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STATUTORY INSTRUMENTS

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**1994 No. 1931**

**The Prisons and Young Offenders  
Institutions (Scotland) Rules 1994**

**PART 7**

**COMMUNICATIONS**

**Current affairs**

**47.**—(1) Subject to paragraph (2), every prisoner may keep himself informed of current affairs by means of—

- (a) books, newspapers, periodicals or a radio; and
- (b) any other medium the Governor may allow.

(2) The Governor may restrict, or impose conditions as to, the exercise of the entitlement referred to in paragraph (1) where he considers it is necessary to do so—

- (a) to protect the prisoner from self-injury; or
- (b) to prevent the prisoner from injuring others.

**Prisoners' correspondence**

**48.** Subject to rules 49 to 52, a prisoner may send and receive letters and packages by means of the postal service or otherwise.

**Opening and reading of correspondence from and to courts**

**49.**—(1) This rule applies only to letters and packages which—

- (a) are addressed to a court and which a prisoner gives to an officer for the purpose of posting to that court; or
- (b) are sent to a prisoner at the prison by a court.

(2) A prisoner who wishes to send a letter or package to a court shall mark prominently on the outer face of the envelope or packaging the words “Legal Correspondence” as well as his own name.

(3) Any letter or package to which this rule applies shall not be opened by an officer except where paragraph (5) applies.

(4) The contents of any letter or package to which this rule applies shall not be read by an officer.

(5) Any letter or package which a prisoner wishes to send to a court may only be opened where—

- (a) the officer has cause to believe that it contains a prohibited article;
- (b) he has explained to the prisoner concerned why he has such cause; and
- (c) the prisoner concerned is present.

(6) Where a letter or package to which this rule applies is found to contain any prohibited article the Governor shall seize and detain that article.

(7) For the purposes of this rule, “court” includes the European Court of Justice, the European Court of Human Rights, the European Commission of Human Rights and the Parole Board for Scotland.

### **Opening and reading of correspondence from and to legal advisers**

**50.**—(1) This rule applies only to letters and packages which—

- (a) are addressed to a legal adviser and which a prisoner gives to an officer for the purpose of posting to that legal adviser; or
- (b) are sent to a prisoner at the prison by a legal adviser.

(2) A prisoner who wishes to send a letter or package to a legal adviser shall mark prominently on the outer face of the envelope or packaging the words “Legal Correspondence” as well as his own name.

(3) Any letter or package to which this rule applies shall not be opened by an officer except where paragraph (5) applies.

(4) The contents of any letter or package to which this rule applies shall not be read by an officer except where paragraph (6) applies.

(5) Any letter or package to which this rule applies may only be opened by an officer where—

- (a) the officer has cause to believe that it contains a prohibited article;
- (b) he has explained to the prisoner concerned why he has such cause; and
- (c) the prisoner concerned is present.

(6) The contents of any letter or package to which this rule applies may only be read by an officer in exceptional circumstances where the Governor has reasonable cause to believe that the contents of the letter endanger the security of the prison or the safety of any person, or relate to a criminal activity.

(7) Where the Governor is of the opinion that the contents of any letter or package to which this rule applies may be read in terms of paragraph (6)—

- (a) the prisoner shall be informed that the letter or written material shall be read and the reasons why; and
- (b) the letter or written material shall be read by the Governor or an officer specially authorised by him for the purpose.

(8) Where a letter or package to which this rule applies is found to contain a prohibited article or any article which the prisoner is not authorised to possess or keep in terms of these Rules, the Governor shall deal with the article in terms of rule 81 or 82, whichever is appropriate.

### **Opening and reading of other correspondence**

**51.**—(1) Any letter or package, other than one to which rule 49 or 50 applies, which a prisoner wishes to send or which is addressed to him may be opened by an officer.

(2) The contents of any such letter or package may only be read by an officer where he considers that they may be, or may contain anything, in contravention of the restrictions specified in any direction by the Secretary of State made for the purposes mentioned in rule 52(2).

(3) Where a letter or package is found to contain anything in contravention of such restrictions, an officer may—

- (a) prevent the letter or package, or anything contained in it, being sent or, as the case may be, received by the prisoner; and
- (b) deal with the letter or package, or anything contained in it, in accordance with such arrangements as may be specified in a direction by the Secretary of State for these purposes.

### **Restrictions on prisoners' correspondence**

**52.**—(1) A prisoner's entitlement under rule 48 to send and receive letters and packages, other than letters and packages to which rule 49 or 50 applies, shall be subject to such restrictions as are mentioned in paragraph (2).

(2) The restrictions mentioned in this paragraph are such restrictions as may be specified in a direction by the Secretary of State for any of the following purposes:—

- (a) to prescribe in relation to the reading by an officer in terms of rule 51(2) of the contents of any letter or package—
  - (i) the circumstances when this may occur, and
  - (ii) the officers who may be authorised to do so;
- (b) to prescribe any restrictions as to the number of letters and packages which a prisoner may send;
- (c) to prescribe the persons, authorities and organisations to whom a prisoner is prohibited from sending any letters and packages;
- (d) to prescribe particular restrictions and conditions which shall apply where a prisoner wishes to send letters and packages to prescribed persons, authorities and organisations whom the prisoner is not otherwise prohibited from corresponding with; and
- (e) to prescribe the nature and description of letters, written material and items of property in general which a prisoner may not send or receive.

