

STATUTORY INSTRUMENTS

2001 No. 238

IMMIGRATION

The Detention Centre Rules 2001

<i>Made</i>	- - - -	<i>29th January 2001</i>
<i>Laid before Parliament</i>		<i>6th February 2001</i>
<i>Coming into force</i>	- -	<i>2nd April 2001</i>

In exercise of the powers conferred upon me by sections 148(3), 149(6), 152(2) and (3), 153 and 166(3) of, and paragraph 2 of Schedules 11 and 13 to, and paragraphs 1 to 3 of Schedule 12 to, the Immigration and Asylum Act 1999^{F1}, I hereby make the following Rules:

F1 1999 c. 33.

PART I

Citation and commencement

1. These Rules may be cited as the Detention Centre Rules 2001 and shall come into force on 2nd April 2001.

Interpretation

2. In these Rules, where the context so admits, the expression—

“compact” has the meaning set out at rule 4(1);

“controlled drug” means any drug which is a controlled drug for the purposes of the Misuse of Drugs Act 1971^{F2};

“legal adviser” means, in relation to a detained person, his counsel, representative or solicitor, and includes a clerk acting on behalf of his solicitor;

“manager” means, in relation to any detention centre, the person appointed under section 148(1) of the Immigration and Asylum Act 1999;

“officer” means an officer of a detention centre (whether a Crown servant or an employee of the contractor or otherwise) and, for the purposes of rule 8(2), includes a detainee custody officer who is authorised to perform escort functions in accordance with section 154 of the

Immigration and Asylum Act 1999 or a prison officer or prisoner custody officer performing those functions under that section.

F2 1971 c. 38.

PART II DETAINED PERSONS

GENERAL

Purpose of detention centres

3.—(1) The purpose of detention centres shall be to provide for the secure but humane accommodation of detained persons in a relaxed regime with as much freedom of movement and association as possible, consistent with maintaining a safe and secure environment, and to encourage and assist detained persons to make the most productive use of their time, whilst respecting in particular their dignity and the right to individual expression.

(2) Due recognition will be given at detention centres to the need for awareness of the particular anxieties to which detained persons may be subject and the sensitivity that this will require, especially when handling issues of cultural diversity.

ADMISSIONS AND DISCHARGE

Information to detained persons about these Rules and the detention centre

4.—(1) The Secretary of State shall devise a document (to be known as the “compact”) setting out certain rights to be enjoyed and responsibilities to be undertaken by detained persons during their stay at detention centres.

(2) The compact shall in no way prejudice any other rights or responsibilities of detained persons as set out in these Rules, the Human Rights Convention, or otherwise.

(3) Every detained person shall be provided, as soon as possible after his reception into a detention centre and (so far as reasonably practicable) in a language which he understands, with a copy of the compact together with information in writing about those provisions in these Rules and other matters about life in the detention centre which it is necessary that he should know (including information about the proper method of making requests and complaints at the centre).

(4) In the case of a detained person aged less than 18, or a detained person aged 18 or over who cannot read or appears to have difficulty in understanding the information so provided, the manager, or a member of staff deputed by him, shall so explain it to him in order that he can understand his rights and responsibilities.

(5) These Rules shall be translated into a variety of languages as directed by the Secretary of State.

(6) A copy of these Rules shall be made available to any detained person who requests it.

Record, photograph and fingerprinting

5.—(1) For purposes of identification and welfare, a personal record for each detained person shall be prepared and maintained in such manner as the Secretary of State may direct.

(2) This record shall include such details and measurements of external physical characteristics as the Secretary of State may direct, but no copy of the record shall be given to any person not authorised to receive it by the Secretary of State.

(3) Every detained person may be photographed on reception and subsequently as many times as may be required by the Secretary of State, but no copy of any photographs taken shall be given to any person not authorised to receive it by the Secretary of State.

(4) Any detained person may have his fingerprints taken in accordance with section 141 of the Immigration and Asylum Act 1999 if specifically directed by the Secretary of State.

Detained persons' property

6.—(1) Every detained person shall be entitled to retain all his personal property, other than cash, for his own use at the detention centre save where such retention is contrary to the interests of safety or security or is incompatible with the storage facilities provided at the centre.

(2) Anything, other than cash, which a detained person has at a detention centre and which he is not allowed to retain for his own use as a result of paragraph (1) shall be taken into the manager's custody.

(3) An inventory of a detained person's property shall be kept, and he shall be required to sign it, after having a proper opportunity to see that it is correct.

(4) A detained person may have supplied to him at his expense and retain for his own use books, newspapers, writing materials and other means of occupation, except any that appears objectionable to the manager or the Secretary of State on grounds that it is likely to give offence to others.

(5) Any cash that a detained person does not wish to keep in his possession, or which he is not entitled to keep in his possession, shall be deposited with the manager for safekeeping and a receipt issued, which the detained person shall be required to sign, after having a proper opportunity to see that it is correct.

(6) A detained person shall be entitled to reasonable access to any cash deposited with the manager for safekeeping under paragraph (5).

(7) For the purposes of paragraph (5), a detained person shall not be entitled to keep in his possession any cash which is greater than an amount to be directed by the Secretary of State in the interests of prevention of loss or crime at the detention centre.

(8) Any property or cash which a detained person has deposited with, or surrendered to, the manager in accordance with these Rules shall be returned to the detained person upon his discharge from the detention centre.

