

PRISONS ACT 1952—REGULATION

(Prisons (General) Regulation 1995)

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.

Bob Debus
Minister for Corrective Services.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Prisons (General) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. (1) In this Regulation:

“**appellant**” means a convicted prisoner:

- (a) who has appealed against conviction or sentence and whose appeal has not yet been determined; and
- (b) who is being held in custody because of that conviction or sentence and for no other reason;

“**authorised prison officer**”, in relation to a function of the governor of a prison, means a prison officer authorised by the governor to exercise the function;

“barrister” means a barrister who:

- (a) is the holder of a current practising certificate issued under the Legal Profession Act 1987 and is practising in New South Wales; or
- (b) is qualified to practise, and is practising, in another State or in a Territory and is entitled to a right of audience in a court in New South Wales;

“civil prisoner” means a prisoner who is being held in custody or imprisoned otherwise than because of a criminal offence;

“Department” means the Department of Corrective Services;

“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;

“imprisonment” includes penal servitude;

“long-term prisoner” means a person:

- (a) who is serving a life sentence; or
- (b) who is a forensic patient (within the meaning of the Mental Health Act 1990) detained in a prison; or
- (c) who is serving a sentence or sentences that require the person to be imprisoned for 12 months or more, being a person who (after considering the likelihood of the person’s being released before completing the sentence or sentences and any other matter it considers relevant) the Case Management Committee has reasonable cause to believe will be required to serve not less than 12 months in custody;

“open institution” means any prison or part of a prison designated as such by the Commissioner;

“**periodic detainee**” has the same meaning as in the Periodic Detention of Prisoners Act 1981;

“**Security and Investigations Branch**” means the Security and Investigations Branch of the Department;

“**short-term prisoner**” means a convicted prisoner who is not a long-term prisoner;

“**solicitor**” means a solicitor who:

(a) is the holder of a current practising certificate issued under the Legal Profession Act 1987 and is practising in New South Wales; or

(b) is qualified to practise, and is practising, in another State or in a Territory and is entitled to a right of audience in a court in New South Wales;

“**the Act**” means the Prisons Act 1952;

“**unconvicted prisoner**” means a prisoner who is not a convicted prisoner or civil prisoner.

(2) 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).

Regulation not to apply to periodic detainees

4. Except as otherwise expressly provided by this Regulation or the Periodic Detention of Prisoners Regulation 1995, this Regulation does not apply to a periodic detainee.

PART 2—SEPARATION AND CLASSIFICATION OF PRISONERS

Division 1—Separation of prisoners

Accommodation

5. (1) Each prisoner must, at night, be housed in and occupy a cell, room or hut by himself or herself, unless for medical or other sufficient reason it is necessary for prisoners to be associated.

(2) If it is necessary for prisoners to be associated, the prisoners required to be associated (either in a single cell, room or hut or in dormitory type accommodation) must be carefully selected.

(3) Each prisoner must be provided with:

(a) a separate bed; and

(b) sufficient clean bedding to suit the climatic conditions.

Prisoners not to enter other accommodation

6. A prisoner must not enter a cell, room or hut that has not been allocated by the governor of the prison or a prison officer for use by the prisoner unless the prisoner does so:

- (a) with the permission of the governor or a prison officer; or
- (b) in compliance with a direction given by the governor or a prison officer.

Separation of sexes

7. Female prisoners must be kept separate from male prisoners except in such circumstances and under such supervision as the Commissioner determines.

Separation of different classes of prisoners

8. (1) For the purposes of this clause, each prisoner is to be included in one of the following classes:

- (a) unconvicted prisoner;
- (b) appellant;
- (c) civil prisoner;
- (d) convicted prisoner.

(2) Subject to section 15 of the Act, as far as practicable prisoners of any class are to be separated from prisoners of any other class.

(3) The Commissioner may direct the separation, within a class:

- (a) of prisoners who have previously been imprisoned from those who have not; and
- (b) of prisoners the Commissioner considers would be at risk if not separated from other prisoners; and
- (c) of prisoners who are in prison for failure to pay a fine, penalty, costs or other amount from those in prison for any other reason.

Separation for health reasons

9. A prisoner who is found or suspected to be suffering from an infectious or contagious disease, or to be in a verminous condition, may be kept separate from other prisoners not so suffering or not in that condition.

**Division 2—Classification of prisoners for the purposes of
security and development programs**

Classification of prisoners

10. (1) Each prisoner must, for the purposes of security and developmental programs, be classified by the Commissioner in one of the following categories:

Category A1. Those who, in the opinion of the Commissioner, represent a special risk to good order and security and should at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment.

Category A2. Those who, in the opinion of the Commissioner, should at all times be confined by a secure physical barrier that includes towers, other highly secure perimeter structures or electronic surveillance equipment.

Category B. Those who, in the opinion of the Commissioner, should at all times be confined by a secure physical barrier.

Category C1. Those who, in the opinion of the Commissioner, should be confined by a physical barrier unless in the company of an officer.

Category C2. Those who, in the opinion of the Commissioner, need not be confined by a physical barrier at all times but who need some level of supervision.

Category C3. Those who, in the opinion of the Commissioner, need not be confined by a physical barrier at all times and who need not be supervised.

(2) The Commissioner may review and vary the classification of prisoners from time to time.

(3) Before varying the classification of a prisoner who is a serious offender (whether because of the transfer of the prisoner from one prison to another or otherwise), the Commissioner must send to the Review Council a report setting out the grounds for the proposed variation.

(4) If, after considering such a report, the Review Council is satisfied that a change in the prisoner's classification is desirable, it may make a recommendation to that effect to the Commissioner.

(5) The Commissioner must not vary the classification of the prisoner unless the Commissioner has first considered any such recommendation.

(6) The Commissioner must notify the Review Council if the Commissioner varies a classification to a classification not recommended by the Council.

Classification of prisoners convicted of escape

11. (1) Despite any other provision of this Division, a prisoner:

- (a) who has been convicted of an offence of escaping or attempting to escape from lawful custody committed before 18 May 1990, but not before 31 October 1988; and
- (b) who is not for the time being classified as a Category A1 or A2 prisoner,

is to be treated as having been classified, for the purposes of security and developmental programs, as a Category B prisoner.

(2) Subclause (1) does not prevent the classification of a prisoner from being varied to Category A1 or A2 under clause 10, or to Category E1 or E2 under subclause (3).

(3) Despite any other provision of this Division, the Commissioner must, for the purposes of security and development programs, classify or reclassify a prisoner who has been convicted of an offence of escaping or attempting to escape from lawful custody committed on or after 18 May 1990 in one of the following categories:

Category E1. Those who, in the opinion of the Commissioner, represent a special risk to security and should at all times be confined in a prison specified by the Minister as being a high security prison for the purposes of this category.

Category E2. Those who, in the opinion of the Commissioner, should at all times be confined by a secure physical barrier in a prison specified by the Minister for the purposes of this category.

(4) A classification under subclause (3) must not be varied except to the other category in that subclause.

(5) This clause applies whether the prisoner was convicted within or outside New South Wales of escaping or attempting to escape and whether or not by a New South Wales court.

(6) This clause does not apply to a prisoner who was under the age of 18 years when the offence of escaping or attempting to escape was committed.

Case Management Committee

12. (1) There is to be a Case Management Committee whose members are appointed by the Commissioner and which is to be comprised of:

- (a) one of the following:
 - (i) the Director, Inmate Classification and Placement;

- (ii) a Manager, Inmate Classification and Placement;
- (iii) a Deputy Manager, Inmate Classification and Placement;
and
- (b) an industrial officer; and
- (c) a programs officer; and
- (d) a psychologist; and
- (e) a parole officer,

or such other persons, if any, in substitution for, or in addition to, the persons referred to in paragraphs (b)–(e) as the Commissioner determines.

(2) The quorum for a meeting of the Committee is 3 members who must include a member referred to in subclause (1) (a).

(3) At a meeting of the Committee, the member referred to in subclause (1) (a) is to preside.

(4) A decision of the Committee is not valid unless supported by a majority of the votes of the members present and voting at a meeting of the Committee, which majority must include the vote of the presiding member.

Reception Committees

13. (1) There is to be a Reception Committee at each prison at which prisoners are initially received after sentencing or for the purpose of their being held in custody otherwise than because of a sentence.

(2) A Reception Committee is to be comprised of such persons as the Commissioner determines.

Recommendation of classification: long-term prisoners

14. (1) On reception of a long-term prisoner, the Case Management Committee is to make a detailed personal assessment of the prisoner and a recommendation to the Commissioner on:

- (a) the prisoner's classification and placement; and
- (b) an interim or provisional developmental program for the prisoner pending a review by the Review Council.

(2) The Review Council is to conduct periodic reviews of the classification of prisoners who are serious offenders at such intervals as it considers appropriate and may recommend a variation of classification as a result of any such review or at any other time it thinks fit.

(3) The Case Management Committee may not recommend variation of the classification of a prisoner who is a serious offender.

Recommendation of classification: other prisoners

15. (1) When a short-term prisoner, an unconvicted prisoner, an appellant or a civil prisoner who has not previously been classified under this Division is initially received into a prison, the Reception Committee at the prison is to make a personal assessment of the prisoner and a recommendation to the Commissioner on:

- (a) the prisoner's classification and placement; and
- (b) a developmental program for the prisoner.

(2) If a short-term prisoner, an unconvicted prisoner, an appellant or a civil prisoner who has not previously been classified under this Division is received into a prison that does not have a Reception Committee, the governor of the prison or the deputy governor is to make a personal assessment of the prisoner and a recommendation to the Commissioner on:

- (a) the prisoner's classification and placement; and
- (b) a developmental program for the prisoner.

(3) A copy of a recommendation sent to the Commissioner must be sent to the Case Management Committee for review.

(4) If, on review by the Case Management Committee, it appears to the Committee that a different classification or placement of a prisoner is appropriate, the Committee may make a recommendation to that effect to the Commissioner.

Assessment and recommendation to be carried out expeditiously

16. (1) An assessment and recommendation by a Reception Committee or the Case Management Committee must be completed as expeditiously as possible.

(2) All reasonable steps must be taken to complete an assessment and recommendation within 2 months after the prisoner's reception.

Program Review Committee

17. (1) There is to be a Program Review Committee at each prison.

(2) A Program Review Committee is to be comprised of such persons as the Commissioner determines.

(3) The Program Review Committee of a prison must, in respect of a prisoner (other than a prisoner who is a serious offender):

- (a) review the developmental program recommended for the prisoner within 14 days of (or if that is not possible as soon as practicable after) reception of the prisoner into the prison (whether or not because of a transfer from another prison); and

(b) if the prisoner is a long-term prisoner, review the classification, placement and developmental program of the prisoner at least once each 6 months.

(4) The Program Review Committee must send a report and recommendation in respect of those matters to the Case Management Committee for review.

Review of Program Review Committee recommendation

18. (1) If the Case Management Committee proposes to reject a recommendation of a Program Review Committee, it must:

- (a) notify the Program Review Committee and give its reasons for the proposed rejection; and
- (b) give the Program Review Committee an opportunity to supply further reasons or arguments.

(2) The Program Review Committee must discuss the matter with the prisoner concerned.

(3) The Case Management Committee must notify the Program Review Committee if it rejects the recommendation and give its reasons as fully as is practicable.

(4) If the Case Management Committee considers that a change in a prisoner's classification, placement or developmental program is appropriate, the Committee may send a recommendation to that effect to the Commissioner.

Governor's report

19. The governor of a prison who considers that:

- (a) a prisoner in the prison; or
- (b) a prisoner transferred, or proposed to be transferred, to the prison following classification or review of classification,

is unsuitable for placement or for continued placement in the prison must send to the Case Management Committee (or, in the case of a prisoner who is a serious offender, to the Review Council) a report setting out the reasons why the prisoner should be placed elsewhere.

