
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 331

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

PART 8

COMMUNICATIONS

PRISON VISITS

Visits by persons of a prisoner's choice

63.—(1) This rule applies to visits to a prisoner (other than an untried prisoner or a civil prisoner) by any person with whom the prisoner wishes to communicate.

(2) Subject to paragraph (3) and rules 77 and 78, the Governor must allow a prisoner, at such times as the Governor considers reasonable, either—

- (a) not less than 30 minutes in any period of 7 consecutive days; or
- (b) not less than 2 hours in any period of 28 consecutive days,

for the purposes of receiving visits in terms of this rule.

(3) Any prisoner who does not use the full allowance of visits calculated in accordance with paragraph (2) within any period of 28 consecutive days shall lose the right to receive the visits that have not been used within that period unless that prisoner has obtained the permission of the Governor to accumulate visits under rule 65.

(4) The number of persons who may be allowed to visit a prisoner at any time is at the discretion of the Governor.

(5) Where a prisoner receives a visit in terms of this rule the visit must take place—

- (a) within the sight of an officer; and
- (b) within the hearing of an officer unless the Governor has otherwise authorised.

(6) Where the Scottish Ministers consider that it is not practicable to allow prisoners the minimum periods for visits specified in paragraph (2) due to the circumstances pertaining in, or the facilities available at, any prison, they may by direction provide that paragraph (2) will apply in relation to prisoners of that prison subject to such reduced minimum periods as may be specified in the direction.

(7) A direction made by the Scottish Ministers in terms of paragraph (6) will only have effect for a period of one month, at the end of which period the circumstances pertaining in, and the facilities available at, the prison in question must be reconsidered by the Scottish Ministers before any further direction is made under paragraph (6).

(8) A prisoner is entitled to receive a visit from a person who is—

- (a) a prisoner detained at, or on temporary release from, another prison; or
- (b) a prisoner on temporary release from the same prison,

only in exceptional circumstances and where the Governor of the prison, or the Governors of the prisons involved give consent and, in the event that any Governor refuses consent, the prisoners concerned must be informed of the reasons for the refusal.

(9) This rule does not apply to visits which a prisoner may receive from a member of the chaplaincy team or by virtue of rules 66 to 76, and the entitlement of a prisoner to receive visits in terms of this rule is separate from any entitlement under those rules.

Visits to untried and civil prisoners by persons of a prisoner's choice

64.—(1) This rule applies to visits to an untried prisoner or a civil prisoner by any person with whom the prisoner wishes to communicate.

(2) An untried prisoner or a civil prisoner is entitled to receive—

- (a) a visit of at least 30 minutes' duration in terms of this rule on any day of the week other than—
 - (i) a Saturday or Sunday; or
 - (ii) 1st January or 25th December in any year; and
- (b) where the prisoner has not received a visit on every day of the preceding Monday to Friday, a visit of at least 30 minutes' duration on a Saturday or Sunday.

(3) An untried prisoner or a civil prisoner may, at the discretion of the Governor, receive a visit of such duration as the Governor thinks fit on a Saturday or Sunday or on 1st January or 25th December in any year.

(4) For the purposes of this rule—

- (a) a visit under paragraphs (2) or (3) may take place during such hours and, subject to the other provisions of this rule, under such conditions as the Governor may specify; and
- (b) the number of persons who may be allowed to visit a prisoner at any time is at the discretion of the Governor.

(5) Where an untried prisoner or a civil prisoner receives a visit in terms of this rule the visit must take place—

- (a) within the sight of an officer, and
- (b) within the hearing of an officer unless the Governor has otherwise authorised.

(6) Where the Scottish Ministers consider that it is not practicable to allow untried prisoners or civil prisoners the minimum period for visits specified in paragraph (2) due to circumstances pertaining in, or the facilities available at, any prison they may by direction provide that paragraph (2) will apply in relation to untried prisoners or civil prisoners in that prison subject to such reduced minimum periods as may be specified in the direction.

(7) A direction made by the Scottish Ministers in terms of paragraph (6) will only have effect for a period of one month, at the end of which period the circumstances pertaining in and the facilities available at the prison in question must be reconsidered by the Scottish Ministers before any further direction is made under paragraph (6).