(9) Any article belonging to a detained person which remains unclaimed for a period of more than one year after he is discharged from the detention centre, or dies, may be sold or otherwise disposed of and the net proceeds of any sale shall be applied, under the joint authority of the manager and the contract monitor, to purposes for the benefit of all detained persons.

(10) The manager may confiscate any unauthorised article found in the possession of a detained person after his reception into a detention centre, or concealed or deposited anywhere within a centre.

Search

7.—(1) For reasons of security and safety, every detained person shall be searched when taken into custody by an officer, on his reception into a detention centre and subsequently as the manager thinks necessary, or as the Secretary of State may direct.

(2) A detained person shall be searched in as seemly a manner as is consistent with discovering anything concealed.

(3) No detained person shall be stripped and searched in the sight of another detained person, or in the sight or presence of an officer or other person not of the same sex.

(4) Paragraphs (2) and (3) apply to searches by officers acting in accordance with escort arrangements as well as to those exercising custodial functions.

Custody outside of detention centres

8.—(1) A person being taken to or from a detention centre in custody shall be exposed as little as possible to public observation and proper care shall be taken to protect him from curiosity and insult.

(2) A detained person required to be taken in custody anywhere outside of a detention centre shall be kept in the custody of an officer appointed to escort him or a police officer.

Detention reviews and up-date of claim

9.—(1) Every detained person will be provided, by the Secretary of State, with written reasons for his detention at the time of his initial detention, and thereafter monthly.

(2) The Secretary of State shall, within a reasonable time following any request to do so by a detained person, provide that person with an update on the progress of any relevant matter relating to him.

(3) For the purposes of paragraph (2) “relevant matter” means any of the following—

- (a) a claim for asylum;
- (b) an application for, or for the variation of, leave to enter or remain in the United Kingdom;
- (c) an application for British nationality;
- (d) a claim for a right of admission into the United Kingdom under a provision of [^{F3}retained EU law];
- (e) a claim for a right of residence in the United Kingdom under a provision of [^{F4}retained EU law];
- (f) the proposed removal or deportation of the detained person from the United Kingdom;
- (g) an application for bail under the Immigration Acts or under the Special Immigration Appeals Commission Act 1997;
- (h) an appeal against, or an application for judicial review in relation to, any decision taken in connection with a matter referred to in paragraphs (a) to (g).

F3 Words in rule 9(3)(d) substituted (31.12.2020) by The Immigration, Nationality and Asylum (EU Exit) Regulations 2019 (S.I. 2019/745), regs. 1(2), 26(2); 2020 c. 1, Sch. 5 para. 1(1)

F4 Words in rule 9(3)(e) substituted (31.12.2020) by The Immigration, Nationality and Asylum (EU Exit) Regulations 2019 (S.I. 2019/745), regs. 1(2), 26(2); 2020 c. 1, Sch. 5 para. 1(1)

Female detained persons

10. Female detained persons will be provided with sleeping accommodation separate from male detained persons, subject to rule 11.

Families and minors

11.—(1) Detained family members shall be entitled to enjoy family life at the detention centre save to the extent necessary in the interests of security and safety.

(2) Detained persons aged under 18 and families will be provided with accommodation suitable to their needs.

(3) Everything reasonably necessary for detained persons' protection, safety and well-being and the maintenance and care of infants and children shall be provided.

WELFARE AND PRIVILEGES

Clothing

12.—(1) All detained persons may wear clothing of their own if and insofar as it is suitable and clean, and shall be permitted to arrange for the supply to them from outside the detention centre of sufficient clean clothing.

(2) Where required all detained persons shall be provided with clothing adequate for warmth and health in accordance with arrangements approved by the Secretary of State.

(3) A detained person shall be provided, where necessary, with suitable and adequate clothing on his release.

(4) Facilities for the laundering of items of clothing shall be provided.

Food

13.—(1) Subject to any directions of the Secretary of State, no detained person shall be allowed, except as authorised by the medical practitioner to have any food other than that ordinarily provided.

(2) No detained person shall be given less food than is ordinarily provided, except with his written consent and upon the written recommendation of the medical practitioner.

(3) The food provided shall:

(a) be wholesome, nutritious, well prepared and served, reasonably varied, sufficient in quantity and

(b) meet all religious, dietary, cultural and medical needs.

(4) The contract monitor at a contracted-out detention centre, or the manager at a directly managed detention centre, shall regularly inspect the food both before and after it is cooked and, in the case of the contract monitor, shall report any deficiency or defect to the manager.

(5) In this rule "food" includes drink.

Alcohol

14. No detained person shall be allowed to have any intoxicating liquor except:—

(a) by written order of the medical practitioner, specifying the quantity and the name of the detained person and the medical reason for the order; or

(b) for the observance of religious festivals, and for sacraments, with the prior agreement of the manager.

Certification of accommodation

15.—(1) The Secretary of State shall satisfy himself that in every detention centre sufficient accommodation is provided for all detained persons.

(2) No room shall be used as sleeping accommodation for a detained person unless the Secretary of State has certified that:—

(a) its size, lighting, heating, ventilation and fittings are adequate for health;

- (b) it has adequate storage facilities (consistent with interests of security and safety); and
 - (c) it allows the detained person to communicate at any time with an officer.
- (3) No room shall be used for the purposes of:—
- (a) removal from association under rule 40;
 - (b) temporary confinement under rule 42; or
 - (c) application of special control or restraint under rule 43 unless the Secretary of State has certified that its lighting, heating, ventilation and fittings are adequate for health and that it allows the detained person to communicate at any time with an officer.
- (4) A certificate given under this rule in respect of any room shall specify the maximum number of detained persons who may be accommodated in the room.

