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STATUTORY INSTRUMENTS

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**1999 No. 728**

**The Prison Rules 1999**

**PART II**

**PRISONERS**

*COMMUNICATIONS*

**[<sup>F1</sup>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.

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<sup>F2</sup>(2A) The governor may not make arrangements for interception of any communication between a prisoner and

- (a) the prisoner’s legal adviser; or
- (b) any body or organisation with which the Secretary of State has made arrangements for the confidential handling of correspondence,

unless the governor has reasonable cause to believe that the communication is being made with the intention of furthering a criminal purpose and unless authorised by [<sup>F3</sup>any one of the following: the chief executive officer of the National Offender Management Service; the director responsible for national operational services of that service; or the duty director of that service].]

(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.]

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**Textual Amendments**

- F1** Rules 35A-35D inserted (24.10.2000) by [The Prison \(Amendment\) \(No. 2\) Rules 2000 \(S.I. 2000/2641\)](#), rules 1, **5**
- F2** Rule 35A(2A) inserted (1.1.2010) by [The Prison and Young Offender Institution \(Amendment\) Rules 2009 \(S.I. 2009/3082\)](#), rule 1, **Sch. 1 para. 5**
- F3** Words in rule 35A(2A) substituted (26.9.2011) by [The Prison and Young Offender Institution \(Amendment\) Rules 2011 \(S.I. 2011/1663\)](#), rule 1, **Sch. 1 para. 3**

**Changes to legislation:**

There are currently no known outstanding effects for the The Prison Rules 1999, Section 35A.