Linguistic and cultural factors to be considered

20. (1) The Chairperson of a Reception, Case Management or Program Review Committee and the Review Council must ensure that, in so far as it is practicable to do so, a prisoner:

- (a) who is interviewed by the Committee or the Council for the purposes of this Division; and

(b) who may be disadvantaged by linguistic or cultural factors, is interviewed in the presence of a person who can act as an appropriate interpreter or cultural representative.

(2) If a prison officer makes a report which contains an assessment of a prisoner for the purposes of this Division, the prison officer:

- (a) must take into consideration any linguistic or cultural factors which may disadvantage the prisoner; and
- (b) must refer in the report to the extent to which, in the opinion of the officer, those factors are significant in relation to the assessment.

PART 3—ADMISSION, SEARCHING AND MISCELLANEOUS MATTERS

Division 1—Recording of prisoners' particulars

Recording of personal description

21. (1) For the purposes of section 19 of the Act, the details of a prisoner's personal description which may be recorded are as follows:

- (a) name;
- (b) age;
- (c) height;
- (d) weight;
- (e) distinguishing features and marks;
- (f) photograph;
- (g) fingerprints and palmprints;
- (h) normal place of living;
- (i) name and residential address of next of kin;
- (j) the offence for which the prisoner was imprisoned and the term of the sentence.

(2) A prisoner must supply such information as to normal place of living and name and residential address of next of kin as may be required of the prisoner by the governor of the prison or an authorised prison officer.

Confidentiality of records

22. (1) The Commissioner or any person employed in the Department must not furnish to any other person:

- (a) a photograph of a prisoner; or

- (b) an impression of a prisoner's fingerprints or palmprints; or
 - (c) any other detail of a prisoner's personal description; or
 - (d) any detail of a prisoner's criminal record.
- (2) Subclause (1) does not apply to the furnishing of matter:
- (a) in accordance with a direction of the Commissioner under section 48A (1) of the Act; or
 - (b) for use in any criminal or civil proceedings; or
 - (c) in order to carry into effect the provisions of an Act, or an Act of the Parliament of the Commonwealth, or an instrument made under any such Act; or
 - (d) with the consent or at the request of the prisoner; or
 - (e) to a law enforcement body or agency with the approval of the Commissioner.

Disposal of records of unconvicted prisoners

23. (1) The Commissioner must ensure that all photographs, impressions of fingerprints or palmprints and other records of personal particulars of any unconvicted person:

- (a) who has been remanded in custody in a prison in connection with an alleged offence; and
- (b) who was not convicted of the offence,

are destroyed or otherwise obliterated 6 years after the release of the person from the prison.

(2) Subclause (1) relates only to records over which the Commissioner has control.

Division 2—Searching of prisoners

Searching of prisoners

24. (1) A prison officer may search a prisoner on reception into prison.

(2) A prison officer may search a prisoner at such subsequent times as may be directed by the governor of the prison or considered desirable by the prison officer.

(3) A prisoner must not be searched by or in the presence of a person of the opposite sex.

(4) The searching of a prisoner must be conducted with due regard to dignity and self-respect and in as seemly a manner as practicable without impeding the effectiveness of the search.

(5) A prisoner must allow himself or herself to be searched by a prison officer conducting a search in accordance with this clause.

Division 3—Information to be provided to prisoners

Information about prison discipline

25. As soon as practicable after a prisoner is received into a prison the governor of the prison must ensure that the prisoner is supplied with a notice as set out in Schedule 1.

Prisoners to be notified of rights and obligations

26. (1) As soon as practicable after a prisoner is received into a prison the governor of the prison must inform the prisoner, or cause the prisoner to be informed, of:

- (a) the prison rules; and
- (b) the prisoner's obligations as to discipline and conduct; and
- (c) the prisoner's rights as to legal representation and appeal; and
- (d) the authorised methods of seeking information and making complaints; and
- (e) the functions of the Review Council under sections 22C–22F of the Act relating to the segregation of prisoners; and
- (f) any other matter necessary to enable the prisoner to understand the prisoner's rights and obligations and adapt to living in the prison.

(2) If practicable, the prisoner is to be informed of the matters by being handed a document in which information relating to each of them is written in a language which the prisoner can read and understand.

(3) If it is impracticable to hand to the prisoner such a document, the prisoner is to be considered as having been informed of the matters:

- (a) if the prisoner, being able to read and understand the English language, is permitted to have access to a copy of the Act, this Regulation and any other relevant material; or
- (b) if the prisoner, not being able to read or understand the English language, is given information relating to each of those matters:
 - (i) orally in the English language or, if not able to understand that language, in a language which the prisoner can understand; or
 - (ii) if not able to understand any language communicated orally, in any other manner that enables the prisoner to understand the information.

Information concerning directions extending segregation periods

27. 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.

Information for prisoners who are nationals of other countries

28. (1) As soon as possible after a prisoner who is a national of another country is received into a prison, the governor of the prison must inform the prisoner or cause the prisoner to be informed that, if the prisoner so requests, the consular representative of that country will be informed of the prisoner's imprisonment.

(2) If the prisoner makes such a request, the governor must inform the consular representative without delay.

Division 4—Prisoner's property**Dealings with property surrendered on reception into prison (sec. 18 of Act)**

29. (1) A prisoner's property which has been retained by the governor of a prison under section 18 of the Act may be issued to the prisoner if, in the governor's opinion, the issue does not constitute a security or safety risk.

(2) The property may be issued on condition that it only be dealt with in a manner approved by the governor.

(3) The prisoner must deal with any such property only in such manner as is approved by the governor.

Maximum penalty (subclause (3)): 5 penalty units.

Records of property surrendered on reception into prison

30. The record to be kept under section 18 (2) of the Act must set out:

- (a) details of the property surrendered; and
- (b) the date received and the date of disposal; and
- (c) the prisoner's receipt for the property when received or disposed of by the prisoner; and
- (d) any other incidental particulars.

Property brought to prison by other persons

31. (1) Any property of a prisoner brought to a prison by:

(a) a police or prison officer; or
(b) any other person of a class specified by the Commissioner,
at the time of the reception of the prisoner is to be given into the charge of the governor of the prison.

(2) The governor of a prison may receive money, valuables or other property sent to the prison to or for a prisoner.

(3) Any property so given or received must be dealt with by the governor as if the property had been surrendered by the prisoner under section 18 of the Act.

(4) The governor of a prison is not to receive into custody under this clause any property which, in the opinion of the governor, might constitute a security or safety risk at the prison.

Possession of approved personal property

32. (1) In this clause:

“**approved personal property**”, in relation to a prison, means personal property of a kind which, under a determination of the Commissioner, may be kept by a prisoner at that prison.

(2) The governor of a prison may permit a prisoner to keep approved personal property at the prison if, in the governor’s opinion, the keeping of the property does not constitute a security or safety risk.

Property to be kept in a tidy and orderly manner

33. Any property kept by a prisoner must be kept in a tidy and orderly manner and so as not to impede a search of the prisoner’s cell, room or hut.

Confiscation of property which is a security or safety risk

34. (1) Any personal property of a prisoner which, in the opinion of the governor of the prison, is kept or used in such a manner as to be a security or safety risk may be confiscated by the governor.

(2) The governor is to keep a record of property confiscated under this clause.

(3) Property confiscated under this clause may be disposed of by the governor in accordance with any reasonable request made by the prisoner.

Possession and confiscation of unauthorised property

35. (1) A prisoner must not have in possession at any time after admission to a prison any money or article (other than money or an article authorised by the governor of the prison to be kept by the prisoner).

(2) Any unauthorised money or article found in the possession of a prisoner after admission to a prison may be confiscated by the governor of the prison.

(3) For the purposes of this clause, a prisoner has money or an article in possession if the prisoner has the money or article in the prisoner's custody or under the prisoner's control.

Sale of unclaimed or confiscated property

36. (1) For the purposes of section 18 (3) and (5) of the Act, unclaimed property, or unauthorised property which is confiscated, may be sold by the Commissioner by public auction.

(2) The proceeds of any sale are to be dealt with as if they were unclaimed money held by the Commissioner.

(3) If the Commissioner intends to sell property by public auction:

- (a) notice of the auction is to be published in the Gazette; and
- (b) in the case of unclaimed property, a notice of the auction is to be sent by post:
 - (i) to the person who surrendered the property, at the person's address last known to the Commissioner; or
 - (ii) if the person is known by the Commissioner to be dead, to any next of kin known to the Commissioner.

Transfer of property

37. The property of a prisoner transferred from one prison to another is to be transferred by the governor of the former prison to the custody of the governor of the new prison, together with such inventories and records as may be directed by the Commissioner.

PART 4—INSTITUTIONAL ROUTINE

Hours of work and general routine

38. (1) The Commissioner is to determine the hours of work and general routine for each prison.

(2) The Commissioner may determine different hours of work or general routines for different parts of a prison.

(3) The governor of a prison is to ensure that a notice setting out the hours of work and general routine is exhibited in a conspicuous position where it may be read by prisoners in the prison or part of the prison to which it relates.

(4) The Commissioner may require the hours of work and general routine for a prison to be published in such other manner as the Commissioner thinks fit.

Prisoners to comply with prison routine

39. (1) A prisoner must comply with the hours of work and general routine for the prison or part of the prison in which the prisoner is detained.

(2) Subclause (1) does not authorise a prisoner to contravene any lawful requirement made of the prisoner by the Commissioner or a prison officer.

Prisoners to attend musters

40. (1) A prisoner must not refuse or neglect to attend promptly at any place designated by the governor of the prison, either generally or in a particular case, as a place for mustering prisoners:

(a) when required orally to do so by the governor or a prison officer;
or

(b) when a bell, hooter, siren or whistle used to indicate that a muster of prisoners is required is sounded (being a bell, hooter, siren or whistle that is capable of being heard at the place where the prisoner is).

(2) A prisoner must not operate a bell, hooter, siren or whistle used:

(a) to indicate that a muster of prisoners is required; or

(b) for giving notice of a fire or fire drill; or

(c) for giving notice of any other routine or emergency at a prison, unless the prisoner is authorised to do so by the governor or a prison officer or does so with another reasonable excuse.

Avoidance of prison routine

41. A prisoner must not pretend to be ill or injured for the purpose of avoiding an obligation imposed by or under the Act or this Regulation.

Self-inflicted wounds

42. A prisoner must not injure himself or herself for the purpose of avoiding an obligation imposed by or under the Act or this Regulation.

PART 5—FOOD**Diet**

43. (1) A prisoner must be supplied each day with food in accordance with a diet designed to provide a dietary intake generally in accordance with the dietary intakes recommended for the time being, and published, by the National Health and Medical Research Council.

(2) The diet must:

- (a) be varied; and
- (b) provide adequate amounts of each essential nutrient from basic foods; and
- (c) be planned to ensure optimal nutritional health.

(3) The diet of a prisoner having special dietary needs is to be planned having regard to those needs.

(4) The prison medical officer may authorise the variation of a prisoner's diet if the variation is warranted on medical grounds.

Purchase of food by prisoners

44. (1) The governor of a prison may permit a prisoner to purchase food available for purchase at the prison or outside the prison.

(2) A prisoner must not purchase an item consisting of or containing food if the governor of the prison has banned the item as representing a threat to the security, discipline or good order of the prison.

(3) The governor must cause any such ban to be notified:

- (a) on notice boards within the prison which are accessible to prisoners; and
- (b) to the Commissioner, together with the reason for imposing the ban.

Unauthorised food

45. A prisoner must not receive or have in possession food that is not supplied by the prison or otherwise authorised under this Part.

Complaints about prison food

46. (1) A prisoner wishing to complain about the quantity or quality of the food supplied by the prison must do so as soon as possible after receiving it.

(2) The prisoner is responsible for substantiating the complaint.

Food supplied from outside prison

47. (1) A civil prisoner may arrange, with the approval of the governor of the prison, for the prisoner's food to be supplied from outside the prison.

