

PRISONS ACT 1952—REGULATION

(Relating to the Serious Offenders Review Council, pre-release leave and segregation of 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.

JOHN HANNAFORD, MLC
Attorney General, and Minister for Justice.

The Prisons (General) Regulation 1989 is amended:

- (a) by omitting from clause 4 the definition of “serious offender”;
- (b) by omitting from clauses 8, 12, 17, 18 and 19 the word “Board” wherever occurring and by inserting instead the words “Review Council”;
- (c) by omitting from clause 8 (6) the words “prisoner serving a sentence of imprisonment for life or any sentence which under section 13A (6) of the Sentencing Act 1989 replaces an original sentence of imprisonment for life” and by inserting instead the words “serious offender”;
- (d) by omitting clause 18 (5) (c) and by inserting instead the following paragraph:
 - (c) any report with respect to the conduct or character of the prisoner furnished by:
 - the industrial officer, education officer or parole officer of the Department of Corrective Services; or
 - the probation officer of the Probation Service of the Department of Courts Administration; and
- (e) by inserting after clause 36 (1) (d) the following paragraph:
 - (d1) the functions of the Review Council under sections 22C–22F of the Act relating to the segregation of prisoners: and

- (f) by inserting after clause 37 the following clause:

Information concerning directions extending segregation periods

37A. The governor of a prison is to ensure that, as soon as practicable after a prisoner is directed to be segregated under section 22 of the Act, the prisoner is provided with information concerning the prisoner's rights under the Act to a review of any extension of that period of segregation that may be directed by the Commissioner.

- (g) by inserting after clause 139 the following clause:

Referral of applications for orders or permits to Review Council

139A. (1) In this clause:

“**pre-release leave**” means leave of absence from prison authorised by an order made or permit granted by the Commissioner under section 29 of the Act for the purpose of enabling the prisoner to adapt to normal lawful community life.

(2) The Commissioner may refer an application for pre-release leave made by any prisoner to the Review Council if the Commissioner is satisfied that it is in the public interest to do so.

(3) The Review Council may review an application referred to it under this clause and make such recommendations to the Commissioner in respect of the application as it thinks fit.

(4) If the Review Council makes a recommendation that an application be granted, the Commissioner must take into account whether it would be in the public interest to make the order or grant the permit to which the application relates.

(5) In exercising any of its functions under this clause, the Review Council may take into account the special circumstances of any prisoner including aboriginality, sex or language background.

- (h) by inserting after Part 14 the following Part:

PART 14A—REVIEW COUNCIL

Reports and advice requested by Commissioner on certain matters

182A. The Review Council may, at the request of the Commissioner, provide the Commissioner with reports and advice in respect of any one or more of the following matters:

- (a) the management of serious offenders:

- (b) the making of orders or the granting of permits under section 29 of the Act in respect of any prisoner whose application for pre-release leave has been referred to the Review Council by the Commissioner under clause 139A (2);
- (c) an application to the Council by any prisoner who is subject to a segregation direction for a review of the direction;
- (d) such other matters as the Commissioner thinks fit.

Delegation of functions in relation to applications for pre-release leave

182B. The Review Committee may delegate its functions under clause 139A to any committee established under clause 10 of Schedule 5 to the Act.

EXPLANATORY NOTE

The objects of this Regulation are:

- to ensure that prisoners are informed of their rights in relation to segregation matters (items (e) and (f)); and
- to provide for the referral to the Serious Offenders Review Council of applications for certain forms of leave of absence from prison where the Commissioner of Corrective Services considers that it is in the public interest to do so (item (g)); and
- to enable the Review Council to provide reports and advice on certain matters to the Commissioner of Corrective Services on request and to delegate certain functions (item (h)); and
- to remove and to update certain references (items (a)–(d)).

This Regulation is made under the Prisons Act 1952, including sections 50 (the general regulation-making power) and 62 (g).
