
STATUTORY INSTRUMENTS

2000 No. 2641

The Prison (Amendment) (No. 2) Rules 2000

Amendment of Rules

5. After rule 35 there shall be inserted the following rules:

“Interception of communications

35A.—(1) The Secretary of State may give directions to any governor concerning the interception in a prison of any communication by any prisoner or class of prisoners if the Secretary of State considers that the directions are—

- (a) necessary on grounds specified in paragraph (4) below; and
- (b) proportionate to what is sought to be achieved.

(2) Subject to any directions given by the Secretary of State, the governor may make arrangements for any communication by a prisoner or class of prisoners to be intercepted in a prison by an officer or an employee of the prison authorised by the governor for the purposes of this rule (referred to in this rule as an “authorised employee”) if he considers that the arrangements are—

- (a) necessary on grounds specified in paragraph (4) below; and
- (b) proportionate to what is sought to be achieved.

(3) Any communication by a prisoner may, during the course of its transmission in a prison, be terminated by an officer or an authorised employee if he considers that to terminate the communication is—

- (a) necessary on grounds specified in paragraph (4) below; and
- (b) proportionate to what is sought to be achieved by the termination.

(4) The grounds referred to in paragraphs (1)(a), (2)(a) and (3)(a) above are—

- (a) the interests of national security;
- (b) the prevention, detection, investigation or prosecution of crime;
- (c) the interests of public safety;
- (d) securing or maintaining prison security or good order and discipline in prison;
- (e) the protection of health or morals; or
- (f) the protection of the rights and freedoms of any person.

(5) Any reference to the grounds specified in paragraph (4) above in relation to the interception of a communication by means of a telecommunications system in a prison, or the disclosure or retention of intercepted material from such a communication, shall be taken to be a reference to those grounds with the omission of sub-paragraph (f).

(6) For the purposes of this rule “interception”—

- (a) in relation to a communication by means of a telecommunications system, means any action taken in relation to the system or its operation so as to make some or all of the contents of the communications available, while being transmitted,

to a person other than the sender or intended recipient of the communication; and the contents of a communication are to be taken to be made available to a person while being transmitted where the contents of the communication, while being transmitted, are diverted or recorded so as to be available to a person subsequently; and

- (b) in relation to any written or drawn communication, includes opening, reading, examining and copying the communication.

Permanent log of communications

35B.—(1) The governor may arrange for a permanent log to be kept of all communications by or to a prisoner.

(2) The log referred to in paragraph (1) above may include, in relation to a communication by means of a telecommunications system in a prison, a record of the destination, duration and cost of the communication and, in relation to any written or drawn communication, a record of the sender and addressee of the communication.

Disclosure of material

35C. The governor may not disclose to any person who is not an officer of a prison or of the Secretary of State or an employee of the prison authorised by the governor for the purposes of this rule any intercepted material, information retained pursuant to rule 35B or material obtained by means of an overt closed circuit television system used during a visit unless—

- (a) he considers that such disclosure is—
 - (i) necessary on grounds specified in rule 35A(4); and
 - (ii) proportionate to what is sought to be achieved by the disclosure; or
- (b) (i) in the case of intercepted material or material obtained by means of an overt closed circuit television system used during a visit, all parties to the communication or visit consent to the disclosure; or
 - (ii) in the case of information retained pursuant to rule 35B, the prisoner to whose communication the information relates, consents to the disclosure.

Retention of material

35D.—(1) The governor shall not retain any intercepted material or material obtained by means of an overt closed circuit television system used during a visit for a period longer than 3 months beginning with the day on which the material was intercepted or obtained unless he is satisfied that continued retention of it is—

- (a) necessary on grounds specified in rule 35A(4); and
- (b) proportionate to what is sought to be achieved by the continued retention.

(2) Where such material is retained for longer than 3 months pursuant to paragraph (1) above the governor shall review its continued retention at periodic intervals until such time as it is no longer held by the governor.

(3) The first review referred to in paragraph (2) above shall take place not more than 3 months after the decision to retain the material taken pursuant to paragraph (1) above, and subsequent reviews shall take place not more than 3 months apart thereafter.

(4) If the governor, on a review conducted pursuant to paragraph (2) above or at any other time, is not satisfied that the continued retention of the material satisfies the requirements set out in paragraph (1) above, he shall arrange for the material to be destroyed.”.