Hygiene

- 16.—(1) Every detained person shall have proper regard for personal hygiene in their own interests and the interests of others.
- (2) Every detained person shall be provided with toilet articles necessary for his health and cleanliness, which shall be replaced as necessary.
- (3) Facilities shall be provided for every detained person to have a daily bath or shower.
- (4) Facilities shall be provided to male detained persons to permit daily shaving.
- (5) Facilities shall be provided to allow detained persons to have their hair cut on a regular basis.
- (6) No detained person shall be required to have his or her hair cut without consent.

Regime and paid activity

- 17.—(1) All detained persons shall be provided with an opportunity to participate in activities to meet, as far as possible, their recreational and intellectual needs and the relief of boredom.
- (2) Wherever reasonably possible the development of skills and of services to the centre and to the community should be encouraged.
- (3) Detained persons shall be entitled to undertake paid activities to the extent that the opportunity to do so is provided by the manager.
- (4) Detained persons undertaking activities under paragraph (3) shall be paid at rates approved by the Secretary of State, either generally or in relation to particular cases.
- (5) Every detained person able to take part in educational activities provided at a detention centre shall be encouraged to do so.
- (6) Programmes of educational classes shall be provided at every detention centre.
- (7) Arrangements shall be made for each detained person to have the opportunity of taking part in physical education or recreation, which shall consist of both sports and health-related activities.
- (8) A library shall be provided in every detention centre, which will meet a range of cultural, ethnic and linguistic needs and, subject to any direction of the Secretary of State in any particular case, every detained person shall be allowed access to it at reasonable times.

Time in open air

- 18.—(1) Subject to paragraph (2), a detained person shall be given the opportunity to spend at least one hour in the open air every day.
- (2) Time in the open air may be refused in exceptional circumstances where necessary in the interests of safety or security.

Privileges

19.—(1) At every detention centre all detained persons shall have access to a system of privileges approved by the Secretary of State, which shall include arrangements under which they may spend their money within the detention centre.

(2) Systems of privileges approved under paragraph (1) may include arrangements under which privileges may be granted to detained persons only in so far as they have met, and for so long as they continue to meet, specified standards of behaviour (whether under the compact, these Rules or otherwise).

(3) Systems of privileges which include arrangements of the kind referred to in paragraph (2) shall include procedures to be followed in determining whether or not any of the privileges concerned shall be granted to a detained person and such procedures shall include a requirement that the detained person be given reasons for any decision adverse to him together with a statement of the means by which he may appeal against it.

(4) This rule shall be without prejudice to any other provision of these Rules which provides that a privilege may be forfeited or otherwise lost or a detained person deprived of association with other detained persons.

RELIGION

Diversity of religion

20. The practice of religion in detention centres shall take account of the diverse cultural and religious background of detained persons.

Religious denomination

21. If a detained person wishes to declare himself to belong to a particular religion, the manager shall upon that person's reception at the detention centre record the religion to which the detained person wishes to belong.

Manager of religious affairs and ministers of religion

22.—(1) Every detention centre shall have a manager of religious affairs whose appointment shall be approved by the Secretary of State.

(2) Where in any detention centre the number of detained persons who belong to a particular religion is such as in the opinion of the Secretary of State to require the appointment of a minister of that religion, the Secretary of State may appoint such a minister to that detention centre.

(3) The manager of religious affairs shall make arrangements for a minister of religion to meet with every detained person of his religion individually soon after the detained person's reception into the detention centre if the detained person so wishes.

(4) A minister of religion shall visit daily all detained persons of his religion who are sick, under restraint, in temporary confinement, or undergoing removal from association, as far as he reasonably can and to the extent that the detained person so wishes.

Regular visits by ministers of religion

23.—(1) The manager shall make arrangements for a minister of religion to visit detained persons of his religion as often as he reasonably can and to the extent that the detained person so wishes.

(2) Where a detained person belongs to a religion for which no minister of religion has been appointed the manager will do what he reasonably can, if so requested by the detained person, to

arrange for him to be visited by a minister of that religion as often as he reasonably can and to the extent that the detained person so wishes.

Religious services

24. The manager shall make arrangements for ministers of religion to conduct religious services for detained persons of their religions at such times as may be arranged.

Religious books

25. There shall, so far as reasonably practicable, be available for the personal use of every detained person such religious books recognised by his religion as are approved by the Secretary of State for use in detention centres.

COMMUNICATIONS

Outside contacts

26.—(1) In accordance with rules 27, 28 and 57, detained persons shall be entitled to enjoy family life by way of visits from, or communications with, family members living outside the detention centre, save to the extent necessary in the interests of security or safety.

(2) A detained person shall be entitled to establish and maintain, as far as are possible, such relations with persons and agencies outside the detention centre as he may wish, save to the extent that such relations prejudice interests of security or safety.

Correspondence

27.—(1) Every detained person may send at his own expense and receive as many letters and facsimiles as he wishes.

(2) If a detained person does not have the necessary funds to do so, the Secretary of State may bear the postage expense of any reasonable number of letters which that person wishes to send.

(3) A detained person shall on request be provided with any writing materials necessary for the purposes of sending letters pursuant to paragraph (2).

(4) No letter or other communication to or from a detained person may be opened, read or stopped save where the manager has reasonable cause to believe that its contents may endanger the security of the detention centre or the safety of others or are otherwise of a criminal nature or where it is not possible to determine the addressee or sender without opening the correspondence.

