



New South Wales

Periodic Detention of Prisoners Amendment (Penalty Notice Offences) Regulation 1998

under the

Periodic Detention of Prisoners Act 1981

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Periodic Detention of Prisoners Act 1981*.

BOB DEBUS, M.P.,
Minister for Corrective Services

Explanatory note

The object of this Regulation is to transfer, with minor amendments, the provisions of the *Periodic Detention of Prisoners (Short Description of Offences) Regulation 1993* (made under the *Justices Act 1902* and being repealed by the *Periodic Detention of Prisoners (Short Description of Offences) Repeal Regulation 1998* made under that Act) to the *Periodic Detention of Prisoners Regulation 1995*. The Regulation being repealed prescribes the expressions (the *short descriptions*) by which certain offences under the *Periodic Detention of Prisoners Act 1981* may be stated or described in any information, complaint, summons, warrant, notice, order or other document.

To effect the transfer, this Regulation repeals and remakes clause 40 of the *Periodic Detention of Prisoners Regulation 1995* (which currently prescribes the offences under the *Periodic Detention of Prisoners Act 1981* that are offences in respect of which penalty notices ("on-the-spot" fines) may be issued) and inserts clause 40A and Schedule 2 into that Regulation. The offences concerned are specified, and the short descriptions of those offences are set out, in that Schedule.

1998 No 192

Periodic Detention of Prisoners Amendment (Penalty Notice Offences) Regulation 1998

Explanatory note

This Regulation is made under the *Periodic Detention of Prisoners Act 1981*, and, in particular, under sections 33B (Penalty notices for certain offences) and 34 (the general regulation-making power) as extended by section 145B (3) of the *Justices Act 1902*.

Periodic Detention of Prisoners Amendment (Penalty Notice Offences) Regulation 1998

1 Name of Regulation

This Regulation is the *Periodic Detention of Prisoners Amendment (Penalty Notice Offences) Regulation 1998*.

2 Amendment of Periodic Detention of Prisoners Regulation 1995

The *Periodic Detention of Prisoners Regulation 1995* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 2)

[1] Clause 40

Omit the clause. Insert instead:

40 Penalty notice offences

For the purposes of section 33B of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 2 is declared to be a penalty notice offence, and
- (b) the prescribed penalty for such an offence is 2 penalty units.

40A Short descriptions

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 2 is:
 - (a) the expression specified in Column 2 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 2, the prescribed expression for the offence is taken to relate to the offence created by the provision as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.

(4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

[2] Schedule 2

Insert after Schedule 1:

Schedule 2 Penalty notice offences

(Clauses 40 and 40A)

Column 1	Column 2
Offence	Prescribed expression
Offences under Periodic Detention of Prisoners Act 1981	
Section 33 (1) (b) (i)	not comply with s 10 (1) (b) order to work outside prison
Section 33 (1) (b) (ii)	not comply with s 13 order to serve sentence at other prison
Section 33 (1) (d), being an offence specified in clause 39 (1) (a) of this Regulation	not notify change of address
Section 33 (1) (d), being an offence specified in clause 39 (1) (b) of this Regulation	conceal/attempt conceal personal property brought to a prison
Section 33 (1) (d), being an offence specified in clause 39 (1) (c) of this Regulation	conceal/attempt conceal/not surrender medication brought to a prison
Section 33 (1) (d), being an offence specified in clause 39 (1) (d) of this Regulation	not keep personally clean
Section 33 (1) (d), being an offence specified in clause 39 (1) (e) of this Regulation	not keep accommodation etc/issued articles clean, tidy and in good order
Section 33 (1) (d), being an offence specified in clause 39 (1) (f) of this Regulation	leave prison/work site without permission

1998 No 192

Periodic Detention of Prisoners Amendment (Penalty Notice Offences) Regulation 1998

Schedule 1 Amendments

Column 1	Column 2
Offence	Prescribed expression
Section 33 (1) (d), being an offence specified in clause 39 (1) (g) of this Regulation	receive visitors at prison/work site without approval
Section 33 (1) (d), being an offence specified in clause 39 (1) (h) of this Regulation	make telephone call from prison/work site without approval
Section 33 (1) (d), being an offence specified in clause 39 (1) (i) of this Regulation	not maintain proper dress, cleanliness and conduct
Section 33 (1) (d), being an offence specified in clause 39 (1) (j) of this Regulation	not keep working clothes/tools in good order and condition
Section 33 (1) (d), being an offence specified in clause 39 (1) (k) of this Regulation	damage/deface property
Section 33 (1) (d), being an offence specified in clause 39 (1) (l) of this Regulation	not sign instrument as required
Section 33 (1) (d), being an offence specified in clause 39 (1) (m) of this Regulation	not produce document for inspection
Section 33 (1) (d), being an offence specified in clause 39 (1) (n) of this Regulation	make false/misleading statement in application/notice/statement/request/complaint
Section 33 (1) (d), being an offence specified in clause 39 (1) (o) of this Regulation	gamble/bet
Section 33 (1) (d), being an offence specified in clause 39 (1) (o1) of this Regulation	not comply with clause 31A requirement (medical examinations)
Section 33 (1) (d), being an offence specified in clause 39 (1) (p) of this Regulation (clause 32)	be under influence of drug/alcohol/intoxicant
Section 33 (1) (d), being an offence specified in clause 39 (1) (p) of this Regulation (clause 33)	possess/consume alcohol/intoxicating substance/substance capable of becoming intoxicating

