

2022 No. 1345

IMMIGRATION

The Short-term Holding Facility (Amendment) Rules 2022

Made - - - - at 2.40 p.m. on 15th December 2022

Laid before Parliament at 4.30 p.m. on 15th December 2022

Coming into force 5th January 2023

The Secretary of State makes these Rules in exercise of the powers conferred by sections 157(1) and (3) and 166(3) of, and paragraph 1 of Schedule 12 to, the Immigration and Asylum Act 1999(a).

Citation, commencement and extent

1.—(1) These Rules may be cited as the Short-term Holding Facility (Amendment) Rules 2022 and come into force on 5th January 2023.

(2) These Rules extend to England and Wales, Scotland and Northern Ireland.

Amendments to the Short-term Holding Facility Rules 2018

2.—(1) The Short-term Holding Facility Rules 2018(b) are amended as follows.

(2) In rule 2 (interpretation), after the definition of “port” insert—

““residential holding room” means a short-term holding facility where a detained person may be detained for a period of not more than 96 hours unless a longer period is authorised by the Secretary of State.”.

(3) For rule 3 (application of these Rules), substitute—

“3. Subject to rules 4 (places of detention), 5 (directly managed short-term holding facilities), 6(4) to (8) (holding rooms) and 6A(4) to (12) (residential holding rooms) these Rules apply to a short-term holding facility and to a detained person in a short-term holding facility.”.

(4) In rule 6(1) (holding rooms), after “paragraph (2)” insert “and without prejudice to rule 6A”.

(5) After rule 6 insert—

“6A.— Residential holding rooms

(1) Subject to paragraph (2), a detained person must not be detained in a residential holding room for a period of more than 96 hours.

(2) The Secretary of State may authorise this period to be extended if the Secretary of State determines that exceptional circumstances require it.

(a) 1999 c. 33; section 157(1) and paragraph 1 of Schedule 12 were amended by section 66(2) and (3) of the Nationality, Immigration and Asylum Act 2002 (c. 41).

(b) S.I. 2018/409, as amended by S.I. 2019/745.

(3) These Rules apply to a residential holding room and to a detained person detained in a residential holding room except for those provisions listed in paragraph (4) and subject to the modifications in paragraphs (5) to (12).

(4) The provisions are—

- (a) rule 24 (correspondence);
- (b) rule 29 (access to the internet);
- (c) rule 35 (removal from association);
- (d) rule 37 (temporary confinement);
- (e) rule 48 (visitors).

(5) Rule 13 (accommodation) applies as if it provided—

“13.— Accommodation

(1) The Secretary of State must be satisfied that sufficient accommodation is provided for the detained persons in every short-term holding facility.

(2) No room is to be used as sleeping accommodation for a detained person unless the Secretary of State has certified that its size, lighting, heating, ventilation and fittings are adequate for health.”.

(6) Rule 14 (sleeping accommodation) applies as if it provided—

“14.— Sleeping accommodation

Subject to rule 15 (families and minors), a detained person must be provided with separate sleeping accommodation from detained persons of the opposite sex, where possible.”.

(7) Rule 15 (families and minors) applies as if it provided—

“15.— Families and minors

(1) Where members of the same family are detained in a short-term holding facility they are entitled to enjoy family life at the short-term holding facility save to the extent necessary in the interests of the security of the short-term holding facility and the safety of a detained person or other persons.

(2) A detained person must be provided with everything reasonably necessary for the protection, safety, well-being, maintenance and care of any person under the age of 18 detained with them for whom they are responsible.”.

(8) Rule 23 (outside contacts) applies as if it provided—

“23.— Outside contacts

(1) Subject to paragraph (2), a detained person may enjoy communications with a person outside a short-term holding facility in accordance with rule 28 (use of telephones).

(2) A detained person is not permitted to have communications with a person outside the short-term holding facility to the extent to which the communication would prejudice the interests of the security of the short-term holding facility or the safety of the detained person or other persons.”.

(9) Rule 27 (legal adviser) applies as if it provided—

“27.— Legal adviser

(1) A detained person must be permitted to meet with their legal adviser in confidence if it is practicable to do so.

(2) A detained person may consult with their legal adviser by telephone.

(3) A meeting between a detained person and their legal adviser may be in the sight of but must not be in the hearing of an officer.”.

(10) Rule 30 (medical screening) applies as if it provided—

“30.— Medical screening

(1) Subject to paragraphs (2) and (3), a detained person must be screened by a health care professional within 24 hours of admission to a residential holding room, except where this is not possible due to exceptional circumstances.

(2) A detained person’s consent must be obtained before screening and in the case of a person aged under 18, consent must be obtained either from a parent or legal guardian.

(3) A detained person is entitled, if they so request, to be screened only by a health care professional of the same sex and the manager must ensure that a detained person is aware of that entitlement prior to any screening.

(4) In the event that a detained person has not been screened by a health care professional within 24 hours of admission to the residential holding room in accordance with paragraph (1), the manager must ensure that the screening is conducted as soon as practicable.”.

(11) Rule 31 (general medical care) applies as if it provided—

“31.— General medical care

If a detained person becomes—

- (a) ill, or
- (b) sustains an injury,

such that the detained person requires attention by a health care professional, prompt access to a health care professional must be provided and any arrangements made for supervision, care or transfer to hospital that appear necessary to the manager.”.

(12) Rule 32 (special illnesses and conditions) applies as if it provided—

“32.— Special illnesses and conditions

If during the medical screening carried out in accordance with rule 30 (medical screening), the health care professional identifies any immediate risk to the detained person’s health—

- (a) the health care professional must notify the manager of the risk,
- (b) arrangements must be made in accordance with rule 31 (general medical care), and
- (c) the manager must ensure that the detained person’s detention is reviewed as soon as practicable.”.

Robert Jenrick
Minister of State
Home Office

At 2.40 p.m. on 15th December 2022

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Short-term Holding Facility Rules 2018 (S.I. 2018/409) by providing for a sub-category of short-term holding facility, called a residential holding room. Persons may be detained in a residential holding room for no more than 96 hours (which the Secretary of State may authorise to be extended if the Secretary of State determines that exceptional circumstances require it).

The following rules of the Short-term Holding Facility Rules 2018 are disapplied from residential holding rooms: rule 24 (correspondence), rule 29 (access to the internet), rule 35 (removal from association), rule 37 (temporary confinement) and rule 48 (visitors). Rule 13 (accommodation),

rule 14 (sleeping accommodation), rule 15 (families and minors), rule 23 (outside contacts), rule 27 (legal adviser), rule 30 (medical screening), rule 31 (general medical care) and rule 32 (special illnesses and conditions) are modified in respect of residential holding rooms.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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£4.90

<http://www.legislation.gov.uk/id/uksi/2022/1345>

ISBN 978-0-34-824275-1



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