

## **Act on Detention (Swedish Code of Statutes 2010:611)**

### **Chapter 1 Introductory provisions**

#### **The scope and contents of the Act**

##### **Section 1**

This Act contains provisions on the enforcement of detention and certain other temporary deprivations of liberty in remand prisons or other places of confinement. The provisions relate to:

- placement and certain rights (Chapter 2),
- visits and other forms of contacts (Chapter 3),
- special control and coercive measures (Chapter 4),
- health and medical care (Chapter 5),
- restrictions for prisoners suspected of a crime (Chapter 6), and
- decisions and appeals, etc (Chapters 7 and 8).

##### **Section 2**

This Act applies to a person who is

- (1) in detention (*Sw.* häktad), arrest (*Sw.* anhållen) or apprehension (*Sw.* gripen) on suspicion of a crime,
- (2) in detention for some other reason than suspicion of a crime,
- (3) held in a remand prison or in police cells pending removal to a prison or to a young offenders centre,
- (4) placed temporarily in a remand prison in accordance with the Act on Imprisonment (2010:610), or
- (5) in detention in accordance with Chapter 28, Section 11, third paragraph of the Penal Code (*Sw.* omhändertagen) until a decision to revoke probation enters into force.

The first paragraph, (1), does not apply to a person who has been apprehended in accordance with Section 35 of the Young Offenders (Special Provisions) Act (1964:167).

##### **Section 3**

Unless otherwise prescribed in an Act or other statute, the present Act also applies to a person who is being held in

- (1) a prison or a remand prison for some other purpose than the enforcement of a sentence for a crime, or
- (2) police apprehension.

#### **Enforcement objectives**

##### **Section 4**

Every prisoner shall be treated with respect for his or her human dignity and with understanding for the special difficulties associated with the deprivation of liberty.

##### **Section 5**

Enforcement shall be devised so as to counteract the negative consequences of deprivation of liberty. To the extent appropriate and the prisoner agrees, measures shall be taken to give him or her any needed help and support.

## **Section 6**

Enforcement may not entail limitations of the prisoner's liberty other than those that follow from this Act or are necessary to maintain good order or security.

A control or coercive measure may only be used if it is reasonably proportionate to the objective of the measure. If a less intrusive measure is sufficient it shall be used.

## **Chapter 2 Placement and certain rights**

### **Placement**

#### **Section 1**

A prisoner is entitled to be placed in a room of his own.

Two or more prisoners may be placed in the same room if this is necessary for reasons of capacity or for some other special reason.

#### **Section 2**

A prisoner may not be placed so that he or she is together with prisoners of the opposite sex. However, a prisoner may be permitted to be together with prisoners of the opposite sex if this is appropriate and the prisoners consent to it.

#### **Section 3**

A prisoner who is under the age of 18 years may not be placed so that he or she is together with prisoners aged 18 or over unless this can be considered to be in his or her best interests.

#### **Section 4**

A prisoner may be allowed to have an infant with him or her if this can be considered to be in the best interests of the infant.

### **Association and separation**

#### **Section 5**

A prisoner shall be given the opportunity during the day of being together with other prisoners (association) unless

- (1) the prisoner has been placed in a place of confinement other than a remand prison where the local conditions do not permit association,
- (2) it is necessary for security reasons to hold the prisoner separate from other prisoners, or
- (3) separation is necessary to carry out a body inspection.

### **Occupation and remuneration**

#### **Section 6**

If possible a prisoner shall be given an appropriate occupation in the form of work or other comparable activity.

A prisoner who carries out or participates in an occupational activity arranged by the Prison and Probation Service is entitled to remuneration.

If a prisoner has intentionally damaged property that belongs to or has been made available to the Prison and Probation Service, the Prison and Probation Service may withhold a sum from the remuneration referred to in the second paragraph corresponding to the cost of replacing the property or substituting for it in some other way.

## **Time outdoors**

### **Section 7**

A prisoner shall be given the opportunity to spend at least one hour each day outdoors unless there are exceptional reasons for not providing this opportunity.

## **Recreation**

### **Section 8**

A prisoner shall be given the opportunity for recreation in some suitable way.

## **Access to mass media**

### **Section 9**

A prisoner shall be given the opportunity of following, in some suitable way, events in the outside world.

## **Religious practice**

### **Section 10**

A prisoner shall be given the opportunity of practising, in some suitable way, his or her religion.

## **Personal possessions**

### **Section 11**

A prisoner may receive and possess books, periodicals, newspapers and other personal possessions that cannot jeopardise good order or security.

### **Section 12**

Possessions that a prisoner may not receive and possess in accordance with Section 11 may be seized and retained on behalf of the prisoner. Possessions that have been seized shall be released to the prisoner no later than when he or she shall no longer be deprived of liberty.

