the Scottish Local Government (Elections) Act 2009 (asp 10), section 1(1) and Schedule 1, paragraph 2.

Proceedings of visiting committees

148.—(1) At the first meeting of a visiting committee, the members must—

- (a) elect from the membership, a chair and a deputy chair each for a period of 4 years; and
- (b) appoint a person (not being a member of staff of the Scottish Administration) to act as a clerk to the Committee.

(2) A person elected to be a chair or a deputy chair of the visiting committee may resign the office at any time and must do so if that person, for whatever reason, ceases to hold office as a member of the committee.

(3) In the event of any vacancy in the office of chair or deputy chair of a visiting committee, the members must, as soon as practicable, elect another member to fill the vacancy and to hold office for the remaining part of the period of 4 years.

(4) The chair of the visiting committee for a prison must 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.

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

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

(7) A visiting committee must 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 (6).

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

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

General duties of visiting committees and members of committees

149.—(1) A visiting committee must co-operate with the Scottish Ministers and the Governor of the relevant prison in promoting the efficiency of the prison and must inquire into and report upon any matter at the request of the Scottish Ministers.

(2) The visiting committee must—

- (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 must from time to time inquire into the state of the prison premises and must—

- (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 must also discharge such other duties as the Scottish Ministers may from time to time assign to it.

(5) A person who is or has been a member of a visiting committee must not 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

150.—(1) The visiting committee or any member of the committee must hear and investigate any complaint which a prisoner makes to the committee or to the member.

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

- (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 of the relevant prison; and
- (c) inform the prisoner concerned of its findings.

Visits to prisons by members of visiting committees

151.—(1) At least two members of the visiting committee for a prison must visit the prison at least fortnightly.

(2) In complying with paragraph (1), visiting committees must ensure that, in every fortnight, at least—

- (a) one member visits the prison weekly, or
- (b) two members visit the prison together in that fortnight.

(3) For the purposes of this rule, the visiting committee must arrange a rota of visits to the prison.

Inspection of prison records

152.—(1) The visiting committee for a prison, or any member of the visiting 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 must record particulars of any inspection of prison records in its minute book.

Annual report

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

(2) The visiting committee’s annual report must be delivered to the Scottish Ministers as soon as possible after 31st March in each year.

Conflicts of interest

154. A member of the visiting committee for a prison must not have any direct financial interest in any contract for the supply of goods or services to a prison.

Visiting committees for legalised police cells

155.—(1) A visiting committee must be constituted in accordance with this rule for the legalised police cells specified in column 1 of Schedule 3 and in relation to each of these visiting committees—

- (a) the members of the visiting committee must be appointed by the council or councils specified in column 2 of Schedule 3 opposite to the name of the legalised police cell specified in column 1 of that Schedule; and
- (b) the number of members that each council must appoint to the relevant visiting committee is specified in column 3 of that Schedule.

(2) A member of a visiting committee must visit the legalised police cells on at least one occasion in any month if any prisoners have been detained in the cells within the preceding month.

(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 apply subject to the modifications specified in paragraphs (4) to (6)—

- (a) in rule 146, paragraphs (3) to (9);
- (b) in rule 148, paragraphs (1) to (5), (8) & (9);
- (c) rule 149;
- (d) rule 150;
- (e) rule 152;
- (f) rule 153; and
- (g) rule 154.

(4) The provisions specified in sub-paragraphs (a) to (g) of paragraph (3) 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 148(9) applies as if the words “the Governor of the relevant prison and to” were omitted.

(6) Rule 152 applies as if—

- (a) in paragraph (1), for the words after “inspect” there are substituted “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), for the words “prison records”, there are substituted “any such records as are mentioned in paragraph (1)”.

Status: *This is the original version (as it was originally made).*
