



New South Wales

Prisons Amendment (General and Administration) Regulation 1996

under the
Prisons Act 1952

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Prisons Act 1952*.

Bob Debus
Minister for Corrective Services

Explanatory note

The objects of this Regulation are as follows:

- to enable the Commissioner of Corrective Services or the governor of a prison to designate enclosed areas in the prison to be areas in which smoking is prohibited (see Schedule 2 [3]),
- to provide for offences relating to smoking in designated non-smoking prison areas, and to declare smoking by prisoners in non-smoking prison areas to be a minor prison offence (see Schedules 1 [1], [5] and [13] and 2 [1]),
- to provide that female prisoners must not be searched by or in the presence of a male prison officer, and to remove the provision that prevents female prison officers from searching male prisoners (see Schedule 1 [2]),
- to remove an offence provision relating to prisoners inflicting self-injury (see Schedule 1 [3] and [12])
- to replace references to the Superintendent, Security and Investigations Branch (which denotes the person's rank) with references to the Director of that branch (which denotes the person's position) (see Schedules 1 [4] and [8]-[10] and 2 [2]),

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- to provide for prisoner-related correspondence to or from the Equal Opportunity Tribunal (rather than a member of that Tribunal as is the case at present) to be treated as privileged (see Schedule 1 [6] and [7]).

This Regulation is made under the *Prisons Act 1952*, including section 50 (the general regulation making power).

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1 Name of Regulation

This Regulation is the *Prisons Amendment (General and Administration) Regulation 1996*.

2 Amendment of Prisons (General) Regulation 1995

The *Prisons (General) Regulation 1995* is amended as set out in Schedule 1.

3 Amendment of Prisons (Administration) Regulation 1995

The *Prisons (Administration) Regulation 1995* is amended as set out in Schedule 2.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendment of Prisons (General) Regulation 1995

(Clause 2)

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

non-smoking area means a non-smoking area designated under clause 56A of the *Prisons (Administration) Regulation 1995*.

[2] Clause 24 Searching of prisoners

Omit clause 24 (3). Insert instead:

(3) Except in the case of an emergency, a female prisoner must not be searched by or in the presence of a male prison officer.

[3] Clause 42 Self-inflicted wounds

Omit the clause.

[4] Clause 104 Searching of visitors

Omit “Superintendent,” wherever occurring from clause 104 (1) and (2).

Insert instead “Director of the”.

[5] Clause 104A

Insert after clause 104:

104A Smoking by visitors in non-smoking areas prohibited

A person who is visiting a prison or a prisoner must not:

- (a) smoke in a non-smoking area, or
- (b) alter, damage or remove any sign or notice relating to a non-smoking area.

Maximum penalty: 1 penalty unit.

[6] Clause 118 Certain correspondence privileged

Omit “a member of the Equal Opportunity Tribunal” from the definition of *privileged letter or parcel* in clause 118 (1).

Insert instead “the Equal Opportunity Tribunal”.

[7] Clause 118 (3)(g)

Omit the paragraph. Insert instead:

(g) the Equal Opportunity Tribunal, or

[8] Clause 128 Monitoring of telephone calls

Omit “Superintendent,” wherever occurring from clause 128 (1)-(3)

Insert instead “Director of the”.

[9] Clause 128 (1)

Omit ‘or Superintendent” wherever occurring.

Insert instead “the Director”.

[10] Clause 128 (5)

Omit “Superintendent”. Insert instead “Director”.

[11] Clause 168A

Insert after clause 168:

168A Smoking by prisoners in non-smoking areas of prisons prohibited

A prisoner must not:

- (a) smoke in a non-smoking area, or
- (b) alter, damage or remove any sign or notice relating to a non-smoking area or to an authorised smoking area.

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Schedule 1 Amendment of Prisons (General) Regulation 1995

[12] Schedule 3 Prison offences and minor prison offences

Omit the matter relating to clause 42.

[13] Schedule 3

Insert after the matter relating to clause 168 (4):

168A (a) Smoking in non-smoking area

168A (b) Altering, damaging or removing non-smoking sign
or smoking sign

**Schedule 2 Amendment of Prisons
(Administration) Regulation 1995**

(Clause 3)

[1] Clause 32A

Insert after clause 32:

32A Smoking in non-smoking areas of prisons prohibited

- (1) A prison officer or any other officer must not:
 - (a) smoke in a non-smoking area, or
 - (b) alter, damage or remove any sign or notice relating to a non-smoking area.

Maximum penalty: 1 penalty unit.

- (2) In this clause:

non-smoking area means a non-smoking area designated under clause 56A.

[2] Clause 37 Issue of firearms to prison officers not at armed posts

Omit “Superintendent,” wherever occurring from clause 39 (1) and (4) (c).

Insert instead “Director of the”.

[3] Clause 56A

Insert after clause 56:

56A Non-smoking areas in prisons

- (1) The Commissioner or the governor of a prison may designate an enclosed area of the prison as an area in which smoking is prohibited.
- (2) Any such area is to be designated by means of signs or notices displayed within the area.