## **Leave**

### **Section 13**

For particularly compassionate reasons, a prisoner may be granted permission to stay away from the place of detention for a brief period (leave) if no impediment exists on grounds of security.

Authorisation of leave shall be combined with any necessary conditions. Unless it is manifestly unnecessary, the prisoner shall be kept under surveillance.

Before an authorisation of leave is granted to a person who is subject to restrictions in accordance with Chapter 6, consent shall be obtained from the leader of the investigation or the prosecutor.

## **Chapter 3 Visits and other forms of contacts**

### **Visits**

#### **Section 1**

A prisoner may receive visits to the extent that visiting can be conveniently arranged. However, a visit may be refused if it may jeopardise security in a way that cannot be dealt with by a control measure in accordance with Section 2 or 3.

Provisions on the right of a person who is in detention or under arrest to receive a visit from his or her defence counsel are set out in Chapter 21, Section 9 of the Code of Judicial Procedure.

#### **Section 2**

If it is necessary for security reasons, a visit may be subject to control by

- (1) staff supervision of the visit, or
- (2) the visit taking place in a visiting room designed to make it impossible to hand over articles.

#### **Section 3**

If necessary for security reasons a visit may be made conditional on the visitor submitting to a body search or a superficial body inspection.

### **Electronic communication**

#### **Section 4**

A prisoner may be in contact with another person through electronic communication to the extent that this can be conveniently arranged. However, such communication may be refused if it may jeopardise security in a way that cannot be dealt with by listening-in in accordance with Section 5.

#### **Section 5**

Electronic communication between a prisoner and another person may be listened to if this is necessary for security reasons. The persons who are to communicate with each other shall be informed in advance of this control.

Electronic communication between a prisoner and his or her public defence counsel (*Sv. offentlig försvarare*) may not be listened to.

### **Mail**

#### **Section 6**

Mail between a prisoner and his or her public defence counsel, a Swedish administration or an international organisation that has been recognised by Sweden as competent to receive complaints from private individuals shall be forwarded without examination. However, such mail to a prisoner shall not be forwarded and shall be retained if there is reason to assume that the information about the sender of the mail is incorrect.

#### **Section 7**

In cases other than those referred to in Section 6, a prisoner may be refused to send or receive mail if this is necessary having regard to good order or security. Mail that the prisoner may not send or receive may be retained.

### **Section 8**

Mail that is retained may not be examined without the consent of the prisoner unless this is absolutely necessary for security reasons.

Mail referred to in Section 6 may only be examined in order to investigate the identity of the sender.

### **Section 9**

Unless there are special reasons to the contrary, mail that has been retained shall be released to the prisoner as soon as possible and no later than when he or she shall no longer be deprived of liberty.

## **Common provisions**

### **Section 10**

A person who has been placed in a remand prison for an investigation of misconduct in accordance with Chapter 6, Section 8, third paragraph of the Act on Imprisonment (2010:610) shall be prevented from contact with other persons through visits, electronic communication or mail if this is absolutely necessary to avoid jeopardising the purpose of the investigation.

### **Section 11**

If it is necessary to assess whether a visit or electronic communication may be permitted in accordance with Section 1, first paragraph or Section 4 or shall be subject to control in accordance with Section 2 or 5, a prior investigation shall be made to find out whether the person with whom the contact is to take place has been convicted or is suspected of a crime or of engaging in criminal activity. To the extent necessary information shall also be obtained about his or her personal circumstances in general.

## **Chapter 4 Special control and coercive measures**

### **Control of room**

#### **Section 1**

A prisoner's room and his or her possessions may be subject to control to the extent necessary to maintain good order or security.

The first paragraph also applies to other closed places of storage that the prisoner has at his or her disposal.

### **Body search and body inspection**

#### **Section 2**

Unless it is manifestly unnecessary a person who is to be admitted to a place of confinement shall be subjected to a body search or a body inspection no later than on arrival to search for prohibited articles.

#### **Section 3**

A prisoner may be subjected to a body search or a body inspection to search for prohibited articles if

- (1) there is reason to suppose that such an article will be found on him or her,
- (2) he or she is returning from a stay away from the place of confinement,

(3) the prisoner will receive or has received a visit not subject to a control measure referred to in Chapter 3, Section 2, or

(4) the search or inspection takes place in connection with a random control or in connection with a wider examination undertaken for security reasons of some area within the place of confinement and the prisoner has, or has had, some special connection with that area.

#### **Section 4**

If it is necessary for security reasons, a prisoner may also in cases other than those referred to in Sections 2 and 3, be subjected to a body search in order to search for weapons or other dangerous articles.