(2) The quantity and type of food are subject to the approval of the governor.

(3) The food is to be in substitution for and not in supplementation of the food supplied in the prison.

Trading in food prohibited

48. A prisoner supplied with food from outside the prison must ensure that none of it is received by another prisoner.

PART 6—HEALTH AND CLEANLINESS**Personal cleanliness**

49. A prisoner must obey directions given by or with the authority of the governor of the prison, either generally or individually, in regard to washing, bathing, shaving and the cutting of hair.

Cleanliness and preservation of cells and certain articles

50. (1) A prisoner must keep the prisoner's cell, utensils, clothing, bedding and any other issued articles clean, tidy and in good order and in accordance with any direction given by or with the authority of the governor of the prison.

(2) A prisoner must not wilfully damage, destroy or deface the prisoner's cell.

(3) A prisoner must not dispose of, or wilfully alter, damage or destroy, any clothing, bedding or other article issued to the prisoner.

Destruction of unhygienic property

51. (1) Any food, personal effects or articles of clothing belonging to a prisoner at a prison may be destroyed if the prison medical officer considers it necessary for the maintenance of hygiene.

(2) Before any such property is destroyed, the governor of the prison must, if practicable, cause the prisoner to be informed of the proposed destruction and the reason.

Dental and optical treatment and artificial medical appliances

52. (1) Dental treatment, optical treatment and hearing aids and other artificial medical appliances are to be supplied to prisoners in such manner and to such extent as the Chief Executive Officer, Corrections Health Service, from time to time determines.

(2) Subclause (1) does not apply in circumstances where section 16 of the Act applies.

Daily exercise (sec. 12 (1) of the Act)

53. (1) Every prisoner (except those confined to cells under the Act) is to be allowed not less than 2 hours each day for exercise in the open air.

(2) A prisoner confined to a cell is to be allowed not less than 1 hour each day for exercise in the open air.

Wearing of prison clothing

54. (1) A convicted prisoner must at all times (unless otherwise authorised by the governor of the prison) wear the uniform clothing issued to the prisoner and no other clothing.

(2) Subclause (1) also applies to an unconvicted prisoner or a civil prisoner who does not wear his or her own clothing.

Wearing of street clothes

55. (1) An unconvicted prisoner or a civil prisoner may be permitted by the governor of the prison to wear his or her own clothing and have necessary changes of clothing supplied from time to time if:

- (a) the clothing is sufficient and suitable in the opinion of the governor; and
- (b) the clothing is not clothing that is used for the purpose of administration of justice; and
- (c) the clothing is not uniform clothing of the Armed Services.

(2) Any such clothing is to be disinfected, laundered or otherwise cleaned if and when it is, in the opinion of the governor, necessary.

Unconvicted prisoners and civil prisoners may be required to clean yards

56. (1) Unconvicted prisoners and civil prisoners may be required by the governor or a prison officer to keep clean the yards and other sections occupied by them.

(2) An unconvicted prisoner or civil prisoner must comply with any such requirement.

PART 7—EDUCATION, VOCATIONAL TRAINING AND LIBRARIES**Division 1—Education and vocational training****Educational classes**

57. (1) Provision may be made by the Commissioner for programs directed to the social, academic, cultural, craft and linguistic needs or interests of prisoners.

(2) Persons nominated by the Commissioner who are not officers of the Department may be employed to conduct those programs.

(3) A person employed to conduct a program is subject to:

- (a) in respect of any matter affecting the security or good order of the prison—the directions of the governor of the prison; and

(b) in respect of the nature and scope of the education syllabus and the method of instruction—the directions of such officer as may from time to time be designated by the Commissioner to supervise the educational activities of prisoners.

(4) The Commissioner may also use prison officers to conduct programs.

Vocational and practical training

58. (1) Provision may be made in a prison for the vocational training of prisoners and for the practical training (supplemented by theoretical study by correspondence or otherwise) of prisoners.

(2) The training and study are to be as determined from time to time by the Commissioner.

(3) The Commissioner is to give special attention to the education and training of prisoners who are young or illiterate.

Regulation of prisoners attending classes

59. During the time a prisoner is participating in or attending a class or activity forming part of a program or training provided under this Part, the prisoner must comply with any lawful and reasonable direction of the person employed to conduct the program or training.

Division 2—Keeping of books and other printed material

Purchase of books and other printed material by prisoners

60. A prisoner may purchase books, newspapers, magazines or other printed material:

- (a) which it is lawful for the prisoner to purchase at any place in New South Wales outside a prison; and
- (b) from which it could not reasonably be expected that the prisoner may obtain information the use of which could give rise to a security or safety risk.

Keeping of books and other printed material

61. (1) A prisoner may keep books, newspapers, magazines and other printed material in the prisoner's cell, room or hut if there are suitable and adequate facilities for storing them and they are stored in a tidy and orderly manner.

(2) If the governor of the prison is of the opinion that the keeping by the prisoner of any book, newspaper, magazine or other printed material may give rise to a security or safety risk, the book, newspaper, magazine or other printed material may be confiscated by the governor.

(3) Any confiscated book, newspaper, magazine or other printed material may:

- (a) be treated and dealt with as if it were property surrendered on reception into prison; or
- (b) be disposed of by the governor in such a manner as is reasonable in the circumstances (taking into account the nature of the material).

Division 3—Prison libraries

Commissioner to maintain prison libraries

62. The Commissioner must cause any library at a prison to be maintained.

Library rules

63. (1) The governor of a prison must cause a copy of the library rules set out in Schedule 2 to be exhibited in any library at the prison in such a position that they may be read by prisoners using the library.

(2) The governor may cause copies of the library rules to be exhibited in other places in the prison so that they may be read by prisoners who may wish to use a library at the prison.

Use of prison libraries

64. Any prisoner may, subject to the library rules, use the facilities of a library at the prison unless the prisoner has been refused access to the library under this Regulation.

Refusal of access

65. (1) The governor of a prison who has reasonable grounds to believe that a prisoner may misuse the facilities of a prison library may refuse the prisoner access to the library for such period as the governor determines.

(2) The prisoner must not use the facilities of the library during any such period.

Return of borrowed items

66. A prisoner who borrows an item from a prison library must not, without reasonable excuse:

- (a) fail to return the item by the date on which it is due to be returned; or
- (b) return the item in a worse condition than it was in when borrowed.

PART 8—RELIGIOUS MINISTRATION**Division 1—Interpretation****Definitions**

67. In this Part:

“**cleric**”, in relation to a particular religious denomination, means a minister of religion, priest, rabbi or other person appointed or authorised by the appropriate authority for that denomination to minister to its members;

“**prison chaplain**” means a cleric for the time being appointed under this Regulation to be a chaplain at a prison.

Division 2—Prison chaplains**Appointment of prison chaplains**

68. (1) The Commissioner, on the recommendation of the appropriate authority for a religious denomination, may, by instrument in writing, appoint a cleric of that denomination to be full-time or part-time chaplain to prisoners and prison officers at a prison.

(2) The Commissioner may, at any time, by instrument in writing, revoke such an appointment.

Privileges of chaplains

69. (1) With the approval of the Commissioner, a prison chaplain may:

- (a) when visiting the prison, be accompanied by not more than 4 assistants, being clerics or lay persons who are wholly or partly engaged in duties of a religious nature; and
- (b) arrange for prisoners to be visited by persons suitably qualified in counselling, vocational guidance or other services; and
- (c) authorise, in writing, another cleric to act as prison chaplain during the chaplain's absence.

(2) A person authorised to act for a prison chaplain is to be treated for the purposes of this Part as a prison chaplain.

(3) An approval under subclause (1) may be given subject to conditions.

(4) A prison chaplain is answerable to the Commissioner for the conduct of any person who accompanies the chaplain when visiting a prison.

Division 3—Chaplaincy services

Duties of chaplains

70. (1) A prison chaplain is responsible for the spiritual care of prisoners at the prison.

(2) A prison chaplain's functions include:

- (a) as frequently as is reasonable, visiting prisoners who are sick or confined to cell or segregated from other prisoners; and
- (b) when requested to do so by the governor of the prison, visiting a prisoner of the chaplain's religious denomination (or arranging for the prisoner to be visited by another cleric of that denomination) where the prisoner is suffering from an injury or illness which is likely to be fatal.

Powers of chaplains

71. A prison chaplain may:

- (a) on Sundays or other recognised days of religious observance, and on such other days as the governor of the prison may permit, hold or conduct:
 - (i) Divine services or such other rites, services or assemblies as pertain to the chaplain's religious denomination; or
 - (ii) with the permission of the governor, combined services in association with clerics of other denominations; and
- (b) at their request, give counsel and advice to the relatives and friends of a prisoner; and
- (c) with the consent of:
 - (i) the prisoner; and
 - (ii) if a chaplain of the prisoner's religious denomination has been appointed to the prison—that chaplain, minister to a prisoner who is not of the chaplain's religious denomination; and

- (d) with the approval of the Commissioner, pursue such other matters as the chaplain considers to be in the interests of the welfare of prisoners at the prison.

Access to prisoners

72. (1) A prison chaplain may, at all reasonable times (but not so as to disturb the ordinary routine of the prison), visit the prison.

(2) The chaplain is to have free and independent access to prisoners of the chaplain's religious denomination for the purpose of private and confidential religious ministrations.

(3) With the approval of the Commissioner, a cleric may, if no chaplain of the cleric's denomination has been appointed to a prison, visit the prison and, during the visit, have access to prisoners of that denomination as if the cleric were their chaplain.

(4) If a prisoner objects to being visited by a chaplain or another cleric, the objection is to be fully respected.

Prisoner may request visit by cleric if no chaplain appointed

73. The governor of a prison must, on request by a prisoner who is of a religious denomination for which no chaplain has been appointed to the prison, endeavour to arrange for the prisoner to be visited by a cleric of that denomination.

Division 4—General

Records relating to religious denominations

74. (1) A prisoner, on reception into prison, must state his or her religious denomination or, if of no religious denomination, state that fact.

(2) A record is to be kept at a prison of each prisoner's religious denomination or of the fact that a prisoner is of no religious denomination.

(3) A prisoner who desires to become a member of a religious denomination (or, if already recorded as being a member of a religious denomination, of another religious denomination) may notify the governor of the prison in writing:

- (a) setting out the reasons for desiring to become such a member; and
- (b) requesting that the prisoner's record be amended accordingly.

(4) The governor, if satisfied (after consultation with the prison chaplains) that the prisoner has been properly counselled in relation to the request and that it has been made in good faith, is to direct that the record be amended.

(5) For the purposes of this Part, a prisoner is to be treated as being of the religious denomination (if any) for the time shown in the records kept under this clause.

(6) The governor of a prison, on request by a prison chaplain, must inform the chaplain of the names of all prisoners of the chaplain's religious denomination at the prison.

Participation of prisoners in religious observances

75. (1) Prison officers, where practicable, are to encourage prisoners to participate in the religious observances of their religious denominations (but not so as to offer or impose any inducement or sanction with respect to any such participation).

(2) A prisoner may attend at the prison:

- (a) Divine services or such other rites, services or assemblies as pertain to the prisoner's religious denomination; and
- (b) with the approval of the governor of the prison, services of other religious denominations; and
- (c) combined services held by clerics of the prisoner's religious denomination in association with clerics of other denominations.

(3) Religious books, recognised objects of religious devotion and similar items belonging to a prisoner are to be treated as approved personal property acquired with the permission of the governor of the prison.

Use of chapels

76. (1) A prison chapel or a part of a prison that is used for the holding or conducting of Divine services or other religious rites, services or assemblies may be used for such other purposes as may be determined by the Commissioner after consultation with the prison chaplains.

(2) The governor of a prison at which there is no chapel must, on request by a prison chaplain, make available a suitable part of the prison for the holding or conducting of Divine services or other religious rites, services or assemblies.