(5) Detained persons will be given the opportunity of being present when any correspondence is opened or read and shall be given reasons in advance if any correspondence is to be opened, read or stopped under paragraph (4).

(6) Without prejudice to paragraph (2), if a detained person does not have the necessary funds to do so, the Secretary of State shall bear the postage expense of any letter to the European Court of Human Rights, ^{F5}... the High Court, the Court of Session, the Special Immigration Appeals Commission [^{F6}, the First-tier Tribunal or the Upper Tribunal] (or any court entitled to hear an appeal against a decision of those bodies).

F5	Words in rule 27(6) omitted (31.12.2020) by virtue of The Immigration, Nationality and Asylum (EU Exit) Regulations 2019 (S.I. 2019/745), regs. 1(2), 26(3) (with Sch. 2 para. 6); 2020 c. 1, Sch. 5 para. 1(1)
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F6 Words in rule. 27(6) substituted (15.2.2010) by The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21), **Sch. 2 para. 1**

Visits

28.—(1) Every detained person may receive as many visits as he wishes within such reasonable limits and subject to such reasonable conditions as the Secretary of State may direct, either generally or in a particular case.

(2) In the interests of security and safety, every visit to a detained person shall take place within sight of an officer, unless the Secretary of State otherwise directs.

(3) Every visit to a detained person shall take place out of the hearing of an officer unless the Secretary of State otherwise directs in a particular case in the interests of security or safety (in which case the detained person shall be given reasons for the direction in advance).

(4) No person visiting a detained person at a detention centre shall be permitted to take a photograph whilst there without the permission of the Secretary of State.

Official interviews

29. A police officer, immigration officer or any other government official may interview any detained person willing to see him or obliged to see him.

Legal advisers and representatives

30. The legal adviser or representative of any detained person in any legal proceedings shall be afforded reasonable facilities for interviewing him in confidence, save that any such interview may be in the sight of an officer.

Use of telephones

31.—(1) All detained persons shall have access to public telephones at the detention centre.

(2) Information about tariffs shall be provided by the manager on request by detained persons.

(3) A separate telephone system shall be provided for incoming calls, and the manager shall ensure that detained persons are notified promptly of such calls.

(4) If a detained person does not have the necessary funds to do so, the Secretary of State may bear the expense of any telephone calls (within reasonable limits) which that person wishes to make.

Money and articles received by post or courier

32.—(1) Any money or other article (other than a letter or other communication) sent to a detained person through the post or courier shall be dealt with in accordance with the provisions of this rule, and the detained person shall be informed of the manner in which it is dealt with.

(2) Any cash shall, at the discretion of the manager, be—

(a) dealt with in accordance with rule 6(5), (6) or (7); or

(b) returned to the sender (if known).

(3) Any security for money shall, at the discretion of the manager, be—

(a) delivered to the detained person or placed with his property at the centre; or

(b) returned to the sender (if known).

(4) Any other article to which this rule applies shall, at the discretion of the manager, be—

- (a) delivered to the detained person or placed with his property at the detention centre; or
- (b) returned to the sender (if known).

HEALTH CARE

Medical practitioner and health care team

33.—(1) Every detention centre shall have a medical practitioner, who shall be vocationally trained as a general practitioner and a fully registered person within the meaning of the Medical Act 1983^{F7}[^{F8}who holds a licence to practise].

(2) Every detention centre shall have a health care team (of which the medical practitioner will be a member), which shall be responsible for the care of the physical and mental health of the detained persons at that centre.

(3) Each member of the health care team shall (as far as they are qualified to do so) pay special attention to the need to recognise medical conditions which might be found among a diverse population and the cultural sensitivity appropriate when performing his duties.

(4) The health care team shall observe all applicable professional guidelines relating to medical confidentiality.

(5) Every request by a detained person to see the medical practitioner shall be recorded by the officer to whom it is made and forthwith passed to the medical practitioner or nursing staff at the detention centre.

(6) The medical practitioner may consult with other medical practitioners at his discretion.

(7) All detained persons shall be entitled to request that they are attended by a registered medical practitioner or dentist other than the medical practitioner or those consulted by him under paragraph (6), so long as—

- (a) the detained person will pay any expense incurred;
- (b) the manager is satisfied that there are reasonable grounds for the request; and
- (c) the attendance is in consultation with the medical practitioner.

(8) The medical practitioner shall obtain, so far as reasonably practicable, any previous medical records located in the United Kingdom relating to each detained person in the detention centre.

(9) The health care team shall ensure that all medical records relating to a detained person are forwarded as appropriate following his transfer to another detention centre or a prison or on discharge from the detention centre.

(10) All detained persons shall be entitled, if they so wish, to be examined only by a registered medical practitioner of the same sex, and the medical practitioner shall ensure that all detained persons of the opposite sex are aware of that entitlement prior to any examination.

(11) Subject to any directions given in the particular case by the Secretary of State, a registered medical practitioner selected by or on behalf of a detained person who is party to legal proceedings shall be afforded reasonable facilities for examining him in connection with the proceedings.

F7 1983 c. 54.

F8 Words in rule 33(1) inserted (coming into force in accordance with art. 1(3) of the amending S.I.) by The Medical Act 1983 (Amendment) Order 2002 (S.I. 2002/3135), art. 1(2), **Sch. 1 para. 47** (with Sch. 2)

Medical examination upon admission and thereafter

34.—(1) Every detained person shall be given a physical and mental examination by the medical practitioner (or another registered medical practitioner in accordance with rules 33(7) or (10)) within 24 hours of his admission to the detention centre.

