

1994—No. 303

PRISONS ACT 1952—REGULATION

(Relating to the possession and use of drugs, alcohol and other substances by prisoners)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Prisons Act 1952, has been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD, M.L.C.,
Minister for Justice.

Commencement

1. This Regulation commences on 29 July 1994.

Amendment

2 The Prisons (General) Regulation 1989 is amended:

(a) by omitting the definition of “drug” from clause 146 (1) and by inserting instead the following definition:

“drug” means:

(a) a prohibited drug, or prohibited plant, within the meaning of the Drug Misuse and Trafficking Act 1985; or

(b) any of the following:

(i) phenothiazines;

(ii) tricyclic antidepressants;

(iii) codeine;

(iv) pseudoephedrine;

(v) carbamazepine;

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- (vi) benzodiazepines;
 - (vii) antihistamines; or
 - (c) any salt, isomer, ester, or ether, of a prohibited drug referred to in paragraph (a) or of anything referred to in paragraph (b); or
 - (d) any salt of such an isomer, ester or ether;
 - (b) by inserting after clause 146 (2) the following subclause:
 - (3) For the purposes of paragraph (b) of the definition of “drug” in section 25 (7) of the Act, the drugs prescribed are those referred to in paragraphs (b)–(d) of the definition of “drug” in subclause (1).
 - (c) by omitting from clauses 176 (3) (a) and 178 (2) (a) the words “registered medical practitioner given for medical reasons” wherever occurring and by inserting instead the words “registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons (respectively)”;
 - (d) by inserting in clauses 176 (3) (b) and 178 (2) (b) after the words “medical practitioner” wherever occurring the words “, dentist or nurse”.
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EXPLANATORY NOTE

The Prisons Act 1952 and the Prisons (General) Regulation 1989 contain provisions as to disciplinary offences concerning the use of drugs by prisoners. The provision in the Act has been widened by the Prisons (Amendment) Act 1993 to encompass prescription drugs and other substances prescribed by the regulations. A related amendment also widens the defences available to a prisoner to include (among other things) the possession or use of substances advised or provided by registered dentists or registered nurses (as well as by registered medical practitioners).

The object of this Regulation is to amend the Prisons (General) Regulation 1989 as a consequence of the amendments to the Act:

- (a) to prescribe the drugs and other substances that are to fall within the provision in the Act;
- (b) to change the definition of “drug” in the Prisons (General) Regulation 1989 in such a way as to ensure a correspondence between the definition in that Regulation and the definition in the Act;
- (c) to widen the defences in the Regulation so that they also apply to substances advised by registered dentists and registered nurses.

This Regulation is made under sections 23 (Prison offences to be declared by regulations), 25 (Governor of prison may impose penalties for certain prison offences) and 50 (1) (the general regulation-making power) of the Prisons Act 1952.