(8) This rule does not apply to visits which a prisoner may receive from a member of the chaplaincy team or by virtue of rules 66 to 76, and the entitlement of a prisoner to receive visits in terms of this rule is separate from any entitlement under those rules.

Accumulated visits

65.—(1) This rule applies to a prisoner who—

- (a) is a life prisoner; or

(b) is serving a sentence of imprisonment for a term of more than 14 months and has served at least 6 months of that sentence.

(2) A prisoner to whom this rule applies may apply to the Governor for permission to accumulate visits under paragraph (4) for the purpose of receiving those visits at another prison but may only apply for such permission twice in a period of 12 months.

(3) An application made to the Governor under paragraph (2) must specify—

(a) when the prisoner wishes to start accumulating visits; and

(b) the prison to which the prisoner wishes to transfer for the purpose of receiving those accumulated visits.

(4) A prisoner to whom this rule applies who has obtained the Governor's permission under paragraph (2) may only accumulate visits by receiving none of the visits that the prisoner would otherwise be entitled to receive under rule 63 over a period of six months.

(5) Following approval by the Governor of an application made under paragraph (2), the Governor must contact the Governor of the prison to which the prisoner wishes to be transferred and both Governors must make arrangements for the transfer of the prisoner to that prison at the end of the period of six months specified in paragraph (4).

(6) A prisoner may only be transferred under paragraph (5) to another prison for such period of time as the Governors of the two prisons concerned may agree subject to a maximum period of two months, during which time the prisoner is entitled to receive all of the visits accumulated under paragraph (4).

(7) A prisoner may only be transferred under this rule to a prison which can provide an appropriate regime for the prisoner.

Visits by legal advisers

66.—(1) A prisoner is entitled to receive a visit from his or her legal adviser, at any reasonable time, for the purposes of consulting about any legal matter in which the prisoner is or may be directly interested.

(2) Where a prisoner receives a visit by a legal adviser in terms of this rule, the visit—

(a) may take place within the sight of an officer; and

(b) must take place outwith the hearing of any officer.

(3) A legal adviser may use sound recording equipment to record the discussions with the prisoner during a visit in terms of this rule, subject to such conditions as the Governor may specify.

Visits by procurators fiscal

67.—(1) A procurator fiscal or any person authorised by the procurator fiscal may, for the purpose of discharging his or her public duties, visit and examine a prisoner at any reasonable time.

(2) A visit to a prisoner by a procurator fiscal or any person authorised by the procurator fiscal may take place in such area of the prison and under such conditions as the Governor may specify except that such a visit must take place—

(a) within the sight of an officer; and

(b) outwith the hearing of any officer unless the prisoner or the visitor requests otherwise.

Visits by police constables

68.—(1) Subject to paragraph (2), a police constable or a police member of the Scottish Crime and Drug Enforcement Agency or, as the case may be, the Director General of that Agency, may visit or see a prisoner for one or more of the following purposes—

- (a) to interview the prisoner, provided the prisoner is willing to be interviewed;
- (b) to identify the prisoner;
- (c) to charge the prisoner with an offence.

(2) A police constable or a police member of the Scottish Crime and Drug Enforcement Agency may only visit or see a prisoner under paragraph (1) on production of the written authority of—

- (a) a procurator fiscal or a Chief Constable, in the case of a police constable; or
- (b) the Director General of the Scottish Drug Enforcement Agency, in the case of a police member of the agency.

(3) A visit to a prisoner in terms of paragraph (1)(a) may take place in such area of the prison and under such conditions as the Governor may specify except that such a visit must take place—

- (a) within the sight of an officer; and
- (b) outwith the hearing of an officer unless the prisoner or the visitor requests otherwise.

Visits by representatives of diplomatic services and national or international authorities or organisations

69.—(1) A prisoner who is a foreign national is entitled to communicate with and, if the representative so wishes, receive a visit at any reasonable time from a diplomatic representative of the prisoner's choice.

