STATUTORY INSTRUMENTS

2024 No. 1217

PRISONS, ENGLAND AND WALES

YOUNG OFFENDER INSTITUTIONS, ENGLAND AND WALES

The Prison and Young Offender Institution (Interception of Communications) (Amendment) Rules 2024

Made - - - -	*21st November 2024*
Laid before Parliament	*27th November 2024*
Coming into force - -	*6th January 2025*

The Secretary of State makes these Rules in exercise of the powers conferred by section 47 of the Prison Act 1952(**a**).

Citation, commencement and extent

1.—(1) These Rules may be cited as the Prison and Young Offender Institution (Interception of Communications) (Amendment) Rules 2024.

(2) These Rules come into force on 6th January 2025.

(3) These Rules extend to England and Wales.

Amendment of the Prison Rules 1999

2.—(1) The Prison Rules 1999(**b**) are amended as follows.

(2) In Rule 35A (interception of communications)—

(a) in paragraph (2A), for the words from "unless", in the first place it occurs, to the end, substitute "unless either the condition in paragraph (2B) or the condition in paragraph (2C) is satisfied";

(b) after paragraph (2A), insert—

"(2B) The condition in this paragraph is that—

(a) the governor has reasonable cause to believe that the communication is being made with the intention of furthering a criminal purpose; and

(b) the arrangements for interception of the communication are authorised by—

(**a**) 1952 c. 52. Section 47(1) was amended by section 6(2) of the Criminal Justice and Public Order Act 1994 (c. 33) and paragraph 3(2) of Schedule 9 to the Criminal Justice and Courts Act 2015 (c. 2).

(**b**) S.I. 1999/728, amended by S.I. 2000/2641, 2009/3082 and 2011/1663; there are other amending instruments but none is relevant.

(i) the chief executive officer of His Majesty's Prison and Probation Service;

(ii) the director responsible for national operational services of that service; or

(iii) the duty director of that service.

(2C) The condition in this paragraph is that—

(a) the communication is by means of a telecommunications system which facilitates the transmission of both images (whether moving or otherwise) and sound;

(b) the interception is only of the images and not of sound; and

(c) the governor considers that the arrangements are—

(i) necessary on grounds specified in paragraph (4); and

(ii) proportionate to what is sought to be achieved.";

(c) in paragraph (4), after "(2)(a)" insert ", (2C)(c)(i)".

Amendment of the Young Offender Institution Rules 2000

3.—(1) The Young Offender Institution Rules 2000(**a**) are amended as follows.

(2) In Rule 11 (interception of communications)—

(a) in paragraph (2A), for the words from "unless", in the first place it occurs, to the end, substitute "unless either the condition in paragraph (2B) or the condition in paragraph (2C) is satisfied";

(b) after paragraph (2A), insert the following—

"(2B) The condition in this paragraph is that—

(a) the governor has reasonable cause to believe that the communication is being made with the intention of furthering a criminal purpose; and

(b) the arrangements for interception of the communication are authorised by—

(i) the chief executive officer of His Majesty's Prison and Probation Service;

(ii) the director responsible for national operational services of that service; or

(iii) the duty director of that service.

(2C) The condition in this paragraph is that—

(a) the communication is by means of a telecommunications system which facilitates the transmission of both images (whether moving or otherwise) and sound;

(b) the interception is only of the images and not of sound; and

(c) the governor considers that the arrangements are—

(i) necessary on grounds specified in paragraph (4); and

(ii) proportionate to what is sought to be achieved.";

(c) in paragraph (4), after "(2)(a)" add ", (2C)(c)(i)".

(**a**) S.I. 2000/3371, amended by S.I. 2009/3082 and 2011/1663; there are other amending instruments but none is relevant.

Timpson
Minister of State
21st November 2024 Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make amendments to the Prison Rules 1999 (S.I. 1999/728) ("the Prison Rules") and the Young Offender Institution Rules 2000 (S.I. 2000/3371) ("the YOI Rules").

Prior to the amendments made in these Rules, governors could only make arrangements for interception of any communication between a prisoner and either their legal advisor or a body or organisation on the "Confidential Access" list, when a single set of conditions were fulfilled. These were that the governor had reasonable cause to believe that the communication was being made with the intention of furthering a criminal purpose, and that they were authorised by a listed official in the National Offender Management Service.

These amendments will additionally allow governors to make such arrangements when a second set of conditions are fulfilled. These new conditions are that the communication is by means of a "video calling" system which enables the use of both video and audio, that the interception is only of the video, and that the governor considers the arrangement to be necessary on one of the grounds already specified in paragraph (4), and proportionate to what is sought to be achieved.

"Out of hearing but in sight" is the level of supervision permitted in respect of in-person visits by legal advisers under rule 38 of the Prison Rules. These amendments will enable governors to make arrangements for this same level of supervision in respect of video calls between prisoners and their legal advisor or a body or organisation on the "Confidential Access" list, by making arrangements to intercept the video of the call, but not the audio. Previously, the only way for governors to make arrangements for this same level of supervision in respect of such video calls was to request consent to the interception from the prisoner and the person they were calling, and if one of them refused, to arrange for staff to patrol the rooms where video calls took place, and physically look through the windows in order to check the video on the prisoner's screen, which was resource-intensive.

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

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