(3) The governor of a prison must, on request by a prison chaplain, make available suitable facilities for the safekeeping of communion tables, vestments, religious books and other objects used in connection with Divine services or other religious rites, services or assemblies.

(4) A person must not, at a prison, desecrate or abuse any communion tables, vestments, religious books or other objects used in connection with Divine services or other religious rites, services or assemblies.

Maximum penalty (subclause (4)) except in the case of a prison offence: 5 penalty units.

Chaplains may advise committees

77. (1) With the approval of the Commissioner, a prison chaplain may:

- (a) attend meetings of any committee concerned with the management of the prison; and
- (b) at any such meeting, offer advice in relation to the welfare of prisoners.

(2) A prison chaplain is not entitled to vote on any motion or proposal put before such a committee or otherwise participate in its decisions.

Chaplaincy services: generally

78. (1) The prison chaplains, in collaboration with the Commissioner and the appropriate authorities for the various religious denominations, may assist in:

- (a) the development of community support for corrective services in the State; and
- (b) the development and extension of chaplaincy services in prisons in the State.

(2) The Commissioner, in consultation with the prison chaplains and the appropriate authorities for the religious denominations, is to review from time to time the effectiveness of the chaplaincy services in prisons in the State.

Exclusion of clergy on grounds of security

79. If the Commissioner considers that it would be prejudicial to the maintenance of security, good order or discipline in a prison to allow:

- (a) a particular cleric; or
- (b) a cleric of a particular religious denomination,

to visit the prison, the Commissioner may refuse to allow the cleric or any such cleric to visit the prison.

PART 9—VISITS AND COMMUNICATIONS WITH PRISONERS**Division 1—Visits to prisoners****Visits generally**

80. The governor of a prison may permit a person to visit a prisoner at the prison.

Visiting hours

81. (1) The periods during which a person may visit a prisoner at a prison are as determined by the Commissioner.

(2) The governor is to ensure that the visiting hours are clearly displayed on a notice outside the prison.

(3) If it is not practicable for a person to visit a prisoner during visiting hours, the governor may (subject to the convenience of the routine of the prison) permit a visit outside those hours.

Duration of visits

82. A visit to a prisoner is to be permitted to continue for not less than 30 minutes (unless it is terminated under the Act or this Regulation or it extends beyond visiting hours).

Number of visits

83. (1) An unconvicted prisoner may be visited once immediately after reception into prison and afterwards twice weekly.

(2) An appellant or convicted prisoner may be visited once immediately after conviction and afterwards at such intervals as the governor of the prison determines in respect of the class of prisoners concerned.

(3) A civil prisoner may be visited daily, for such number of times as the governor of the prison may permit.

Extra visits may be permitted

84. (1) The governor of a prison may permit additional visits to a prisoner who has been reported by the prison medical officer to be dangerously ill.

(2) The governor of a prison may, in any other case which the governor considers appropriate, permit additional visits to a prisoner.

Maximum number of visitors

85. Not more than 4 visitors, or such other number of visitors as the governor of the prison from time to time determines in respect of the prisoner, may be present with a prisoner at the same time.

Visits by family or friends

86. The governor of a prison may, subject to this Regulation, permit a prisoner to receive such visits from the prisoner's family or friends as, in the governor's opinion, would be conducive to the rehabilitation of the prisoner.

Visits by Commissioner and other officials

87. (1) The Commissioner may visit and must be admitted to a prison at any time.

(2) No other person may be admitted to a prison without the prior authority of the Commissioner, except:

- (a) the Minister, a Deputy Commissioner, a prison officer employed at the prison or an Official Visitor for the prison;
- (b) any person authorised to visit and examine a prison by section 11 of the Act (a Supreme or District Court Judge or a Magistrate).

Visits by officers of the Crown

88. The governor of a prison may, in addition to other visits authorised by this Regulation, authorise an officer of the Crown (including a police officer) to visit a prison or a prisoner if satisfied that the visit is to be made while the officer is engaged on official duties.

Prisoner may refuse visits

89. A prisoner may refuse to receive a visitor (other than an officer of the Crown, including a police officer, on official duties).

Prisoner confined to cell not entitled to visits

90. A prisoner who is confined to cell is not entitled to be visited except in the case of:

- (a) a visit to discuss or transact legal business; or
- (b) a visit by a diplomatic or consular representative; or
- (c) a visit by a field officer of the Aboriginal Legal Service or any similar organisation approved by the Commissioner; or
- (d) a visit by an officer of the Crown (including a police officer) on official duties.

Record of visits

91. (1) The governor of a prison must, in relation to each visit to a prisoner, keep or cause to be kept a record of:

- (a) the date of the visit; and
- (b) the name of the prisoner; and
- (c) the name and address of each visitor; and
- (d) the relationship between each visitor and the prisoner; and
- (e) the authority for the visit; and
- (f) the name of the prison officer who supervised the visit.

(2) Copies of the records of visits may be maintained by the Commissioner in such manner and for such period as the Commissioner sees fit.

Division 2—Special visits: legal business, foreign nationals, aboriginals**Visits to transact legal business**

92. In addition to any other visit authorised by this Regulation, a prisoner is entitled to be visited by the prisoner's barrister or solicitor.

Foreign nationals

93. A prisoner who is a national of a foreign country or foreign state may, in addition to any other visits authorised by this Regulation, be visited by a person who is:

- (a) a diplomatic or consular representative in Australia or New South Wales of the foreign country or foreign state; or
- (b) a diplomatic or consular representative in Australia or New South Wales of another foreign country or foreign state that assumes responsibility for the prisoner's interests; or
- (c) if the person is a refugee or stateless person, a representative of a national or international organisation that has as an object the protection of the interests of such a prisoner.

Aboriginal prisoners

94. A prisoner who is an Australian aborigine may, in addition to other visits authorised by this Regulation, be visited by a person who is:

- (a) a field officer of the Aboriginal Legal Service; or
- (b) a field officer of any other organisation that provides legal or other assistance to Australian aboriginal people and that is approved by the Commissioner.

Prior appointment necessary

95. A prior appointment for a visit under this Division must have been made with the governor of the prison.

Time, duration and number of visits

96. (1) Visits to a prisoner under this Division are not to be restricted in duration or number but must be made during normal visiting hours.

(2) The governor of a prison may extend normal visiting hours to permit such a visit if, in the governor's opinion:

- (a) it is convenient and practicable to do so; and
- (b) the governor is able to make satisfactory security arrangements.

Division 3—Permits to visit prisons**Permit for visits**

97. (1) A visitor's permit may be issued authorising a person to visit a specified prison for any official, scientific, religious, sociological or other purpose approved by the Commissioner.

(2) A visitor's permit may be issued by the Commissioner or a person authorised by the Commissioner for the purpose.

(3) A visitor's permit may be issued unconditionally or subject to conditions specified in the permit.

(4) An application for a visitor's permit is to be made in writing to the Commissioner or a person authorised by the Commissioner to issue the permit and the decision of the Commissioner or the person on whether to grant the permit is final.

Cancellation of permits

98. The Commissioner or the person authorised by the Commissioner to issue the permit may cancel a visitor's permit at any time.

Return of expired or cancelled permits

99. A person to whom a visitor's permit is issued must return it to the Commissioner as soon as the permit expires or is cancelled.

Maximum penalty: 5 penalty units.

Preliminary requirements for visits

100. A person to whom a visitor's permit is issued:

- (a) is not entitled to visit a prison without the prior approval of the governor of the prison or an authorised prison officer; and

- (b) must, before the visit takes place, inform the governor of the prison or an authorised prison officer of the purpose of the visit.

Restrictions on holders of visitor's permits

101. (1) A person to whom a visitor's permit is issued:

- (a) must not enter any part of a prison to which entry is forbidden by the governor of the prison or the prison officer supervising the visit; and
- (b) must comply with any reasonable direction given by the prison officer supervising the visit.

(2) A person to whom a visitor's permit is issued must not, during a visit to a prison, communicate with a prisoner or periodic detainee without the prior approval of the governor of the prison or an authorised prison officer.

Maximum penalty: 5 penalty units.

Physical contact by holders of visitors' permits

102. A person permitted by a visitor's permit to visit a prison may, at the discretion of the governor of the prison or an authorised prison officer, be allowed to have physical contact with a prisoner.

Division 4—Control of visits to prisons and prisoners

Proof of identity of visitor and purpose of visit may be required

103. (1) The governor of a prison or an authorised prison officer may refuse to allow a visitor to a prison or to a prisoner to proceed with the visit (whether or not the visitor is entitled to visit the prison or prisoner) if:

- (a) when required by the governor or officer to do so, the visitor fails to produce evidence of identity or place of residence that the governor or officer considers to be adequate; or
- (b) the visitor does not state the purpose of the visit when required by the governor or the officer to do so.

(2) A person must not produce any evidence in response to a requirement under subclause (1) (a) knowing the evidence is false or misleading in a material particular.

Maximum penalty: 10 penalty units.

(3) If a visitor is prevented from proceeding with a visit, the governor or prison officer must cause the reason for the refusal to be recorded and reported to the Commissioner.

Searching of visitors

104. (1) The governor of a prison, an authorised prison officer or the Superintendent, Security and Investigations Branch may require a visitor to the prison or a prisoner:

- (a) to submit to a search of personal possessions or to a search from head to foot by the use of hand-held scanning devices, or to both those searches; or
- (b) to empty the contents of all pockets in the visitor's clothing.

(2) The power of the Superintendent, Security and Investigations Branch under subclause (1) may be exercised only if the Commissioner approves.

(3) Except as otherwise provided by this Regulation or as permitted by the governor of the prison or an authorised prison officer, a visitor to a prisoner or a prison must, while the visit is taking place, leave:

- (a) personal possessions; and
- (b) any other articles brought into the prison by the visitor,

in storage facilities provided for the purpose at the prison.

(4) The governor of a prison or an authorised prison officer may refuse to allow a visitor to a prisoner or a prison to proceed with the visit if the visitor:

- (a) refuses to submit to a search required under this clause; or
- (b) fails to leave property in storage as required by this clause.

(5) If a visitor is prevented from proceeding with a visit, the governor or officer concerned must cause details of the refusal of the visit and the reasons to be recorded and reported to the Commissioner.

Unauthorised use of cameras or recording equipment

105. (1) A person who is visiting a prison or prison complex, or who is visiting a prisoner at a prison or prison complex, must not take photographs or operate video or audio recording equipment without the prior approval of the Commissioner.

Maximum penalty: 20 penalty units.

(2) The Commissioner may confiscate any film, tape or other recording taken or made by a person in contravention of this clause.

(3) The Commissioner may destroy any part of a confiscated film, tape or recording which the Commissioner is satisfied is likely to adversely affect the security of the prison or prison complex or place the personal safety of a person at risk.

(4) Any part of the film, tape or recording which the Commissioner is satisfied is not likely to adversely affect the security of the prison or prison complex or place the personal safety of a person at risk must be returned to the person from whom it was taken.

(5) Before returning any film, tape or recording, the Commissioner may charge the person for payment of any costs incurred in processing or developing it.

Delivery of articles to prisoners or visitors

106. (1) Except as otherwise provided by this Part:

- (a) a visitor to a prison or to a prisoner at a prison must not convey or deliver to or receive from a prisoner at the prison an article of any kind; and
- (b) a prisoner at a prison must not convey or deliver to or receive from a visitor to the prison, to the prisoner or to any other prisoner at the prison an article of any kind.

(2) With the approval of the governor of a prison or an authorised prison officer:

- (a) a visitor to the prison or to a prisoner at the prison may deliver an article to a prison officer at the prison for delivery to a prisoner at the prison; or
- (b) a prisoner at the prison may deliver an article to a prison officer at the prison for delivery to a visitor to the prison, to that prisoner or to another prisoner at the prison.