### **Provision of writing materials and payment of postage**

**53.**—(1) Subject to the following paragraphs, every prisoner shall be allowed to send one letter every week, the postage for which shall be paid for by the Secretary of State, and the Governor shall provide the prisoner with the necessary writing materials for this purpose.

(2) The writing materials which shall be provided by the Governor shall comprise—

- (a) a ballpoint pen;
- (b) 1 sheet of writing paper and a reasonable number of further sheets if the prisoner so requires; and
- (c) an envelope.

(3) The Governor may, for the purposes of paragraph (1), allow the prisoner to send more than one letter every week at the expense of the Secretary of State if it appears to him that this is justified in the prisoner's circumstances.

### **Communication by telephone**

**54.**—(1) A prisoner may have the use of a telephone subject to the provisions of paragraph (2).

(2) A prisoner's entitlement to the use of a telephone shall be subject to the provisions of any direction which the Secretary of State may make in relation to—

- (a) the groups or categories of prisoners who may have the use of a telephone;
- (b) the times of day and circumstances in which a telephone may be available for use;

- (c) the conditions applicable to the use of such a telephone; and
- (d) the logging, monitoring and recording by any means by an officer of telephone calls made by a prisoner.

(3) Where an officer informs a prisoner that he may not have the use of a telephone by virtue of the provisions of any direction as mentioned in paragraph (2), he shall also inform the prisoner of the reasons for that decision.

#### **Visits by persons of a prisoner's choice**

**55.**—(1) Subject to paragraph (6) and rule 56, this rule applies to visits to a prisoner by any person with whom the prisoner wishes to communicate.

(2) Subject to paragraph (3) and rules 63 and 64, the Governor shall 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) Subject to rules 63 and 64, the Governor shall allow a young prisoner (who is not also an untried prisoner), at such times as the Governor considers reasonable, not fewer than 2 visits, each of not less than 30 minutes, in any period of 7 consecutive days.

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

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

- (a) the visit shall take place within the sight of an officer; but
- (b) no officer shall listen to any conversation between the prisoner and his visitor except where the Governor otherwise directs.

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

(7) A prisoner shall only be entitled to receive a visit from a person who is a prisoner at another prison in exceptional circumstances and if the Governors of the respective prisons both give consent and, in the event that either or both Governors refuse consent, the prisoners concerned shall be given an explanation of the reasons for such refusal.

(8) This rule does not apply to visits which a prisoner may receive by virtue of rules 36 to 38 and 58 to 62, 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**

**56.**—(1) Subject to paragraph (5), 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—

- (a) shall be allowed to receive—
  - (i) a visit of at least 30 minutes' duration in terms of this rule on any day of the week other than a Saturday or Sunday; and
  - (ii) 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 a Sunday; and

- (b) at the discretion of the Governor may receive a visit of such duration as he thinks fit on a Saturday or a Sunday.
- (3) For the purposes of this rule—
  - (a) a visit may take place during such hours and, subject to the other provisions of this rule, under such conditions as the Governor may specify;
  - (b) the number of persons who shall be allowed to visit a prisoner at any time shall be at the discretion of the Governor.
- (4) Where an untried prisoner or a civil prisoner receives a visit in terms of this rule—
  - (a) the visit shall take place within the sight of an officer; but
  - (b) no officer shall listen to any conversation between the prisoner and his visitor except where the Governor otherwise directs.
- (5) Where the Secretary of State considers 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 facilities available at, any prison, he may by direction provide that paragraph (2) shall apply in relation to untried prisoners or civil prisoners in that prison subject to such reduced minimum period as may be specified in the direction.
- (6) This rule does not apply to visits which a prisoner may receive by virtue of rules 36 to 38 and 58 to 62, and the entitlement of a prisoner to receive visits in terms of this rule is separate from any entitlement under those rules.

#### **Entitlement to accumulated visits**

- 57.**—(1) This rule applies to a prisoner who—
- (a) is a life prisoner or is serving a sentence of imprisonment for a term of more than 12 months and has served at least 6 months of that sentence;
  - (b) is moved from a prison to any other prison, whether or not for the purpose of enabling him to use any accumulated unused allowance of visits; and
  - (c) has accumulated an unused allowance of visits in terms of rule 55 at the prison from which he is moved which is not less than the amount of visits which he would have been entitled to receive at that prison in terms of that rule in a period of 6 months.
- (2) Subject to paragraph (3), a prisoner to whom this rule applies shall be entitled to carry forward the accumulated period of unused allowance and to use that accumulated allowance at the prison to which he is moved in addition to his allowance in terms of rule 55 at that prison.
- (3) The exercise by a prisoner of his entitlement under paragraph (2) shall be subject to any direction by the Secretary of State in relation to the following:—
- (a) the circumstances in which a prisoner who is moved from a prison to any other prison may not be allowed to carry forward, or may be restricted from carrying forward, any accumulated allowance of visits; and
  - (b) the conditions which may be imposed (including conditions as to the period in which an accumulated allowance must be used) by the Governor where a prisoner is entitled to carry forward such an allowance.