(2) Nothing in paragraph (1) shall allow an examination to be given in any case where the detained person does not consent to it.

(3) If a detained person does not consent to an examination under paragraph (1), he shall be entitled to the examination at any subsequent time upon request.

Special illnesses and conditions (including torture claims)

35.—(1) The medical practitioner shall report to the manager on the case of any detained person whose health is likely to be injuriously affected by continued detention or any conditions of detention.

(2) The medical practitioner shall report to the manager on the case of any detained person he suspects of having suicidal intentions, and the detained person shall be placed under special observation for so long as those suspicions remain, and a record of his treatment and condition shall be kept throughout that time in a manner to be determined by the Secretary of State.

(3) The medical practitioner shall report to the manager on the case of any detained person who he is concerned may have been the victim of torture.

(4) The manager shall send a copy of any report under paragraphs (1), (2) or (3) to the Secretary of State without delay.

(5) The medical practitioner shall pay special attention to any detained person whose mental condition appears to require it, and make any special arrangements (including counselling arrangements) which appear necessary for his supervision or care.

[^{F9}(6) For the purposes of paragraph (3), “torture” means any act by which a perpetrator intentionally inflicts severe pain or suffering on a victim in a situation in which—

(a) the perpetrator has control (whether mental or physical) over the victim, and

(b) as a result of that control, the victim is powerless to resist.]

F9 Rule 35(6) inserted (2.7.2018) by The Detention Centre (Amendment) Rules 2018 (S.I. 2018/411), rules 1, 2

Notification of illness or death

36.—(1) If a detained person dies, becomes seriously ill, sustains any severe injury or is removed to hospital on account of mental disorder, the manager shall inform the Secretary of State without delay and the Secretary of State shall at once inform:—

(a) the detained person’s spouse or next of kin (if he knows of their contact details); and

(b) any other person who the detained person may reasonably have asked should be informed.

(2) In any case in which the Secretary of State is under a duty to inform the detained person’s spouse or next of kin under paragraph (1), this shall be done in person by the appropriate officer wherever it is reasonably practicable to do so.

(3) Without prejudice to paragraph (1), if a detained person dies, the manager shall give notice immediately to the police, to the coroner or procurator fiscal having jurisdiction, to the visiting committee and to the Secretary of State.

Medical examinations required in the interests of others

37.—(1) This rule applies where a detainee custody officer, acting under an authorisation given by the manager under Schedule 12 to the Immigration and Asylum Act 1999, requires a detained person to submit to a medical examination for the purposes of determining whether he is suffering from a disease specified by order under paragraph 3(7) of that Schedule to that Act.

(2) A detained person who has been required to submit to a medical examination shall, so far as is reasonably practicable, be asked to consent to the examination and be informed by the examining medical practitioner—

- (a) that he is being required to submit to a medical examination in accordance with Schedule 12 to the Immigration and Asylum Act 1999;
- (b) of the nature of the disease from which there are reasonable grounds to believe he is suffering; and
- (c) that a refusal, without reasonable excuse, to submit to the medical examination is an offence under that Act.

REQUESTS AND COMPLAINTS

Requests and complaints

38.—(1) A request or complaint to the manager, visiting committee or the Secretary of State relating to a detained person's detention shall be made orally or in writing by the detained person in accordance with such procedures as may be approved by the Secretary of State.

(2) On every day the manager shall hear any requests and complaints that are made to him under paragraph (1).

(3) In the case of a contracted-out detention centre, any complaint involving allegations against any officer at that centre shall be brought to the attention of the contract monitor as soon as possible.

(4) A detained person may make a written request or complaint under paragraph (1) in his own language.

(5) Any written request or complaint made under paragraph (1) may be made in confidence and, if the detained person so wishes, shall be sealed in an envelope with the addressee clearly indicated.

PART III

MAINTENANCE OF SECURITY AND SAFETY

General security and safety

39.—(1) Security shall be maintained, but with no more restriction than is required for safe custody and well ordered community life.

(2) A detained person shall not behave in any way which might endanger the health or personal safety of others.

(3) A detained person shall not behave in any way which is inconsistent with his responsibilities under the compact.

(4) A detained person shall not be employed in any disciplinary capacity.

Removal from association

40.—(1) Where it appears necessary in the interests of security or safety that a detained person should not associate with other detained persons, either generally or for particular purposes, the Secretary of State (in the case of a contracted-out detention centre) or the manager (in the case of a directly managed detention centre) may arrange for the detained person's removal from association accordingly.

(2) In cases of urgency, the manager of a contracted-out detention centre may assume the responsibility of the Secretary of State under paragraph (1) but shall notify the Secretary of State as soon as possible after making the necessary arrangements.

(3) A detained person shall not be removed under this rule for a period of more than 24 hours without the authority of the Secretary of State.

(4) An authority under paragraph (3) shall be for a period not exceeding 14 days.

(5) Notice of removal from association under this rule shall be given without delay to a member of the visiting committee, the medical practitioner and the manager of religious affairs.

(6) Where a detained person has been removed from association he shall be given written reasons for such removal within 2 hours of that removal.

(7) The manager may arrange at his discretion for such a detained person as aforesaid to resume association with other detained persons, and shall do so if in any case the medical practitioner so advises on medical grounds.

(8) Particulars of every case of removal from association shall be recorded by the manager in a manner to be directed by the Secretary of State.