Prevention of physical contact with prisoners

107. (1) The Commissioner may direct that a person, for such period as the Commissioner considers appropriate, be prevented from having physical contact with a prisoner if the Commissioner has reasonable grounds to suspect that the person is likely to introduce into a prison:

- (a) property which a prisoner is not authorised by this Regulation to possess; or
- (b) money or any other thing the acquisition, keeping or use of which by the prisoner would, in the opinion of the Commissioner, be likely to adversely affect the security, discipline or good order of the prison.

(2) While such a direction is in force, the governor must refuse to allow the person to whom the direction relates to visit the prison or a prisoner at the prison unless the person is effectively prevented (by the use of screens or otherwise) from having physical contact with any prisoner.

(3) The governor of a prison or an authorised prison officer may permit a visit to proceed only while a visitor is effectively prevented by the use of screens or otherwise from having physical contact with any prisoner if the governor or prison officer knows or has reasonable cause to suspect that the visitor has in his or her possession:

- (a) property which a prisoner is not authorised by this Regulation to possess; or
- (b) money or any other thing the acquisition, keeping or use of which by a prisoner would, in the opinion of the governor or prison officer, be likely to adversely affect the security, discipline or good order of the prison.

(4) If a visitor is prevented from proceeding with a visit, the governor or officer concerned must cause details of the refusal of the visit and the reasons to be recorded and reported to the Commissioner.

Visits to be within sight of prison officer

108. (1) A visit must take place within sight of a prison officer.

(2) Subclause (1) does not prevent the governor of the prison from permitting a visit to take place outside the sight of a prison officer if it is a visit to a prisoner by:

- (a) an officer of the Crown; or
- (b) a member of a civil rehabilitation committee approved by the Commissioner (being a member to whom the prisoner has been referred by a parole officer).

(3) Subclause (1) does not prevent a person permitted by this Regulation to visit a prison to conduct research from being afforded, at the discretion of the Commissioner, facilities to interview, talk to and examine a prisoner out of sight of a prison officer.

Listening or recording devices not to be used without permission

109. A prison officer must not, without the written permission of the prisoner, use a listening or recording device to overhear or record a conversation between a prisoner and a visitor.

Legal documents: special arrangements

110. (1) The governor of a prison or an authorised prison officer may inspect or examine, but not read, documents or other recorded material taken into the prison by a barrister or solicitor for the purpose of discussing or transacting legal business.

(2) The governor of a prison must ensure that arrangements are made for a prisoner and the prisoner's barrister or solicitor to have joint access to documents or other recorded material taken into the prison for the purpose of discussing or transacting legal business.

Division 5—General restrictions on persons who may visit

General power of governor or prison officer to prevent visits

111. (1) The governor of a prison may refuse to allow a visit to the prison or to a prisoner if, in the opinion of the governor, the security, discipline or good order of the prison may be adversely affected if the visit were permitted.

(2) If, in the opinion of the prison officer supervising a visit to a prison or to a prisoner:

- (a) the visitor or prisoner has committed a breach of the Act or this Regulation; or
- (b) the visitor or prisoner has acted in an offensive, unseemly, indecent or improper manner; or
- (c) the security, discipline or good order of the prison may be adversely affected if the visit were to continue,

the officer may terminate the visit and remove the visitor from the prison.

(3) A prison officer is to report to the governor of the prison any action taken by the officer under subclause (2).

(4) The governor of the prison must keep or cause to be kept a record of each refusal of a visit under subclause (1) and each termination of a visit under subclause (2) and the reasons for the refusal or termination.

Visitors affected by alcohol or drugs

112. The governor of a prison or an authorised prison officer who has reasonable cause to believe that a visitor to the prison or to a prisoner is under the influence of alcohol or a drug may refuse to allow the visit.

Unauthorised persons not to be admitted to prisons

113. A person not otherwise authorised by this Regulation to be admitted to a prison must not be admitted to the prison without the prior authority of the Commissioner.

Commissioner may bar persons from visiting prisons

114. (1) The Commissioner may direct, in writing, that a person specified in the direction be prevented:

- (a) from entering every prison or prison complex in the State; and
- (b) from visiting any or all prisoners at every such prison or prison complex,

if the Commissioner is satisfied that the security, discipline or good order of any one or more prisons or prison complexes would be adversely affected if the person were to be permitted to visit that or those prisons or prison complexes.

(2) Any such direction has effect for such period as the Commissioner considers appropriate and may be revoked by the Commissioner at any time.

(3) Despite any such direction being in force, the Commissioner may, in such circumstances as the Commissioner considers appropriate, permit the person to whom the direction applies to visit a particular prison, prison complex or prisoner in accordance with the provisions of this Part.

Division 6—Written communications with prisoners**Definitions**

115. In this Division:

“authorised officer” means:

- (a) a prison officer appointed by the governor of a prison to be an authorised officer for the purposes of this Division; or
- (b) the Director of the Security and Investigations Branch; or
- (c) an officer employed in the Security and Investigations Branch who is appointed by the Director of that Branch to be an authorised officer for the purposes of this Division;

“Commonwealth Ombudsman” means the Commonwealth Ombudsman appointed under section 21 (1) of the Ombudsman Act 1976 of the Commonwealth;

“contraband” includes any substance or item, other than money, the possession of which by a prisoner is not permitted by or under the Act;

“letter” means any letter, card, telegram, document or other similar form of written communication, whether or not contained in a parcel, and includes an envelope containing any of those things;

“parcel” means any parcel, package or other similar article, and includes any parcel or package containing any book, newspaper, magazine or other similar printed material.

Correspondence: generally

116. (1) Subject to this Division, prisoners may send letters or parcels to, and receive letters or parcels from, persons who are not imprisoned.

(2) Subject to this Division, a prisoner may communicate by correspondence with a prisoner of another prison.

(3) A prisoner must not send or receive any letter or parcel otherwise than through the hands of the governor of the prison or an authorised prison officer.

(4) Except as otherwise provided by this Division, a letter sent to or by a prisoner is not to be censored.

Certain articles prohibited

117. A prisoner must not send or attempt to send from a prison a letter or parcel that contains any written or pictorial matter that is indecent, obscene, abusive, threatening or offensive or any article that is indecent, obscene or offensive.

Certain correspondence privileged

118. (1) In this clause:

“privileged letter or parcel”, in relation to a prisoner, means a letter or parcel which has been addressed by the prisoner to the Ombudsman, the Commonwealth Ombudsman, the Judicial Commission, the National Crime Authority, the New South Wales Crime Commission, the Anti-Discrimination Board, a member of the Equal Opportunity Tribunal, the Independent Commission Against Corruption, the Privacy Committee, the Legal Aid Commission, the Legal Services Commissioner, the Legal Services Tribunal, a Member of Parliament, a barrister, a solicitor or a police officer.

(2) If a prisoner delivers to a prison officer or the governor of a prison a privileged letter or parcel:

(a) the prison officer or governor must send the letter or parcel immediately to the addressee; and

(b) the letter or parcel must not be opened, inspected or read by anyone except the person to whom it has been addressed or some person authorised by that person.

- (3) A letter addressed to a prisoner by:
- (a) the Ombudsman; or
 - (b) the Commonwealth Ombudsman; or
 - (c) the Judicial Commission; or
 - (d) the National Crime Authority; or
 - (e) the New South Wales Crime Commission; or
 - (f) the Anti-Discrimination Board; or
 - (g) a member of the Equal Opportunity Tribunal; or
 - (h) the Independent Commission Against Corruption; or
 - (i) the Privacy Committee; or
 - (j) the Legal Aid Commission; or
 - (k) the Legal Services Commissioner; or
 - (l) the Legal Services Tribunal,

must not be opened, inspected or read by anyone except the prisoner or some person authorised by the prisoner.

(4) If a Member of Parliament or a barrister or solicitor sends to a prisoner a letter in a sealed envelope accompanied by a letter addressed to the governor of the prison claiming privilege in respect of the letter in the sealed envelope, the sealed envelope and letter must not (except as provided by subclause (5)) be opened and inspected or read by anyone except the prisoner or some person authorised by the prisoner.

(5) If the governor of the prison or an authorised officer is of the opinion that a sealed envelope referred to in subclause (4) may contain:

- (a) money or contraband; or
- (b) any item or matter that is likely to adversely affect the security, discipline or good order of the prison,

the governor or officer may require the prisoner to open the sealed envelope in his or her presence.

(6) If a sealed envelope so opened is found to contain:

- (a) money or contraband; or
- (b) any item or matter that, in the opinion of the governor of the prison or an authorised officer, may adversely affect the security, discipline or good order of the prison,

the sealed envelope and anything in it may be impounded and dealt with in accordance with such directions as are given by the Commissioner.

Opening and impounding of certain articles

119. (1) The governor of a prison or an authorised officer may open, inspect and read a letter or parcel sent to or by a prisoner. This power is subject to clause 118 (2)–(4).

(2) If a letter or parcel so opened is found to contain:

- (a)** money or contraband or any item or matter that, in the opinion of the governor or authorised officer, is likely to adversely affect the security, discipline or good order of the prison; or
- (b)** any indecent, obscene, abusive, threatening or offensive written or pictorial matter or any indecent, obscene or offensive article,

it (and the money, contraband, item, matter or article) may be impounded.

(3) The prisoner is to be informed of the impounding of any letter, parcel, money, contraband, item or matter.

(4) Anything impounded may be dealt with in accordance with such directions as are given by the Commissioner.

Copying of certain correspondence

120. (1) The Director of the Security and Investigations Branch or an appointed officer may direct that any written or pictorial matter contained in a letter or parcel opened, inspected or read under clause 119 is to be copied before the letter or parcel containing the matter is delivered to the addressee.

(2) Any such direction may only be made if:

- (a)** the Director or officer is of the opinion that the written or pictorial matter to be copied contains anything likely to adversely affect the security, discipline or good order of any prison; or
- (b)** the written or pictorial matter to be copied is indecent, obscene, abusive, threatening or offensive.

(3) In this clause, “**appointed officer**” means an officer employed in the Security and Investigations Branch who is appointed by the Director of that Branch for the purposes of this clause.

Correspondence with legal adviser

121. This Regulation is not to be construed so as to limit correspondence between a prisoner and the prisoner’s barrister or solicitor in respect of matters affecting the prisoner’s trial, conviction or imprisonment.

Division 7—Use of telephones by prisoners**Permission required**

122. A prisoner must not make a telephone call without the permission of the governor of the prison or an authorised prison officer.

Maximum number of calls

123. A prisoner must not make more telephone calls in any week than the maximum number of calls fixed by the Commissioner for the prisoner or the class of prisoners to which the prisoner belongs.

Calls to other prisoners

124. A prisoner must not have a telephone conversation with a prisoner at another prison without the permission of the governors of both prisons.

Cost of certain calls

125. (1) The cost of a telephone call made by a prisoner which the Commissioner does not classify as a local call must, on demand by the governor of the prison or an authorised prison officer, be met by the prisoner.

(2) Subclause (1) does not apply if the cost of the call is met by the receiver.

Procedure for making calls

126. (1) A prisoner who wishes to make a telephone call must give a prison officer authorised by the governor of the prison to arrange the call the following information:

- (a) the purpose of the call; and
- (b) the telephone number required; and
- (c) the name of the person to whom the prisoner intends to speak.

(2) If permission to make the call is granted, the officer is to dial the number and ask whether the person to whom the prisoner intends to speak is available and wishes to receive the call.

(3) The call must be terminated immediately if the person does not wish to receive it.

Procedure on receipt or acceptance of calls

127. (1) A prison officer who arranges the sending or receipt of a telephone call must provide the prisoner with an extension handset with which to conduct the conversation.

(2) The prison officer may continue to listen to the conversation.

(3) The officer may terminate the call if, in the officer's opinion, the security, discipline or good order of any prison may be adversely affected if the call were to continue.