#### **Visits by legal advisers**

- 58.**—(1) A prisoner shall be entitled to receive a visit from his 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; but
- (b) shall take place outwith the hearing of any officer.

#### **Visits by procurators fiscal**

**59.**—(1) A procurator fiscal or any person authorised by him may, for the purpose of discharging his 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 him may take place in such area of the prison and under such conditions as the Governor may specify except that such a visit shall take place—

- (a) within the sight of an officer; but
- (b) outwith the hearing of any officer.

#### **Visits by police constables**

**60.**—(1) A police constable may, on production of the written authority of either a procurator fiscal or the Chief Constable,—

- (a) visit any prisoner for the purposes of interviewing him if he is willing to be interviewed;
- (b) see any prisoner for the purposes of identification; or
- (c) see any prisoner for the purpose of charging him with any offence.

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

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

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

**61.**—(1) A prisoner who is a foreign national shall be entitled to communicate with and receive a visit at any reasonable time from a diplomatic representative of his choice.

(2) A prisoner who is a refugee or stateless person shall be entitled to communicate with and receive a visit at any reasonable time from—

- (a) a diplomatic representative of a state which he considers may look after his 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) Any prisoner shall be entitled to receive a visit at any reasonable time from an authorised representative of the Scottish Council for Civil Liberties.

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

- (a) the visit shall take place within the sight of an officer; but
- (b) no officer shall listen to any conversation between the prisoner and the visitor unless either the prisoner or the visitor otherwise requests.

#### **Special visits to certain prisoners in connection with further proceedings**

**62.**—(1) This rule applies to a 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; or
  - (e) is serving a sentence of imprisonment and who is—
    - (i) subject to a further charge; or
    - (ii) the respondent in an appeal by the Lord Advocate or the prosecutor under section 228A or 442(1)(c) of the Criminal Procedure (Scotland) Act 1975(1),but shall apply to such a prisoner only for so long as the proceedings in respect of the further charge or the appeal are pending against him.
- (2) A prisoner to whom this rule applies shall be allowed a visit at any reasonable time to consult a registered medical practitioner or any other person for the purposes of—
- (a) in the case of an untried prisoner, the proceedings in respect of which he is remanded in custody or complying with a condition of bail which requires the deposit of a sum of money pursuant to section 1(3) of the Bail etc (Scotland) Act 1980(2);
  - (b) in the case of a civil prisoner, the proceedings in respect of which he 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 case; or
  - (e) in the case of a prisoner mentioned in paragraph (1)(e), the proceedings in respect of the further charge or, as the case may be, the appeal.
- (3) The number of persons who shall be allowed to visit a prisoner at any time shall be at the discretion of the Governor.
- (4) Where a prisoner receives a visit in terms of this rule—
- (a) the visit shall take place within the sight of an officer; but
  - (b) no officer shall listen to any conversation between the prisoner and his visitor—
    - (i) in the case of a visit by a registered medical practitioner, under any circumstances; and
    - (ii) in the case of any other visitor, except where the Governor otherwise directs.

### **General conditions applicable to visits under Part 7**

**63.—**(1) The Governor may—

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

where he considers that it is necessary to do so in the interests of security, discipline or the prevention of disorder or crime.

(2) The entitlement of a prisoner to receive visits in terms of this Part of these Rules shall be subject to such restrictions and conditions as may be specified in a direction by the Secretary of State for the following purposes:—

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(1) 1975 c. 21; sections 228A and 442(1)(c) were inserted by the 1993 Act, section 42.  
(2) 1980 c. 4.

- (a) to allow the use of video cameras for the monitoring of the visitors area during visits to prisoners;
- (b) to impose restrictions as to the introduction of, or possession or consumption of, food and drink during such visits; and
- (c) to provide for the issuing of visitors' permits.

#### **Closed visiting facilities**

64.—(1) The Governor may, for any reason specified in paragraph (2), order that any visits which a prisoner receives for the purposes of rules 36 to 38, 55, 56 and 60 to 62 shall be held in closed visiting facilities.

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

- (a) he is of the opinion that there are reasonable grounds for suspecting that the prisoner—
  - (i) has previously obtained; or
  - (ii) is likely in the future to attempt to obtain, any prohibited article from a visitor;
- (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 visit to the prisoner has been terminated in terms of rule 63(1)(b) due to the conduct of the visitor;
- (d) a person who wishes to visit the prisoner has previously been refused access to the prison; or
- (e) he is of the opinion that it is necessary to ensure, in relation to a visit for the purposes of rule 62, that the visit is genuinely required for any purpose specified in rule 62(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 shall 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) shall be made as a punishment in respect of a breach of discipline within the meaning of Part 10 of these Rules.

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

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

- (a) in default of payment of any sum which he is required to pay by virtue of any order of a court; and
- (b) in circumstances where he may secure his release on payment of any sum.

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