

1994—No. 332

**PERIODIC DETENTION OF PRISONERS ACT 1981—
REGULATION**

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

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Periodic Detention of Prisoners Act 1981 has been pleased to make the Regulation set forth hereunder.

JOHN HANNAFORD, MLC
Attorney General and Minister for Justice.

Commencement

1. This Regulation commences on 29 July 1994.

Amendments

2. The Periodic Detention of Prisoners Regulation 1988 is amended:

(a) by omitting the definition of “drug” from clause 4 (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;

(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 omitting from clause 9 (4) (a), 40 (3) (a), 41 (2) (a) and 42 (3) (a) the words “given for medical reasons” wherever occurring and by inserting instead the words “, registered dentist or registered nurse given for medical, dental or nursing reasons”;

(c) by inserting in clause 9 (4) (b), 40 (3) (b), 41 (2) (b) and 42 (3) (b) after the words “medical practitioner” wherever occurring the words “, dentist or nurse”;

(d) by omitting from clause 16 (1) the words “for his or her use by a registered medical practitioner and which that prescription requires” and by inserting instead the words “or lawfully supplied for his or her use by a registered medical practitioner, registered dentist or registered nurse and which is required”.

EXPLANATORY NOTE

The objects of this Regulation are as follows:

- The Periodic Detention of Prisoners Regulation 1988 contains disciplinary offences and reporting provisions relating to the use or possession of drugs (as well as alcohol and other intoxicating substances) by periodic detainees. This Regulation expands the definition of drug for the purposes of those provisions to include certain prescription drugs and other substances.
- At present a periodic detainee does not contravene that Regulation in respect of a drug, alcohol or another intoxicating substance that has been used by the detainee, or is in his or her possession for use, in accordance with the advice of a registered medical practitioner given for medical reasons. This Regulation makes available a similar defence in the case of a drug, alcohol or another substance which a detainee uses or has in possession on the advice of a registered dentist or registered nurse. The requirement that a detainee report to the governor any medication that he or she brings to prison which has been prescribed by a registered medical practitioner is extended to include medication prescribed or lawfully supplied by a registered dentist or registered nurse.

This Regulation is made under the Periodic Detention of Prisoners Act 1981, including section 9 (4) (power to prescribe the manner in which any periodic detainee is to report) and section 34 (the general regulation making power).