(4) An officer who terminates a call must immediately cause details of the reason for the termination to be recorded and reported to the governor of the prison.

Monitoring of telephone calls

128. (1) If the governor of a prison or the Superintendent, Security and Investigations Branch is of the opinion that a prisoner's telephone conversations are likely to adversely affect the security, discipline or good order of any prison, the governor or Superintendent may cause the prisoner's telephone calls to be monitored by a prison officer authorised for the purpose by the governor or Superintendent.

(2) The Superintendent, Security and Investigations Branch's power under subclause (1) may be exercised only with the approval of:

- (a) the governor of the prison at which the calls are to be monitored;
or
- (b) the Commissioner.

(3) The governor of a prison and the Superintendent, Security and Investigations Branch must each keep a journal in book form and enter in it details of calls monitored, including the reason for monitoring them and a summary of their content.

(4) A journal must be retained for not less than 3 years after the last entry is made in it.

(5) A journal must be produced by the governor of a prison or the Superintendent on demand by the Commissioner (or, in the absence of the Commissioner, by a Deputy Commissioner).

Maximum penalty: 5 penalty units.

Records of calls

129. (1) The governor of a prison must cause a register of all telephone calls made by prisoners to be kept at the prison.

(2) The register must contain the date and duration of each call and a note as to whether or not it was monitored.

Signs

130. The governor of a prison must cause to be attached to or near each telephone at the prison from which prisoners may make calls a sign stating (in the English language and in one or more other languages) that calls from the telephone may be monitored.

Division 8—General**Supply of information concerning offences to police**

131. (1) A prison officer acting under an authority conferred by this Part who finds that a letter, parcel or other article contains information or any other thing that the officer has reasonable grounds to believe:

(a) is likely to adversely affect the security, discipline or good order of the prison; or

(b) relates to a criminal offence which has been or may be committed,

must immediately report the circumstances to the governor of the prison.

Maximum penalty: 10 penalty units.

(2) The governor of a prison who is of the opinion that a letter, parcel or other article the subject of such a report contains information or any other thing that may be required for the purpose of the administration of justice may:

(a) furnish particulars of the information or thing to a police officer; and

(b) deliver the letter, parcel, article or thing to a police officer.

PART 10—REQUESTS AND COMPLAINTS**Division 1—Official Visitors****Notice of availability of Official Visitors**

132. (1) The governor of a prison must notify all prison staff and prisoners at the prison of the date and time when the Official Visitor to the prison will be at the prison and available for interviews.

(2) The governor of a prison must, if aware that a prisoner considers a complaint or inquiry made by the prisoner has not been dealt with satisfactorily by the prison staff, advise the prisoner that the prisoner may request an Official Visitor to deal with it.

Complaints and inquiries: how dealt with

133. (1) An Official Visitor who receives a complaint or inquiry must:

(a) immediately record it in the Official Visitor's official diary; and

(b) if the Official Visitor considers it necessary, clarify its details with the prison officer or prisoner concerned; and

(c) ascertain from the prison officer or prisoner what action has been taken or information provided in response to it; and

- (d) complete and send to the Commissioner an Official Visitors' record form (containing particulars of action taken) for statistical purposes.
- (2) An Official Visitor must:
 - (a) if the Official Visitor considers that the complaint or inquiry can be resolved quickly by bringing it to the attention of the governor of the prison, inform the governor of it and attempt to have it resolved at that level; or
 - (b) advise the prison officer or prisoner concerned of any other action that the Official Visitor thinks may be taken by the prison officer or prisoner with respect to the complaint or inquiry; or
 - (c) with the consent of the prison officer or prisoner concerned, refer the complaint or inquiry on behalf of the prison officer or prisoner to such person as the Official Visitor considers appropriate.
- (3) In dealing with a complaint or inquiry at any level, an Official Visitor must not:
 - (a) interfere with the management or discipline of the prison; or
 - (b) give any instructions to prison staff or prisoners.
- (4) If more than one Official Visitor is appointed to a prison, each Official Visitor must inform the other Official Visitors of the persons they have interviewed at the prison and the nature and substance of any complaints or inquiries received.

Reports by Official Visitors

134. (1) The periodic report of an Official Visitor to the Minister under section 8A (4) (d) of the Act must be in writing.
- (2) An Official Visitor may report to the Minister at any time if, in the opinion of the Official Visitor, a complaint or inquiry received by the Official Visitor requires the immediate attention of the Minister.

Division 2—General

Requests to the governor

135. (1) A prison officer to whom an oral or written request by a prisoner for permission to speak with the governor of the prison is addressed or delivered must, without unreasonable delay, convey it to the governor.

Maximum penalty: 5 penalty units.

- (2) The governor of a prison:
 - (a) to whom such a request is conveyed; or

- (b) to whom an oral or written request by a prisoner for permission to speak with the governor is addressed or delivered directly,

must give the prisoner an opportunity to speak with the governor on the day on which the request is conveyed or made or as soon as is practicable after that day.

(3) The governor must consider what the prisoner has to say and if, as a consequence of that consideration, the governor:

- (a) takes or proposes to take any action, the governor must orally inform the prisoner of the action taken or proposed to be taken; or
- (b) does not propose to take any action, the governor must orally inform the prisoner to that effect.

Requests to the Minister, Commissioner or Official Visitors

136. (1) A prison officer to whom an oral or written request by a prisoner for permission to speak with the Minister, the Commissioner or the Official Visitor with respect to a specific matter is addressed or delivered must, without unnecessary delay, convey it to the governor of the prison.

Maximum penalty: 5 penalty units.

(2) The governor of a prison:

- (a) to whom such a request is conveyed; or
- (b) to whom an oral or written request by a prisoner for permission to speak with the Minister, the Commissioner or the Official Visitor with respect to a specific matter is addressed or delivered directly,

must make a written record of it in a journal.

(3) The governor of a prison must, if a request relates to a matter which the governor can dispose of personally:

- (a) as soon as practicable after the request is conveyed or made, dispose of the matter by taking such action as the governor considers appropriate (which action may consist of or include making a recommendation to the Commissioner); and
- (b) make a written record in the journal referred to in subclause (2) of the action taken (which record must include particulars of any such recommendation); and
- (c) cause the record to be made available for inspection by the person with whom the prisoner wished to speak when that person next attends the prison (if that person so requires).

(4) The governor of a prison must, if a request relates to a matter which the governor cannot dispose of personally, cause the person with whom the prisoner wished to speak to be informed of the request when that person next attends the prison.

Complaints to the Minister or the Commissioner

137. (1) A prisoner at a prison may make a written complaint to the Minister or the Commissioner about:

- (a) the prisoner's treatment in the prison; or
- (b) the administration or management of the prison.

(2) A prisoner who wishes to complain about a matter which the governor of the prison can dispose of personally must first make a request for permission to speak with the governor regarding the matter.

(3) A prisoner may place a complaint in a sealed envelope addressed to the person to whom it is made and deliver it to a prison officer or the governor of the prison.

(4) A prison officer or the governor of a prison to whom a prisoner delivers an envelope addressed to the Minister or the Commissioner:

- (a) must send the envelope immediately to the addressee; and
- (b) must not open the envelope or allow its contents to be inspected or read by anyone except the person to whom it is addressed or some person authorised by that person.

Maximum penalty (subclause (4)): 5 penalty units.

Mischievous complaints

138. A prisoner must not make a complaint against the governor of the prison or a prison officer knowing that the complaint is false or misleading in a material particular.

PART 11—PROCEDURE FOR RELEASE OF PRISONERS

Notification concerning welfare organisations

139. When a prisoner is about to be released from prison, the governor of the prison or an authorised prison officer must:

- (a) inform the prisoner of:
 - (i) such agencies and organisations as may be able to assist the prisoner to adapt to living outside prison; and

- (ii) such other agencies and organisations concerned with the welfare and care of persons released from prison which may be able to assist the prisoner; and
- (b) notify such of those agencies and organisations as the prisoner may indicate of the prisoner's name and the date of the prisoner's proposed release.

Pre-release interview and inspection

140. (1) The governor of a prison or an authorised prison officer must interview a prisoner who is about to be released from prison and, if the prisoner is being released on licence, parole, recognizance or a bail undertaking, explain to the prisoner:

- (a) the terms on which the prisoner is being released; and
- (b) the result that may follow if any of those terms is breached by the prisoner.

(2) The governor of the prison must, before the interview, give or cause to be given to the prisoner an opportunity to inspect:

- (a) any of the prisoner's personal property which is in the governor's custody; and
- (b) any official prison records relating to money belonging to the prisoner.

Complaints relating to personal property

141. (1) A prisoner about to be released from prison who, on inspection of personal property in the custody of the governor of the prison and the prisoner's official prison records, wishes to complain about the condition of, or any deficiency in, the property or any mistake in the records may deliver a written complaint to the governor of the prison or a prison officer.

(2) A prisoner officer who receives such a complaint must, without unnecessary delay, convey it to the governor of the prison.

Maximum penalty: 5 penalty units.

(3) The governor of the prison must:

- (a) investigate (or cause to be investigated) any complaint received; and
- (b) report the result (or cause it to be reported) to the prisoner at the prisoner's pre-release interview.

(4) If it is brought to the attention of the governor:

- (a) that the result of any such investigation is not to the satisfaction of the prisoner; or

(b) that any such investigation has not been completed before the release of the prisoner,

the governor must, without unnecessary delay, notify the Commissioner of the complaint and the result of the investigation, or the fact that the investigation has not been completed.

Receipt for property

142. A prisoner must sign a receipt for any personal property or money delivered to the prisoner immediately before release from prison.

Return of Departmental property

143. (1) A prisoner must, immediately before release from prison, return to a prison officer authorised by the governor of the prison for the purpose all Departmental property (including library material, clothing and equipment) issued to the prisoner.

(2) A prisoner who is not able to comply with subclause (1) must explain the inability to comply to the authorised prison officer.

Maximum penalty (subclause (2)): 5 penalty units.

PART 12—PRISON DISCIPLINE

Division 1—Preliminary

Definitions

144. (1) In this Part:

“**breath test**” means a test for the purpose of indicating the concentration of alcohol present in a person’s blood carried out on the person’s breath by means of a device known by the name of “Alcotest” or “Alcometer” manufactured by or on behalf of Lion Laboratories Limited;

“**force**” includes threat of the use of force and carriage and use of instruments of restraint;

“**instruments of restraint**” includes handcuffs, batons, chemical aids, firearms and such other articles as may be approved and issued by the Commissioner for use as instruments of restraint, but does not include chains and irons.

(2) For the purposes of this Part, a prisoner has a thing in possession if the prisoner has the thing in the prisoner’s custody or under the prisoner’s control.

Prison offences

145. A contravention by a prisoner (whether by act or omission) of a clause of this Regulation specified in Schedule 3 is declared under section 23 (1) of the Act to be a prison offence if it occurs while the prisoner is within a prison or is taken to be in the custody of the governor of a prison.

Minor prison offences

146. For the purposes of section 25 of the Act, a prison offence which results from a contravention of a clause of this Regulation specified in Schedule 3 (except clauses 158 (1) and (2), 168 (1) and 169) is declared to be a minor prison offence.

Division 2—Maintenance of order and discipline**Maintenance of order and discipline: generally**

147. (1) Order and discipline in a prison are to be maintained with firmness, but with no more restriction or force than is required for safe custody and well-ordered community life within the prison.

(2) In the control of prisoners, prison officers are required to seek to influence them through their own example and leadership and to enlist their willing cooperation.

(3) At all times the treatment of prisoners is to be such as to encourage their self-respect and a sense of personal responsibility.

Directions relating to order or discipline

148. (1) The Commissioner, the governor of a prison or a prison officer may give oral or written directions to prisoners for the purpose of maintaining good order or discipline.

(2) A prisoner must not refuse or fail to comply with any such reasonable direction.