(9) The manager, the medical practitioner and (at a contracted-out detention centre) an officer of the Secretary of State shall visit all detained persons who have been removed from association at least once each day for so long as they remain so removed.

Use of force

41.—(1) A detainee custody officer dealing with a detained person shall not use force unnecessarily and, when the application of force to a detained person is necessary, no more force than is necessary shall be used.

(2) No officer shall act deliberately in a manner calculated to provoke a detained person.

(3) Particulars of every case of use of force shall be recorded by the manager in a manner to be directed by the Secretary of State, and shall be reported to the Secretary of State.

Temporary confinement

42.—(1) The Secretary of State (in the case of a contracted-out detention centre) or the manager (in the case of a directly managed detention centre) may order a refractory or violent detained person to be confined temporarily in special accommodation, but a detained person shall not be so confined as a punishment, or after he has ceased to be refractory or violent.

(2) In cases of urgency, the manager of a contracted-out detention centre may assume the responsibility of the Secretary of State under paragraph (1) above but shall notify the Secretary of State as soon as possible after giving the relevant order.

(3) A detained person shall not be confined in special accommodation for longer than 24 hours without a direction in writing given by an officer of the Secretary of State (not being an officer of a detention centre).

(4) The direction shall state the grounds for the confinement and the time during which it may continue (not exceeding 3 days).

(5) A copy of the direction shall be given to the detained person before the 27th hour of the confinement.

(6) Notice of the direction shall be given without delay to a member of the visiting committee, the medical practitioner and the manager of religious affairs.

(7) Particulars of every case of temporary confinement shall be recorded by the manager in a manner to be directed by the Secretary of State.

(8) The manager, the medical practitioner and (at a contracted-out detention centre) an officer of the Secretary of State shall visit all detained persons in temporary confinement at least once each day for as long as they remain so confined.

Special control or restraint

43.—(1) The Secretary of State (in the case of a contracted-out detention centre) or the manager (in the case of a directly managed detention centre) may order a detained person to be put under special control or restraint where this is necessary to prevent the detained person from injuring himself or others, damaging property or creating a disturbance.

(2) In cases of urgency, the manager of a contracted-out detention centre may assume the responsibility of the Secretary of State under paragraph (1) but shall notify the Secretary of State without delay after giving the relevant order.

(3) Notice of such an order shall be given without delay to a member of the visiting committee, the medical practitioner and the manager of religious affairs.

(4) On receipt of the notice the medical practitioner shall inform the manager whether there are any medical reasons why the detained person should not be put under special control or restraint and the manager shall give effect to any recommendation which the medical practitioner may make.

(5) A detained person shall not be kept under special control or restraint longer than necessary, nor shall he be so kept for longer than 24 hours without a direction in writing given by an officer of the Secretary of State (not being an officer of the detention centre).

(6) A direction given under paragraph (5) shall state the grounds for the special control or restraint and the time during which it may continue.

(7) A copy of the direction will be given to the detained person before the 27th hour of application of the special control or restraint.

(8) Particulars of every case of special control or restraint shall be recorded by the manager in a manner to be directed by the Secretary of State.

(9) The manager, the medical practitioner and (at a contracted-out detention centre) an officer of the Secretary of State shall visit any detained person placed under special control and restraint at reasonable intervals during every 24 hour period for so long as the special control or restraint continues to be applied.

(10) Except as provided by this rule no detained person shall be put under special control or restraint otherwise than for safe custody, to give effect to directions lawfully given for his removal from the United Kingdom, or on medical grounds by direction of the medical practitioner.

(11) No detained person shall be put under special control or restraint as a punishment.

(12) Any means of special control or restraint shall be of a pattern authorised by the Secretary of State, and shall be used in such manner and under such conditions as the Secretary of State may direct.

Compulsory testing for controlled drugs and alcohol

44.—(1) This rule applies where a detainee custody officer, acting under an authorisation given by the Secretary of State under paragraph 2 of Schedule 12 to the Immigration and Asylum Act 1999, requires a detained person to provide a sample for the purpose of ascertaining whether he has a controlled drug or alcohol in his body.

(2) In this rule “sample” means a sample of urine or breath or any other description of sample specified in the authorisation.

(3) The detainee custody officer shall not require a sample to be taken unless there are reasonable grounds for believing that the detained person has a controlled drug or alcohol in his body.

(4) When requiring a detained person to provide a sample, the detainee custody officer shall inform the detained person that he is being required to provide a sample in accordance with paragraph 2 of Schedule 12 to the Immigration and Asylum Act 1999.

(5) The detainee custody officer shall require the detained person to provide a fresh sample, free from any adulteration.

(6) A detainee custody officer requiring a sample shall make such arrangements and give the detained person such instructions for its provision as may be reasonably necessary in order to prevent or detect its adulteration or falsification.

(7) A detained person who is required to provide a sample may be kept apart from other detained persons for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(8) A detained person who is unable to provide a sample of urine when required to do so may be kept apart from other detained persons until he has provided the required sample, save that the detained person may not be kept apart under this paragraph for a period of more than 5 hours.

(9) A detained person required to provide a sample of urine shall be afforded such degree of privacy for the purposes of providing the sample as may be compatible with the need to prevent or detect any adulteration or falsification of the sample and in particular a detained person shall not be required to provide such a sample in the sight of a person of the opposite sex.

PART IV

OFFICERS OF DETENTION CENTRES

General duty of officers

45.—(1) It shall be the duty of every officer to conform to these Rules and the rules and regulations of the detention centre, to assist and support the manager in their maintenance and to obey his lawful instructions.