#### **Section 5**

Unless there are medical or similar reasons against so doing, urine, breath, saliva, sweat, blood and hair samples may be taken from a prisoner who can be suspected on reasonable grounds of being under the influence of alcohol, narcotics, some other intoxicant, a substance referred to in Section 1 of the Act Prohibiting Certain Doping Substances (1991:1969) or a substance covered by the Act Prohibiting Certain Substances Harmful to Health (1999:42).

#### **Section 6**

Samples referred to in Section 5 may also be taken at the request of a prisoner if this is necessary in order to investigate his or her consumption of drugs as a prerequisite of a measure of care or treatment.

#### **Section 7**

A body search or body inspection may not be carried out or witnessed by anyone of the opposite sex who is not a doctor or a registered nurse. However, this does not apply to

- (1) a body search referred to in Section 4,
- (2) a body search that only entails the examination of articles that a person is bearing,
- (3) a body search carried out using a metal detector or a similar technical device, or
- (4) a body search that only entails taking samples other than urine samples in accordance with Section 5 or 6.

If necessary, a body search or a body inspection of a male prisoner may also be carried out or witnessed by a woman even in cases other than those referred to in the first paragraph.

### **Seizure of prohibited articles**

#### **Section 8**

Alcohol, narcotics, other intoxicating substances, substances referred to in Section 1 of the Act Prohibiting Certain Doping Substances (1991:1969) or substances covered by the Act Prohibiting Certain Substances Harmful to Health (1999:42) may be seized and destroyed

- (1) if they are brought in by someone who is to be admitted to a place of detention,
- (2) if they are found in the possession of a prisoner,
- (3) if they are sent to a prisoner, or
- (4) if they are otherwise found in a place of confinement and have no known owner.

The first paragraph also applies to syringes, injection needles and other articles that are particularly intended for use in narcotics misuse or for some other dealings with narcotics.

#### **Section 9**

An article found in a place of confinement may be seized in cases other than those specified in Section 8 and in Chapter 2, Section 12 if it can be assumed that the article will be confiscated. The seizure shall be reported as soon as possible to the person who may decide on confiscation.

## **Instruments of restraint**

### **Section 10**

A prisoner may be restrained with an instrument of restraint

- (1) during movement inside the place of detention and during transport or other stay away from the place of confinement if this is necessary for security reasons, or
- (2) if he or she behaves violently and restraint is absolutely necessary having regard to danger to the life and health of the prisoner or some other person.

A doctor shall examine a prisoner who has been restrained in accordance with the first paragraph, (2), as soon as possible.

## **General entry control**

### **Section 11**

If it is necessary for the maintenance of security at a remand prison, the Prison and Probation Service may decide that all persons entering the remand prison shall be subject to a body search (general entry control). The purpose of the general entry control shall be to search for prohibited articles. Written messages may not be examined.

A decision on a general entry control shall be applicable for at most three months.

The Prison and Probation Service may allow an exemption from a general entry control in individual cases if there are special reasons for doing so.

## **Control of vehicles**

### **Section 12**

If necessary for the maintenance of security at a remand prison, a vehicle may, when entering or leaving the remand prison, be searched for prohibited articles or persons who are trying to enter or leave the remand prison without permission. Written messages may not be examined.

## **Chapter 5 Health and medical care**

### **Section 1**

A prisoner who needs health or medical care shall be examined by a doctor. A doctor shall also be called if a prisoner so requests and it is not obvious that such an examination is not needed.

A prisoner who needs health or medical care shall be treated in accordance with the instructions of a doctor. If a prisoner cannot be examined or treated suitably in the place of confinement, the public health service shall be used. If necessary, the prisoner shall be transferred to a hospital.

An authorised stay away from the place of confinement in accordance with the second paragraph shall be combined with any necessary conditions. If it is necessary for security reasons, the prisoner shall be placed under surveillance.

### **Section 2**

The Act on Coercive Forensic Psychiatric Care (1991:1129) contains provisions on the compulsory psychiatric care of a prisoner.

If a prisoner has been transferred to a medical institution or other place of examination referred to in Section 6 of the Act on Coercive Forensic Psychiatric Care, this Act is only applicable to restrictions in accordance with Chapter 6.

The provisions of Sections 18-24 of the Act on Compulsory Psychiatric Care (1991:1128) and the provisions in Section 8, second paragraph of the Act on Coercive Forensic Psychiatric Care concerning the authority of the Prison and Probation Service to order special restrictions for a

particular prisoner shall apply to a prisoner who has been transferred for voluntary psychiatric care to a medical institution or other place of examination referred to in the second paragraph.

### **Section 3**

If it can be feared that a transportation may harm the prisoner's health, the consent of a doctor shall be obtained for the transportation.