Column 1	Column 2
Offence	Prescribed expression
Section 33 (1) (d), being an offence specified in clause 39 (1) (p) of this Regulation (clause 34)	possess drug/administer drug to self/another person
Section 33 (1) (d), being an offence specified in clause 39 (1) (p) of this Regulation (clause 35)	not comply with requirement/direction concerning breath test
Section 33 (1) (d), being an offence specified in clause 39 (1) (p) of this Regulation (clause 36)	not comply with requirement/direction concerning urine specimen
Section 33 (1) (d), being an offence specified in clause 39 (1) (q) of this Regulation	tamper with lock/bolt/bar/ventilator/fire extinguisher/fire hose/electrical installation/appliance/equipment/property/structure/building
Section 33 (1) (d), being an offence specified in clause 39 (1) (q) of this Regulation	remove tool from workshop/place of storage
Section 33 (1) (d), being an offence specified in clause 39 (1) (r) of this Regulation	not answer promptly call to muster
Section 33 (1) (d), being an offence specified in clause 39 (1) (s) of this Regulation	use abusive/threatening language to/in presence of prison officer/supervisor
Section 33 (1) (d), being an offence specified in clause 39 (1) (s) of this Regulation	behave in threatening manner towards prison officer/supervisor
Section 33 (1) (d), being an offence specified in clause 39 (1) (t) of this Regulation	perform work/use tool/equipment/machinery carelessly/negligently
Section 33 (1) (d), being an offence specified in clause 39 (1) (u) of this Regulation	report late for detention period
Section 33 (1) (d), being an offence specified in clause 39 (1) (v) of this Regulation	report at wrong prisorn/place of work outside prison
Section 33 (1) (e)	disobey rule
Section 33 (1) (e)	disobey instruction given under section 10 (4)

1998 No 192

Periodic Detention of Prisoners Amendment (Penalty Notice Offences) Regulation 1998

Schedule 1 Amendments

Column 1 Offence	Column 2 Prescribed expression
Section 33 (1) (e)	disobey direction given under section 22
Offences under Prisons (General) Regulation 1995 as adopted under clause 39 (2) of this Regulation	
Clause 35 (Possession and confiscation of unauthorised property)	possess unauthorised money/article
Clause 154 (2) (Behaviour of prisoners)	expose self obscenely
Clause 154 (3) (Behaviour of prisoners)	behave in an obscene manner otherwise than by exposure
Clause 155 (Obstruction of prison officers)	hinder or obstruct prison officer in performance of duties
Clause 156 (Fighting or other physical combat)	engage in wrestling/sparring/fighting/physical combat with another prisoner
Clause 157 (Assaults)	assault another person
Clause 158 (1) (Riots)	incite participation in riot
Clause 158 (2) (Riots)	participate in riot
Clause 159 (Injuring animals)	maim/wound/cruelly ill-treat animal
Clause 161 (Throwing articles)	throw article/cause article to be projected so as to risk injury to person/property damage
Clause 163 (Stealing)	steal property
Clause 164 (Tampering with food or drink)	render food unpalatable/unwholesome
Clause 165 (Tattooing prohibited)	tattoo self/another prisoner/consent to being tattooed by another prisoner

1998 No 192

Periodic Detention of Prisoners Amendment (Penalty Notice Offences) Regulation 1998

Amendments

Schedule 1

Column 1	Column 2
Offence	Prescribed expression
Clause 168A (Smoking by prisoners in non-smoking areas of prisons prohibited)	smoke in non-smoking area/alter/damage/remove sign or notice relating to non-smoking area/authorised smoking area
Clause 169 (a) (Bribery prohibited)	make officer/temporary employee payment/give officer/temporary employee gratuity/present to neglect duty/give preferred treatment
Clause 169 (a) (Bribery prohibited)	offer officer/temporary employee payment/gratuity/present to neglect duty/give preferred treatment
Clause 169 (b) (Bribery prohibited)	offer officer/temporary employee service/provide officer/temporary employee service to neglect duty/give preferred treatment