Use of force

149. (1) In dealing with a prisoner, a prison officer or prison officers must use no more force than is reasonably necessary in the circumstances, and the infliction of injury on the prisoner is to be avoided if at all possible.

(2) The extent and nature of the force will be dictated by the situation and must be limited to that essential for the purposes of control and protection, but with due regard to the personal safety of prison officers and others.

(3) If a prisoner is satisfactorily restrained, force must not be used against the prisoner except any force necessary to maintain that restraint.

(4) A prison officer must not act deliberately in a manner calculated to provoke a prisoner.

(5) A prison officer may have recourse to force for the following purposes:

- (a) to search, where necessary, a prisoner or to seize a dangerous or harmful article;
- (b) to prevent the escape of a prisoner;
- (c) to prevent an unauthorised attempt to enter a prison by force or to free a prisoner;
- (d) to defend himself or herself if attacked or threatened with attack, if the officer cannot otherwise protect himself or herself from harm;
- (e) to protect other persons, including prison officers, prisoners, administrative officials, and members of the public from attack or harm, if there are no other immediate or apparent means available for their protection;
- (f) to avoid an imminent attack on the prison officer or some other person, if there is a reasonable apprehension of such an attack;
- (g) to prevent a prisoner from injuring himself or herself;
- (h) to ensure compliance with a proper order, or maintenance of discipline, if a prisoner is failing to cooperate with a lawful prison requirement in a manner which cannot otherwise be adequately controlled;
- (i) to move prisoners who decline or refuse to transfer from one location to another in accordance with a lawful order;
- (j) to achieve the control of prisoners acting in a defiant manner;
- (k) to avoid imminent violent or destructive behaviour by prisoners;
- (l) to restrain violence directed towards the prison officer or other persons by an uncontrollable or disturbed prisoner;
- (m) to prevent or quell a riot or other disturbance;
- (n) for any other purpose which has a degree of seriousness comparable to the degree of seriousness of any of the situations referred to in paragraphs (a)–(m).

Maximum penalty: 10 penalty units.

Use of instruments of restraint

150. As an aid to the use of force, a prison officer may, with the concurrence of the governor of the prison, use instruments of restraint if the circumstances require it.

Report on use of force

151. (1) A prison officer who uses, or prison officers who use, force on a prisoner or prisoners must without delay furnish a report about the use of force to the governor of the prison.

(2) The report must:

- (a)** be in writing; and
- (b)** specify the name or names of the prisoner or prisoners and the name or names of the prison officer or prison officers involved in the use of force; and
- (c)** specify the location in the prison where the use of force occurred; and
- (d)** describe the nature of the force used and the circumstances requiring its use; and
- (e)** be signed by the prison officer involved in the use of force or, if more than one prison officer was involved, by one or more of those prison officers.

(3) This clause does not require a prison officer to furnish information in a report if it is impossible or impracticable for the officer to obtain the information.

Maximum penalty: 5 penalty units.

Division 3—Particular offences**Concealment for purpose of escape**

152. A prisoner must not conceal himself or herself for the purpose of effecting an escape.

Articles intended for use in escapes or other offences

153. A prisoner must not make, conceal or have in possession anything intended by the prisoner to be used for the purpose of:

- (a)** effecting the escape of a prisoner; or
- (b)** enabling a prisoner to commit any other offence.

Behaviour of prisoners

154. (1) A prisoner must not use insulting, abusive or threatening language to or in the presence of another person.

(2) A prisoner must not wilfully and obscenely expose his or her person to another person.

(3) A prisoner must not otherwise behave in an obscene manner in the presence of or towards another person.

(4) A prisoner must not threaten to damage or destroy any property of another person.

(5) A prisoner must not otherwise behave in a threatening manner towards another person.

Obstruction of prison officers

155. A prisoner must not wilfully hinder or obstruct a prison officer in the performance of the officer's duties.

Fighting or other physical combat

156. (1) A prisoner must not engage in wrestling, sparring, fighting or other physical combat with another prisoner.

(2) Subclause (1) does not prevent a prisoner from engaging in an activity as a necessary incident of taking part in training or a contest or other sporting event, in each case organised for prisoners by the governor of the prison or a prison officer.

Assaults

157. A prisoner must not assault another person.

Riots

158. (1) A prisoner must not incite another prisoner to participate in a riot.

(2) A prisoner must not participate in a riot.

Injuring animals

159. A prisoner must not maim, wound or cruelly ill-treat an animal.

Damaging property

160. A prisoner must not, without reasonable excuse, damage or destroy any property (other than property of the prisoner).

Throwing articles

161. (1) A prisoner must not throw an article, or operate a device from which an article is projected, so as to cause a risk:

- (a) of injury to any person; or
- (b) of damage to any property.

(2) Subclause (1) (b) does not prevent prisoners from engaging in a sport or other activity organised for prisoners by the governor of the prison or a prison officer.

Unauthorised alteration or possession of prison property

162. A prisoner must not (unless authorised to do so by the Commissioner, the governor of the prison or a prison officer) alter, remove or otherwise interfere with or be in possession of:

- (a) any lock, key, bolt, bar, ventilator or other prison fixture or fitting, any fire extinguisher, firehose, instrument of restraint, electrical installation or any other appliance, equipment or property in or used in the prison or the structure of the prison (except in so far as it is reasonably necessary to do so in observing the normal routine of the prison); or
- (b) any notice exhibited on a notice board at the prison by or with the consent of the governor or the Commissioner, any prisoner's cell card or any other document used by the governor or a prison officer for the purpose of administration of the prison.

Stealing

163. A prisoner must not steal the property of another person.

Tampering with food or drink

164. A prisoner must not introduce into food or drink intended for human consumption anything liable to render it unpalatable or unwholesome.

Tattooing prohibited

165. A prisoner must not:

- (a) make a tattoo on himself or herself or another prisoner; or
- (b) consent to being tattooed by another prisoner.

Gambling

166. A prisoner must not organise or participate in any form of gambling.

Consumption of alcohol

167. (1) A prisoner must not have in his or her possession or consume any alcohol or other intoxicating substance or any substance reasonably capable of becoming (by fermentation) an intoxicating substance.

(2) A prisoner must not prepare or manufacture alcohol or any other intoxicating substance.

(3) A prisoner is not to be regarded as contravening subclause (1) if the prisoner:

- (a) has the alcohol or other substance in his or her possession for consumption or use on the advice of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons (respectively); or
- (b) consumes the alcohol or other substance only in accordance with such instructions as are given by the medical practitioner, dentist or nurse or as an ordinary incident of participating in a religious service conducted at a prison with the consent of the governor of the prison.

Use of drugs

168. (1) A prisoner contravenes this clause:

- (a) if the prisoner has any drug in his or her possession; or
- (b) if the prisoner administers any drug to himself or herself or to any other person; or
- (c) if the prisoner permits another person to administer any drug to the prisoner.

(2) A prisoner is not to be regarded as contravening this clause:

- (a) if the prisoner has the drug in his or her possession for use on the advice of a registered medical practitioner, registered dentist or registered nurse given for medical, dental or nursing reasons; or
- (b) if the drug is or was administered only in accordance with such instructions as are given by the medical practitioner, dentist or nurse.

(3) A prisoner must not have in his or her possession any needle, syringe, smoking accessory or other implement intended for use in the administration of a drug.

(4) A prisoner must not deliberately inhale petrol, glue or any other solvent based product.

Bribery prohibited

169. A prisoner must not:

- (a) offer, make or give to a person who is an officer or a temporary employee in the Department any payment, gratuity or present; or
- (b) offer to provide or provide a service to any such person,

in consideration or for the purpose that the person will neglect his or her duty, give preferred treatment or act in any other way otherwise than in accordance with the proper discharge of the person's duties.

Division 4—Punishments

Penalties for minor prison offences

170. For the purposes of sections 25 (2) (b) and (4A) and 26B (1) (b) of the Act, the following kinds of amenities or privileges are prescribed:

- (a) attendance at the showing of films or videos or at concerts or other performances;
- (b) participation in or attendance at any other organised leisure time activity;
- (c) use of, or access to, films or video or audio tapes or records;
- (d) use of, or access to, television, radio or video or cassette players, whether the item is for personal use or for use as a member of a group;
- (e) use of library facilities;
- (f) use of swimming pool;
- (g) ability to purchase goods;
- (h) keeping of approved personal property;
- (i) access to musical instrument, whether the instrument is for personal use or for use as a member of a group;
- (j) participation in a hobby;
- (k) use of telephone, except for calls to qualified legal practitioners;
- (l) participation in contact visits;
- (m) weekend leave;
- (n) day leave.

Prohibited punishments

171. (1) A prisoner must not:

- (a) be put in a dark cell, or under mechanical restraint, as a punishment; or
- (b) be subjected to:
 - (i) solitary confinement; or
 - (ii) corporal punishment; or
 - (iii) torture; or
 - (iv) cruel, inhuman or degrading treatment; or

- (c) be subjected to any other punishment or treatment that may reasonably be expected to adversely affect the prisoner's physical or mental health.

Maximum penalty: 10 penalty units.

(2) For the purposes of subclause (1) (b) (i):

- (a) segregating a prisoner from other prisoners under section 22 of the Act; and
- (b) confining a prisoner to cell in accordance with an order under section 25 or 26B of the Act; and
- (c) keeping a prisoner separate from other prisoners under this Regulation; and
- (d) keeping a prisoner alone in a cell, where the medical officer considers that it is desirable in the interest of the prisoner's health to do so,

are not solitary confinement.

Division 5—Testing for alcohol or drugs

Breath testing

172. (1) If the governor of a prison or a prison officer believes on reasonable grounds that a prisoner has recently consumed or is affected by alcohol or any other intoxicating substance, the governor, or a prison officer with the approval of the governor, may require the prisoner to undergo a breath test in accordance with the directions of the person administering the test.

(2) A prisoner must not refuse or fail to comply with a reasonable requirement or direction made or given under this clause.

Evidence as to presence of alcohol

173. (1) If it is necessary in proceedings for an offence under this Regulation to prove that a prisoner has consumed alcohol or any other intoxicating substance, a certificate purporting to be signed by a prison officer certifying that:

- (a) a person named in the certificate submitted to a breath test; and
- (b) the breath test was given on the day and completed at the time stated in the certificate; and
- (c) there was a measurable quantity of alcohol present in the prisoner's blood, as determined by the breath test, on the date and at the time stated in the certificate,

is prima facie evidence of the particulars certified in and by the certificate.

(2) In any such proceedings, evidence of:

- (a) the condition of a device by means of which a breath test is carried out; or
- (b) the manner in which the test was carried out,

is not required unless evidence that the device was not in proper condition or that the test was not properly carried out has been adduced.

Urine sample where drug use suspected

174. (1) If the governor of a prison or a prison officer believes on reasonable grounds that a prisoner:

- (a) has administered a drug to himself or herself (or has had a drug so administered); or
- (b) is affected by a drug,

the governor, or a prison officer with the approval of the governor, may require the prisoner to supply a specimen of urine for testing or analysis and give directions as to how the specimen is to be supplied.

(2) A prisoner must not refuse or fail to comply with a reasonable requirement or direction made or given under this clause.

(3) If it is necessary in proceedings for an offence under this Regulation to prove that a requirement was made or a direction was given in accordance with subclause (1), a certificate purporting to be signed by the governor of the prison or a prison officer certifying that:

- (a) a requirement was made in accordance with that subclause for a specified prisoner or all prisoners of a specified class to supply a specimen of urine for testing or analysis by an analyst; or
- (b) a direction was given in accordance with that subclause relating to how the specimen was to be supplied,

is prima facie evidence of the particulars stated in the certificate.

Urine testing whether or not drug use suspected

175. (1) A prison officer of the rank of Assistant Superintendent or above may require a prisoner to supply for testing or analysis a specimen of urine and give directions as to how the specimen is to be supplied.