## **Chapter 6 Restrictions for prisoners suspected of crime**

### **Section 1**

A prisoner who is in detention, arrest or apprehension on suspicion of a crime may be subjected to curtailments of his or her contact with the outside world (restrictions) if a risk exists that he or she will remove evidence or otherwise impede the investigation of the matter at issue.

In the case of a person who is in detention, restrictions in accordance with the first paragraph may only be imposed if he or she is subject to restrictions in accordance with Chapter 24, Section 5a of the Code of Judicial Procedure.

### **Section 2**

A decision imposing restrictions in accordance with Section 1 may relate to restrictions in the right to

- (1) be placed together with other prisoners in accordance with Chapter 2, Section 1, second paragraph,
- (2) association in accordance with Chapter 2, Section 5,
- (3) follow events in the outside world in accordance with Chapter 2, Section 9
- (4) possess periodicals and newspapers in accordance with Chapter 2, Section 11,
- (5) receive visits in accordance with Chapter 3, Section 1, first paragraph,
- (6) be in contact with another person through electronic communication in accordance with Chapter 3, section 4, or
- (7) send and receive mail in accordance with Chapter 3, Section 7.

### **Section 3**

A question concerning restrictions is examined by the leader of the investigation or the prosecutor. A decision on this question shall be reviewed as often as there is reason to do so.

### **Section 4**

A person who is in detention on suspicion of a crime may request that the district court examine a decision to subject him or her to restrictions of a particular kind. The court shall examine such a request when it examines the question of an authorisation for restrictions in accordance with Chapter 24, Section 5a of the Code of Judicial Procedure. The prosecutor shall be given the opportunity to present an opinion before the court takes its decision.

The first paragraph shall also be applicable in a court of appeal and the Supreme Court if the judgment in the case has been appealed to that court or if a hearing is being held in accordance with Chapter 24, Section 17, fourth paragraph of the Code of Judicial Procedure.

The decision of the court may be appealed in the same way as a decision on an authorisation for restrictions in accordance with Chapter 24, Section 5a of the Code of Judicial Procedure.

## **Chapter 7 Decisions and appeals**

### **Decisions**

#### **Section 1**

Unless otherwise provided, decisions in accordance with this Act are taken by the Prison and Probation Service or, if the prisoner is placed in a place of confinement that is under the oversight of some other administration, by that administration.

#### **Section 2**

A decision taken in accordance with this Act shall take effect immediately unless otherwise ordered.

### **Appeals**

#### **Section 3**

A decision referred to in Section 1 may be appealed to an administrative court.

A decision is appealed to the administrative court whose district includes the place of confinement where the appellant was a prisoner when the first decision in the matter was taken.

Leave to appeal is required for an appeal to the administrative court of appeal.

#### **Section 4**

A decision of the Prison and Probation Service taken in accordance with Section 1 may not be appealed until the decision has been reviewed by the Prison and Probation Service. Such a review may be requested by the person who is affected by the decision if it has gone against him or her. An appeal against a decision that has not been reviewed shall be considered to be a request for review.

With a review in accordance with the first paragraph, the decision may not be altered to the disadvantage of the appellant.

#### **Section 5**

A request for review shall be made in writing and be received by the Prison and Probation Service no later than three weeks from the date on which the appellant was informed of the decision. In the request for review the appellant shall state what decision the request refers to and what change in the decision he or she is requesting.

The Prison and Probation Service shall examine whether the written request for review has been received within the time allowed. If the request has been received too late, it shall be rejected unless the delay is due to incorrect information on how to request a review given to the appellant by the Service.

## **Chapter 8 Other provisions**

### **Security firms**

#### **Section 1**

The Prison and Probation Service may appoint a security guard employed in an authorised security firm to carry out certain supervisory tasks within the framework of that employment when a prisoner is to stay away from a place of confinement. For special reasons, such an appointment may relate to certain security tasks in a place of confinement. The appointment shall specify the nature and scope of the assignment. The appointment may be revoked.

*This is a translation from the original Swedish text. For the authoritative text, please see the Swedish version.*

## **Section 2**

A security guard holding an appointment in accordance with Section 1 may not, without authorisation, disclose or make use of what has been learned in the course of an assignment about the personal circumstances of an individual or matters of importance for national security or for the investigation and prosecution of crime.

In activities of public institutions, the provisions of the Public Access to Information and Secrecy Act (2009:400) are applicable instead.

## **Implementation regulations**

### **Section 3**

Regulations on the implementation of this Act are issued by the Government or the authority designated by the Government.

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This Act enters into force on 1 April 2011 when the Act on the Treatment of Detained and Arrested Persons Etc (1976:371) shall cease to apply.