
STATUTORY INSTRUMENTS

2018 No. 409

The Short-term Holding Facility Rules 2018

PART 2

APPLICATION

Application of these Rules

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

Places of detention

4.—(1) These Rules do not apply to the facilities listed in paragraph (2) or to a detained person who is detained in such a facility.

(2) The facilities are—

- (a) a police station;
- (b) a hospital;
- (c) a young offender institution;
- (d) a prison or remand centre;
- (e) in the case of a person under 18, a place of safety, and
- (f) any premises at which appeals or reviews under Part 5 of the Nationality, Immigration and Asylum Act 2002(1) or under the Special Immigration Appeals Commission Act 1997(2) are heard or any place provided specifically for the purpose of detention in such premises.

(3) For the purposes of paragraph (2) “place of safety”—

- (a) in England and Wales, has the same meaning as in the Children and Young Persons Act 1933(3);

(1) Part 5 was amended by sections 26 to 31 and 33 of, and Schedules 2 and 4 to, the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), sections 1 to 7 and 11 to 14 of, and Schedules 1 and 3 to, the Immigration, Asylum and Nationality Act 2006 (c. 13), sections 19 and 54 of, and the Schedule to, the UK Borders Act 2007 (c. 30), paragraph 54 of Schedule 8 to the Tribunals, Courts and Enforcement Act 2007 (c. 15), Part 2 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), sections 51 to 54 of the Crime and Courts Act 2013 (c. 22), sections 15 and 17 of, and Part 4 of Schedule 9 to, the Immigration Act 2014 (c. 22), section 63 of the Immigration Act 2016 (c. 19), and by S.I. 2010/21 and 2011/1043.

(2) 1997 c. 68; amended by Schedule 14 to the Immigration and Asylum Act 1999 (c. 33), section 35 of the Anti-terrorism, Crime and Security Act 2001 (c. 24), section 4 of and Schedules 7 and 9 to the Nationality, Immigration and Asylum Act 2002, Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Schedule 17 to the Constitutional Reform Act 2005 (c. 4), section 16 of the Prevention of Terrorism Act 2005 (c. 2), Schedule 1 to the Immigration, Asylum and Nationality Act 2006, section 91 of the Counter-Terrorism Act 2008 (c. 28), section 15 of and Schedule 2 to the Justice and Security Act 2013 (c. 19), paragraph 26 of Schedule 9 to the Immigration Act 2014, section 66 of the Criminal Justice and Courts Act 2015 (c. 2) and section 64 of and Schedule 10 to the Immigration Act 2016.

(3) “Place of safety” is defined in section 107(1) of that Act (1933 c. 12); the definition was amended by paragraph 12(2) of Schedule 5 to the Children and Young Persons Act 1969 (c. 54).

- (b) in Scotland, has the same meaning as in the Children’s Hearings (Scotland) Act 2011(4);
- (c) in Northern Ireland, means a home provided under Part 7 of the Children (Northern Ireland) Order 1995(5), any police station, any hospital or surgery, or any other suitable place, the occupier of which is willing temporarily to receive a person under the age of 18.

Directly managed short-term holding facilities

5.—(1) These Rules apply to directly managed short-term holding facilities except for rule 41 (staff employed by the contractor) and subject to the modifications set out in paragraphs (2) to (6).

(2) Rule 9(11) (detained person’s property) applies as if for “joint authority of the manager and the contract monitor” there were substituted “authority of the manager”.

(3) Rule 17(3) (food) applies as if—

- (a) for “The contract monitor” there were substituted “The manager”, and
- (b) after “and drink” there were omitted “and must report any deficiency or defect to the manager”.

(4) Rule 34 (requests and complaints) applies as if paragraph (4) were omitted.

(5) Rule 35 (removal from association) applies as if—

- (a) in paragraph (1) for “The Secretary of State” there were substituted “The manager”, and
- (b) paragraph (2) were omitted.

(6) Rule 37 (temporary confinement) applies as if—

- (a) in paragraph (1) for “The Secretary of State” there were substituted “The manager”, and
- (b) paragraph (2) were omitted.

Holding rooms

6.—(1) Subject to paragraph (2), a detained person must not be detained in a holding room for a period of more than 24 hours.

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

(3) These Rules apply to a holding room and to a detained person detained in a holding room except for those provisions listed in paragraph (4) and subject to the modifications in paragraphs (5) to (8).

(4) The provisions are—

- (a) rule 13 (accommodation);
- (b) rule 14 (sleeping accommodation);
- (c) rule 15(1) and (2) (families and minors);
- (d) rule 16 (clothing);
- (e) rule 18(1)(b) and (c) (hygiene);
- (f) rule 24 (correspondence);
- (g) rule 25 (visits);
- (h) rule 29 (access to the internet);
- (i) rule 30 (medical screening);

(4) 2011 asp 1.

(5) S.I. 1995/755 (N.I.2).

- (j) rule 32 (special illnesses and conditions);
 - (k) rule 35 (removal from association);
 - (l) rule 37 (temporary confinement);
 - (m) rule 48 (visitors).
- (5) Rule 20(2) (time in open air) applies as if it provided —
- “(2) Time in the open air may be refused—
 - (a) in exceptional circumstances where necessary in the interests of the security of the short-term holding facility or the safety of the detained person or other persons, or
 - (b) where the location or design of the short-term holding facility means that it is not reasonably practicable for detained persons to spend time in the open air.”.
- (6) Rule 23 (outside contacts) applies as if it provided—
- “**23.**—(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.”.
- (7) Rule 27 (legal adviser) applies as if—
- (a) in paragraph (1) for “paragraph (2)” there were substituted “paragraphs (2) and (3)”, and
 - (b) at the end there were inserted—
- “(3) A detained person is not permitted to meet with their legal adviser if the person is detained within an area of a port which non-travelling members of the public are not permitted to enter (but they may consult with their legal adviser by telephone).”.
- (8) Rule 31 (general medical care) applies as if it provided—
- “**31.** 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.”.