(2) A prisoner who is a refugee or stateless person is entitled to communicate with and, if the representative so wishes, receive a visit at any reasonable time from—

- (a) a diplomatic representative of a state which the prisoner considers may look after his or her interests; or
- (b) subject to such limit as to numbers of authorities or organisations as the Governor may reasonably impose, an authorised representative of national or international authorities or organisations whose principal purpose is to serve the interests of refugees or stateless persons or to protect the civil rights of such persons.

(3) Where a prisoner receives a visit in terms of this rule the visit must take place—

- (a) within the sight of an officer; and
- (b) outwith the hearing of an officer unless either the prisoner or the visitor requests otherwise.

Special visits to certain prisoners in connection with further proceedings

70.—(1) This rule applies to any prisoner who—

- (a) is an untried prisoner;
- (b) is a civil prisoner;
- (c) is an appellant;
- (d) has been remanded in custody following conviction to await sentence or further inquiry;
- (e) is serving a sentence of imprisonment and who is subject to a further charge but only for so long as the proceedings in respect of the further charge are pending against him or her; or

- (f) is serving a sentence of imprisonment and who is the respondent in an appeal by the Lord Advocate or the prosecutor under section 108(1) or 175(3)(2) of the 1995 Act, but only for so long as the proceedings in respect of the appeal are pending against him or her.
- (2) A prisoner to whom this rule applies is allowed a visit at any reasonable time to consult a registered medical practitioner or any other person, where the Governor considers it is in the interests of justice, for the purposes of—
- (a) in the case of an untried prisoner, the proceedings in respect of which he or she is remanded in custody or complying with a condition of bail which requires the deposit of a sum of money pursuant to section 24(6) of the 1995 Act(3);
 - (b) in the case of a civil prisoner, the proceedings in respect of which he or she is committed to prison;
 - (c) in the case of an appellant, the appeal or, as the case may be, the reference;
 - (d) in the case of a prisoner mentioned in paragraph (1)(d), preparing representations to the court which will pass sentence or otherwise dispose of his or her case; or
 - (e) in the case of a prisoner mentioned in paragraph (1)(e) or (f), the proceedings in respect of the further charge or, as the case may be, the appeal.
- (3) The number of persons who may be allowed to visit a prisoner at any time is at the discretion of the Governor.
- (4) Where a prisoner receives a visit in terms of this rule other than a visit by a registered medical practitioner the visit must take place—
- (a) within the sight of an officer; and
 - (b) outwith the hearing of an officer except where the Governor otherwise directs.
- (5) Where a prisoner receives a visit by a registered medical practitioner in terms of this rule the visit must take place—
- (a) outwith the sight of an officer unless the medical practitioner requests otherwise; and
 - (b) outwith the hearing of an officer.

Visits by Members of Parliament, members of the Scottish Parliament and representatives of the European Parliament

- 71.—(1) A prisoner is entitled to receive a visit from a member of Parliament, a member of the Scottish Parliament or a representative of the European Parliament.
- (2) A visit to a prisoner by a member of Parliament, a member of the Scottish Parliament or a representative of the European Parliament may take place in such area of the prison and under such conditions as the Governor may specify except that such a visit must take place—
- (a) within the sight of an officer; and
 - (b) outwith the hearing of any officer unless the visitor requests otherwise or the Governor requires otherwise for reasons of security.

(1) 1995 c.46; section 108 was substituted by the Crime and Punishment (Scotland) Act 1997 (c.48), section 21 and was amended by the Crime and Disorder Act 1998 (c.37) section 94 and Schedule 6, paragraph 6, and also by the Proceeds of Crime Act 2002 (c.29) Part 3, section 115; section 108A was added by the Crime and Punishment (Scotland) Act 1997 (c.48), section 18 and was amended by the Crime and Disorder Act 1998 (c.37) section 119 and Schedule 8, paragraph 120.

(2) Section 175 was amended by Crime and Punishment (Scotland) Act 1997 (c.48), section 17, section 21, section 23, by the Crime and Disorder Act 1998 (c.37) section 119 and paragraph 123 of Schedule 8, by the Proceeds of Crime Act 2002 (c.29) Part 3, section 115, and also by the Protection of Children (Scotland) Act 2003 (asp 5), section 16.