(2) An officer shall inform the manager and the Secretary of State promptly of any abuse or impropriety which comes to his knowledge.

(3) Detainee custody officers exercising custodial functions shall pay special attention to their duty under paragraph 2(3)(d) of Schedule 11 to the Immigration and Asylum Act 1999 to attend to the well-being of detained persons.

(4) Detainee custody officers shall notify the health care team of any concern they have about the physical or mental health of a detainee.

(5) In managing detained persons, all officers shall seek by their own example and leadership to enlist their willing co-operation.

(6) At all times the treatment of detained persons shall be such as to encourage their self-respect, a sense of personal responsibility and tolerance towards others.

Gratuities forbidden

46. No officer shall receive any unauthorised fee, gratuity or other consideration in connection with his office.

Transactions with detained persons

47.—(1) No officer shall take part in any business or pecuniary transaction with or on behalf of a detained person without the leave of the Secretary of State.

(2) No officer shall without authority bring in or take out, or attempt to bring in or take out, or knowingly allow to be brought in or taken out, to or for a detained person, or deposit in any place with intent that it shall come into the possession of a detained person, any article whatsoever.

Contract monitor

48.—(1) The contract monitor at each contracted-out detention centre must investigate promptly any complaint made against any officer at that centre.

(2) Paragraph (1) is without prejudice to the duties of the contract monitor under section 149(7) of the Immigration and Asylum Act 1999.

Contractors' staff

49. All contractors' staff employed at the detention centre shall facilitate the exercise by the contract monitor of his functions.

Search of officers

50. An officer shall submit himself to be searched in the detention centre if the manager so directs. Any such search shall be conducted in as seemly a manner as is consistent with discovering anything concealed.

Contact with former detained persons

51. No officer shall, without the authority of the Secretary of State, communicate with any person whom he knows to be a former detained person or a relative or friend of a detained person or former detained person in such a way as could compromise that officer in the execution of his duty or the safety, security or control of the centre.

Communication with the press

52.—(1) No officer shall make, directly or indirectly, any unauthorised communication to a representative of the press or any other person concerning matters which have become known to him in the course of his duty.

(2) No officer shall, without authority, publish any matter or make any public pronouncement relating to the administration of any detention centre, short-term holding facility or prison or to any detained persons accommodated there.

PART V

PERSONS HAVING ACCESS TO DETENTION CENTRES

Authorisation for access

53. No person shall have access to a detention centre unless authorised by statute or the manager or the Secretary of State.

Prohibited articles

54.—(1) No person shall, without authority, convey into or throw into or deposit in a detention centre, or convey or throw out of a detention centre, or convey to a detained person, or deposit in any place with intent that it shall come into the possession of a detained person, any money, clothing, food, drink, tobacco, letter, paper, book, tool or other article whatever.

(2) Anything so conveyed, thrown or deposited may be confiscated by the manager.

Control of persons and vehicles

55.—(1) Any person or vehicle entering a detention centre may be stopped, examined and searched.

(2) Any search of a person under paragraph (1) shall be carried out in as seemly a manner as is consistent with discovering anything concealed.

(3) The manager may direct the removal from a detention centre of any person who does not leave on being required to do so.

Viewing of detention centres

56. No outside person shall be permitted to view inside a detention centre unless authorised to do so by statute or the Secretary of State.

Visitors

57.—(1) Without prejudice to any other powers to prohibit or restrict entry to detention centres, and to his powers under rule 28, the Secretary of State may, with a view to ensuring safety and security or the prevention of crime or in the interests of any persons, impose prohibitions on visits by a person to a detention centre or to a detained person in a detention centre for such periods of time as he considers necessary.

(2) Paragraph (1) shall not apply in relation to any visits to a detention centre or detained person by a member of the visiting committee of the detention centre, or to prevent any visit by a legal adviser for the purposes of an interview under rule 30.

PART VI

VISITING COMMITTEES

Disqualification for membership

58. Any person interested in any contract for the supply of goods or services to a detention centre shall not be a member of the visiting committee for that detention centre and any member who becomes so interested in such a contract shall vacate office as a member.

Visiting committees

59.—(1) A member of the visiting committee for a detention centre appointed by the Secretary of State under section 152 of the Immigration and Asylum Act 1999 shall, subject to paragraphs (3) and (4), hold office for three years, or such lesser period as the Secretary of State may appoint.

(2) A member—

- (a) appointed for the first time to the visiting committee for a particular detention centre; or
- (b) re-appointed to the committee following a gap of a year or more in his membership of it, shall, during the period of 12 months following the date on which he is so appointed or (as the case may be) re-appointed undertake such training as may be required by the Secretary of State.

(3) The Secretary of State may terminate the appointment of a member if he is satisfied that—

- (a) he has failed satisfactorily to perform his duties;
- (b) he has failed to undertake training he has been required to under paragraph (2), by the end of the period specified in that paragraph;
- (c) he is by reason of physical or mental illness, or for any other reason, incapable of carrying out his duties; or
- (d) he has been convicted of such a criminal offence, or his conduct has been such, that it is not in the Secretary of State's opinion fitting that he should remain a member.