(3) Section 24(6) was amended by the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5) Schedule 1, paragraph 5.

(3) A member of Parliament, a member of the Scottish Parliament or a representative of the European Parliament may, with the prisoner's consent, use sound recording equipment to record any interview held with the prisoner.

Visits by the Parliamentary Commissioner for Administration, the Scottish Public Services Ombudsman or Officers on their behalf

72.—(1) The following persons may, for the purpose of discharging their public duties, visit a prisoner at any reasonable time with that prisoner's consent—

- (a) the Parliamentary Commissioner for Administration or any person authorised to act on his or her behalf; and
- (b) the Scottish Public Services Ombudsman, or any person authorised to act on his or her behalf.

(2) A visit to a prisoner by any of the persons mentioned in paragraph (1), may only take place in such area of the prison and under such conditions as the Governor may specify except that such a visit must take place—

- (a) within the sight of an officer; and
- (b) outwith the hearing of any officer unless the visitor requests otherwise or the Governor requires otherwise for reasons of security.

(3) The persons mentioned in paragraph (1), may, with the prisoner's consent, use sound recording equipment to record any interview held with the prisoner.

Visits by media representatives

73.—(1) This rule applies to a person who visits, or seeks to visit, a prisoner—

- (a) as a media representative in a professional or vocational capacity; or
- (b) in circumstances where the person's visit is wholly or partially connected with the purposes of journalism, broadcasting or publishing.

(2) A Governor may permit visits to prisoners by persons to whom this rule applies only in exceptional circumstances and where satisfied that it is appropriate to permit such a visit.

(3) If the Governor intends to permit a visit to a prisoner for the purposes mentioned in paragraph (1) the Governor must require the visitor, before being admitted to the prison, to give a written undertaking to the effect that the visitor shall not—

- (a) begin any interview, take any photographs or conduct any filming or sound recording, except with the express prior consent of both the prisoner and the Governor;
- (b) conduct any such interview, take photographs or conduct filming or recording except in accordance with such other conditions as the Governor may specify;
- (c) make any payment or gratuity to the prisoner or any other person in relation to the holding of the interview or any material obtained at it;
- (d) use any material obtained at the interview, or any photographs, films or recordings so taken, for professional or vocational purposes and in particular for broadcast or use on, or transmission by, any form of electronic medium by the person or anyone else except in accordance with the prior written consent of the Governor and subject to and in accordance with such conditions as the Governor may impose; or
- (e) use any material obtained at the interview, or any photographs, films or recordings so taken, for professional or vocational purposes and in particular for publication or use in any form of written medium by the person or anyone else except in accordance with the prior

written consent of the Governor and subject to and in accordance with such conditions as the Governor may impose.

(4) A visit to a prisoner in terms of this rule may only take place in such area of the prison as the Governor may specify and must take place—

- (a) within the sight of an officer; and
- (b) within the hearing of an officer.

Visits by members of the Parole Board for Scotland

74.—(1) A prisoner may receive a visit from members of the Parole Board for Scotland where the purpose of that visit is to interview the prisoner in terms of rule 15(3) of the Parole Board (Scotland) Rules 2001(4).

(2) Where a prisoner receives a visit in terms of this rule the visit—

- (a) may take place within the sight of an officer; and
- (b) must take place outwith the hearing of any officer unless the prisoner or the visitor otherwise requests.

Visits by members or employees of the Scottish Criminal Cases Review Commission

75.—(1) A prisoner may receive a visit from one or two members or employees of the Scottish Criminal Cases Review Commission, or persons authorised by the Commission, for the purpose of assisting the Commission in the exercise of any of its functions.

(2) The persons mentioned in paragraph (1) may, with the consent of the prisoner, use sound recording equipment to record any interview held with the prisoner at the prison.

(3) Where a prisoner receives a visit in terms of this rule the visit must take place—

- (a) within the sight of an officer; and
- (b) outwith the hearing of an officer unless the prisoner or the visitor otherwise requests.

Visits by persons in connection with disciplinary proceedings

76.—(1) This rule applies to visits to a prisoner by a person where—

- (a) the prisoner has been charged with a breach of discipline;
- (b) the prisoner wishes to call, or is considering whether to call, that person as a witness at the inquiry into the charge; and
- (c) the Governor holding the inquiry has agreed that the prisoner should have the opportunity to discuss with that person whether he or she could give evidence which would be relevant to the defence to the charge.

(2) A prisoner to whom this rule applies is allowed to receive a visit at any reasonable time from a person for the purpose of discussing whether that person could give evidence which would be relevant to the prisoner's defence to the charge.

(3) The number of persons who may be allowed to visit a prisoner at any time is at the discretion of the Governor.

(4) Where a prisoner receives a visit in terms of this rule, it must take place—

- (a) within the sight of an officer;

- (b) outwith the hearing of an officer except where the Governor otherwise directs or the visitor or prisoner otherwise requests; and
- (c) under such conditions as the Governor may specify.

Restrictions and conditions applicable to visits under Part 8

77.—(1) Where the Governor considers that it is necessary to do so in the interests of security, good order or the prevention of crime, he or she may—

- (a) prohibit a prisoner from receiving a visit from any person in particular in terms of this Part; or
- (b) terminate a visit to a prisoner which is taking place in terms of this Part.

(2) If, in the case of any visit taking place in terms of rule 73, the Governor considers that the terms of an undertaking given by the visitor under rule 73(3) have been breached or that there has been a contravention of any restrictions or conditions specified in a direction made by virtue of paragraph (3), the Governor may terminate the visit.

(3) The entitlement of a prisoner to receive visits in terms of this Part is subject to such restrictions and conditions as may be specified in a direction by the Scottish Ministers for the following purposes—

- (a) to allow the use of video cameras and sound recording equipment for the monitoring of the visits area during visits to prisoners;
- (b) to impose a prohibition on, or restrictions in relation to, the possession and use by prisoners and their visitors of photographic equipment, sound recording equipment and writing materials;
- (c) to impose restrictions as to the introduction of, or possession or consumption of, food and drink by prisoners and their visitors during such visits; and
- (d) to prescribe the terms of any written undertaking which may be required to be given pursuant to rule 73(3).

Closed visiting facilities

78.—(1) The Governor may, for any reason specified in paragraph (2), order that any visits which a prisoner receives from a member of the chaplaincy team or for the purpose of rules 63 to 76 must be held in closed visiting facilities.

(2) The Governor may make an order under paragraph (1) for any of the following reasons—

- (a) there are reasonable grounds for suspecting that the prisoner has previously obtained or is likely in the future to attempt to obtain, from any visitor, any prohibited article or any unauthorised property;
- (b) the prisoner's behaviour makes it necessary for the purposes of security and control for any visit to be received in closed visiting facilities;
- (c) any previous visit to the prisoner has been terminated in terms of rule 77(1) due to the conduct of the visitor;
- (d) the visitor has previously been refused access to the prison; or
- (e) the Governor is of the opinion that it is necessary to ensure, in relation to a visit for the purposes of rule 70, that the visit is required for any purpose specified in rule 70(2).

(3) The Governor may make an order under paragraph (1) in relation to any particular visit received in terms of any rule mentioned in paragraph (1) or in relation to every visit received in terms of any of those rules, but any order made in relation to every such visit must be reviewed by the Governor not less than once in every 3 months and may be revoked by the Governor at any time.

(4) No order under paragraph (1) may be made as a punishment in respect of a breach of discipline within the meaning of Part 11.

(5) For the purposes of this rule, “closed visiting facilities” means visiting facilities with special security features including physical barriers between prisoner and visitor.

Arrangements for securing release of prisoners committed to prison in default of payments

79.—(1) This rule applies to any prisoner who is committed to prison—

- (a) in default of payment of any sum which requires to be paid by virtue of any order of a court; and
- (b) in circumstances where the prisoner may be released on payment of any sum.

(2) A prisoner to whom this rule applies is entitled to communicate at any reasonable time with any person for the purpose of arranging payment of the sum which would secure his or her release.