(4) Where the Secretary of State:

- (a) has reason to suspect that a member of the visiting committee of a detention centre may have so conducted himself that his appointment may be liable to be terminated under paragraph (3)(a) or (d) above; and
- (b) is of the opinion that the suspected conduct is of such a serious nature that the member cannot be permitted to continue to perform his functions as a member of the committee pending the completion of the Secretary of State's investigations into the matter and any decision as to whether the member's appointment should be terminated, he may suspend the member from office for such a period or periods as he may reasonably require in order to complete his investigations and determine whether or not the appointment of the member should be so terminated; and a member so suspended shall not, during the period of the suspension be regarded as being a member of the visiting committee, other than for the purposes of this paragraph and paragraphs (1) and (3).

(5) A committee shall have a chairman and a vice-chairman, who shall be members of the committee.

(6) The Secretary of State shall—

- (a) upon the constitution of a committee for the first time, appoint a chairman and a vice-chairman to hold office for a period not exceeding twelve months;
- (b) thereafter appoint, before the date of the first meeting of the committee in any year of office of the board, a chairman and a vice-chairman for that year, having first consulted the committee; and
- (c) promptly fill, after having first consulted the committee, any casual vacancy in the office of chairman or vice-chairman.

(7) The Secretary of State may terminate the appointment of a member as chairman or vice-chairman of the committee if he is satisfied that the member has—

- (a) failed satisfactorily to perform his functions as chairman or (as the case may be) vice-chairman; or
- (b) has grossly misconducted himself whilst performing those functions.

Proceedings of visiting committees

60.—(1) The visiting committee of a detention centre shall meet at the detention centre once a month or, if they resolve for reasons specified in the resolution that less frequent meetings are sufficient, not fewer than eight times in twelve months.

(2) The committee may fix a quorum of not fewer than three members for proceedings.

(3) The committee shall keep minutes of their proceedings.

(4) The proceedings of the committee shall not be invalidated by any vacancy in the membership or any defect in the appointment of a member.

General duties of visiting committees

61.—(1) The visiting committee of a detention centre shall satisfy themselves as to the state of the detention centre premises, the administration of the detention centre and the treatment of the detained persons.

(2) The committee shall inquire into and report upon any matter into which the Secretary of State asks them to inquire.

(3) The committee shall direct the attention of the manager to any matter which calls for his attention, and shall report to the Secretary of State any matter which they consider expedient to report.

(4) The committee shall inform the Secretary of State immediately of any abuse which comes to their knowledge.

(5) The committee shall bring to the attention of the Secretary of State any aspect of the process of consideration of the immigration status of any detained person that causes them concern insofar as it affects that detained person's continued detention.

(6) Subject to paragraph (5) the committee shall not concern themselves with any issue directly relating to the immigration status of any detained person under the Immigration Acts.

(7) Before exercising any power under these Rules the committee and any member of the committee shall consult the manager in relation to any matter which may affect safety and security.

Particular duties

62.—(1) A member of the visiting committee shall visit any detained person who is subject for the time being to:—

(a) removal from association under rule 40;

(b) temporary confinement under rule 42; or

(c) special control or restraint under rule 43 within 24 hours of his being made so subject, and thereafter as the Secretary of State may direct.

(2) The visiting committee for a detention centre and any member of the committee shall hear any complaint or request which a detained person wishes to make to them or him.

(3) The committee shall arrange for the food of the detained persons to be inspected by a member of the committee at frequent intervals.

(4) The committee shall inquire into any report made to them, whether or not by a member of the committee, that a detained person's health, mental or physical, is likely to be injuriously affected by any conditions of his detention.

Members visiting detention centres

63.—(1) The members of the visiting committee for a detention centre shall (subject to paragraph (4)) visit the detention centre frequently, and the committee shall arrange a rota whereby at least one of its members visits the detention centre each week.

(2) A member of the committee shall have access at any time to every part of the detention centre and to every detained person, and he may interview any detained person out of the sight and hearing of officers.

(3) A member of the committee shall have access to the records of the detention centre.

(4) In exceptional circumstances, the Secretary of State may temporarily restrict visits by members of the committee in the interests of safety or security.

Annual report

64.—(1) The visiting committee for a detention centre shall, in accordance with paragraphs (2) and (3), from time to time make a report to the Secretary of State concerning the state of the detention centre and its administration, including in it any advice and suggestions they consider appropriate.

(2) The committee shall comply with any directions given to them from time to time by the Secretary of State as to the following matters—

- (a) the period to be covered by the report under paragraph (1);
- (b) the frequency with which such a report is to be made; and
- (c) the length of time from the end of the period covered by such a report within which it is to be made, either in respect of a particular report or generally, providing that no directions may be issued under this paragraph if they would have the effect of requiring a committee to make or deliver a report less frequently than once in every twelve months.

(3) Subject to any directions given to them under paragraph (2), the committee shall, under paragraph (1), make an annual report to the Secretary of State as soon as reasonably possible after 31st December each year, which shall cover the period of twelve months ending on that date or, in the case of a committee constituted for the first time during that period, such part of that period during which the committee has been in existence.

PART VII SUPPLEMENTAL

Delegation by the Secretary of State

65. The manager of a detention centre may, with the leave of the Secretary of State, delegate any of the powers and duties under these Rules to another officer of that detention centre.

Home Office

Barbara Roche
Minister of State

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision for the regulation and management of detention centres. They provide for matters such as the welfare and privileges of detained persons, their religious observance, correspondence, health care and any complaints they wish to make, as well as the use of security measures such as powers of search and removal from association in certain circumstances. The Rules also provide for the duties of detainee custody officers. In addition, the Rules make provision as to the making of visits by members of the Visiting Committee and for the making of reports by them to the Secretary of State.

Changes to legislation:

There are currently no known outstanding effects for the The Detention Centre Rules 2001.