(2) The directions may require the prisoner to comply with directions given by a prison officer as to how the sample is to be supplied.

(3) A urine test must be carried out by an analyst within the meaning of clause 176.

(4) A specimen may be required under this clause and tested for the presence of a drug even though the prisoner concerned may not be reasonably suspected of having administered a drug to himself or herself or of being affected by a drug.

Evidence as to use of drugs

176. (1) If it is necessary in proceedings for an offence under this Regulation to prove that a prisoner was under the influence of a drug or that a drug was present in urine passed by a prisoner, a certificate purporting to be signed by a prison officer certifying any one or more of the following matters:

- (a) that the prison officer had received a specimen of urine obtained in a specified manner;
- (b) that the prison officer arranged for the specimen to be submitted for analysis by an analyst to determine the presence of any drugs in the prisoner's body or urine;
- (c) that the container was sealed, and marked or labelled, in a specified manner,

is prima facie evidence of the particulars certified in and by the certificate.

(2) In any such proceedings, a certificate purporting to be signed by an analyst certifying any one or more of the following matters:

- (a) that the analyst received in a container, on a specified day, a specimen of urine obtained from a specified prisoner and submitted for analysis;
- (b) that the container, when received, was sealed, and marked or labelled, in a specified manner;
- (c) that on receipt of the container, the seal was unbroken;
- (d) that the analyst carried out an analysis of the specimen to determine the presence of drugs in the body or urine of the prisoner from whom the specimen was obtained;
- (e) that the analyst determined that a specified drug was present or was present to a specified extent in the body or urine of the prisoner from whom the specimen was obtained;
- (f) that the analyst was, at the time of the analysis, an analyst within the meaning of this clause,

is prima facie evidence of the particulars certified in and by the certificate.

(3) In any such proceedings, a certificate purporting to be signed by an analyst:

- (a) certifying a matter referred to in subclause (2) (a) is also prima facie evidence that the specimen was a specimen of urine obtained from the specified prisoner; or
 - (b) certifying the matters referred to in subclause (2) (b) and (c) is also prima facie evidence that the specimen had not been tampered with before it was received by the analyst.
- (4) In this clause:

“analyst” means a person employed by the Government of New South Wales to carry out an analysis within the meaning of the Therapeutic Goods and Cosmetics Act 1972.

Supply of test results to Corrections Health Service

177. The Commissioner may provide results of positive urine tests to the Chief Executive Officer, Corrections Health Service for use in monitoring the health of prisoners.

PART 13—MISCELLANEOUS

Payment for work done by prisoners (sec. 20 of Act)

178. (1) A prisoner who complies with conditions set by the Commissioner may receive credits of money for work done in accordance with scales determined from time to time by the Commissioner.

(2) Prisoners may expend such part of their credits as may be determined by the Commissioner for such purposes as are authorised by the Commissioner.

(3) Any unexpended credits are to be paid to prisoners on discharge from prison.

Prohibited work

179. (1) A prisoner must not be employed in a disciplinary capacity.

(2) A prisoner must not be employed to perform work for the benefit of the Commissioner, a Deputy Commissioner or any person employed in the Department.

Governor as informant in proceedings before Visiting Justices

180. In proceedings before a Visiting Justice under Part 4 of the Act (prison discipline), the governor of a prison may act as the informant.

Monthly returns of punishments imposed by governors or Visiting Justices

181. The governor of a prison must send to the Commissioner at least once a month a copy of the entries in the record kept under section 26F of the Act in relation to punishment imposed during the preceding month.

Disposal of records of punishments imposed by governors or Visiting Justices

182. For the purposes of section 26F (3) of the Act, a record of punishments imposed by the governor of a prison or a Visiting Justice may be destroyed after it has been kept for 7 years.

Lodging of appeals to the District Court from decision of Visiting Justice

183. Notice of an intended appeal by a prisoner under section 26G of the Act is to be lodged with the governor of the prison who must arrange for it to be sent to the registrar of the District Court.

Applications for leave of absence (sec. 29 of Act)

184. (1) An application for permission to be absent from prison on leave is to be made in a form approved by the Commissioner.

(2) The Commissioner may require that an application be accompanied by a declaration (in a form approved by the Commissioner) by the person in whose company the prisoner is to remain while on leave (the "sponsor").

(3) A person must not make a statement in any such declaration knowing it to be false or misleading in a material particular.

Maximum penalty: 10 penalty units.

Additional functions of the Review Council (sec. 62 of the Act)

185. (1) For the purposes of section 62 of the Act, the functions of the Review Council include the providing, at the request of the Commissioner, of reports, advice and recommendations to the Commissioner with respect to:

- (a) the management of serious offenders; and
- (b) the security classification of a prisoner who has applied, under section 29 of the Act, for permission to be absent from prison unescorted to enable him or her to adapt to normal community life ("pre-release leave"); and

(c) the probability that a serious offender:

(i) who is serving a sentence with an additional term of his or her natural life; and

(ii) who has applied for pre-release leave,

will be fit to be released on parole at the time the Council expects to advise the Offenders Review Board about release on parole (assuming the serious offender satisfactorily completes a pre-release development program to which the application relates of at least 12 months or other relevant period); and

(d) such other matters as are specified by the Commissioner.

(2) The Review Council must review an application for pre-release leave referred to it and make such recommendations to the Commissioner in respect of the application as it thinks fit.

(3) If the Review Council recommends the granting of an application for pre-release leave, the Commissioner must, when deciding whether or not to grant the application, take into account:

(a) in the case of an application by a serious offender who is serving a sentence with an additional term of his or her natural life—any advice from the Review Council about the probability of the offender being fit to be released on parole; and

(b) in any case—whether or not it is in the public interest.

Delegation of functions of the Review Council

186. In accordance with clause 10 (2) (c) of Schedule 5 to the Act, the following functions of the Review Council are prescribed as functions which the Council may delegate to a committee of the Council:

(a) any function with respect to recommending a variation in the classification, placement or developmental program of a prisoner;

(b) any function referred to in clause 185 (1) or (2).

Repeal

187. (1) The Prisons (General) Regulation 1989 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Prisons (General) Regulation 1989, had effect under that Regulation is taken to have effect under this Regulation.

SCHEDULE 1—NOTICE

(Cl. 25)

PRISONS ACT 1952**NOTICE***Information about Prison Discipline*

1. The Prisons (General) Regulation 1995 specifies prison offences. Some of these (minor prison offences) may be adjudicated on by the governor of the prison. All may be adjudicated on by a Visiting Justice.
2. If you are charged by the governor of the prison and are found guilty, the governor may impose one of the penalties specified in section 25 (2) of the Prisons Act.
3. The governor must conduct an inquiry into any allegation of minor prison offence. You are not entitled to legal representation at this inquiry. If you do not understand the nature of the inquiry or understand English clearly you must inform the governor immediately so that assistance may be sought.
4. During or after the inquiry, the governor may refer the allegation to the Visiting Justice for determination.
5. If the Visiting Justice is to hear a charge, you are entitled to legal representation. This can be provided by the Prisoner Legal Service of the Legal Aid Commission. A representative of that Service attends most of the Visiting Justice's hearings.
6. The Visiting Justice may impose a penalty as specified in section 26B of the Prisons Act. Such a penalty may increase the time you have to serve in prison.

SCHEDULE 2—LIBRARY RULES

(Cl. 63)

1. The library will be open daily for the use of prisoners at such times as may be determined or ordered by the governor of the prison to suit the routine of the prison.
2. The governor of the prison may issue directions or orders regulating the number of prisoners who may use the library at any one time.
3. A prisoner may be permitted to borrow from the library no more than a total of 6 books, magazines, articles and other material at any one time for such period as may be determined or ordered by the governor.
4. If a prisoner establishes a special need, the governor of the prison may permit the prisoner to retain books, magazines, articles or other material for such further period as may be determined by the governor.
5. A prisoner, on receipt of a book, magazine, article or other material issued to the prisoner on loan from the library, is required to examine it and, if it is damaged or otherwise defective, point out the damage or defect to the person who issued it to the prisoner.
6. A prisoner must be held responsible for all books, magazines, articles and other material issued to the prisoner on loan from the library and must carefully preserve them.

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7. A prisoner must not exchange or pass on to another prisoner any book, magazine, article or other material issued to the prisoner on loan from the library.

8. A prisoner must, before discharge or transfer to another prison, return to the library all books, magazines, articles and other material issued to the prisoner on loan from the library.

9. Any book and other material acquired and provided on loan for the use of any prisoner undertaking a special course of study, unless purchased by the prisoner on terms and conditions approved by the Commissioner of Corrective Services, must be returned on discharge of the prisoner or on completion of or withdrawal from the course of study.

10. A prisoner who borrows any item from the library does so only on the condition that:

- (a) if the item is not returned on time; or
- (b) if the item is returned in a damaged condition,

the prisoner agrees to pay the cost of replacing the item or of repairing it to the same condition as it was in when lent to the prisoner.

SCHEDULE 3—PRISON OFFENCES AND MINOR PRISON OFFENCES

(Cll. 145, 146)

<i>Clause</i>	<i>Subject</i>
6	Prisoners not to enter other accommodation
21(2)	Prisoners to supply personal particulars
24(5)	Prisoners to allow themselves to be searched
33	Property to be kept in a tidy and orderly manner
35(1)	Possession of unauthorised property
39(1)	Prisoners to comply with prison routine
40(1)	Prisoners to attend musters
40(2)	Unauthorised operation of bells, hooters, sirens or whistles
41	Avoidance of prison routine
42	Self-inflicted wounds in order to avoid obligations
44(2)	Unauthorised purchase of food
45	Possession of unauthorised food
48	Prohibition of trading in food
49	Personal cleanliness
50(1)	Cleanliness of cells and issued articles
50(2)	Damaging, destroying or defacing cells
50(3)	Preservation of clothing, bedding and other issued articles
54(1)	Wearing of prison clothing
56(2)	Unconvicted prisoners and civil prisoners may be required to clean yards
59	Regulation of prisoners attending classes
66	Return of borrowed library items
76(4)	Desecration or abuse of religious items
106(1) (b)	Conveying or delivering to, or receiving from, visitors unauthorised articles
116(3)	Sending or receiving unauthorised letters or parcels
117	Sending of prohibited letters, parcels or articles

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153	Articles intended for use in escapes or other offences
154	Behaviour of prisoners
155	Obstruction of prison officers
156(1)	Fighting or other physical combat
157	Assaults
158(1)	Inciting other prisoners to riot
158(2)	Participating in riots
159	Injuring animals
160	Damaging property
161(1)	Throwing articles
162	Unauthorised alteration or possession of prison property
163	Stealing
164	Tampering with food or drink
165	Prohibition of tattooing
166	Gambling
167(1)	Possession or consumption of alcohol
167(2)	Preparation or manufacture of alcohol
168(1)	Possession or use of drugs
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SCHEDULE 1—NOTICE

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SCHEDULE 3—PRISON OFFENCES AND MINOR PRISON OFFENCES

EXPLANATORY NOTE

The object of this Regulation is to repeal the Prisons (General) Regulation 1989 and to remake, without any major changes in substance, the provisions of that Regulation. The new Regulation deals with the following matters:

- (a) the separation and classification of prisoners (including accommodation, separation of different classes of prisoner and classification of prisoners for the purposes of security and development programs) (Part 2);
- (b) the admission and searching of prisoners (including the recording of particulars) (Divisions 1 and 2, Part 3);
- (c) the information to be provided to prisoners (including notification of rights and obligations) (Division 3, Part 3);
- (d) prisoners' property (including the retention of certain property by the prison governor, the keeping of personal property and the confiscation of certain property) (Division 4, Part 3);
- (e) institutional routine (Part 4);
- (f) food (Part 5);
- (g) health and cleanliness (Part 6);
- (h) education, vocational training and libraries (Part 7);
- (i) religious ministrations (Part 8);

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- (j) visits and communications with prisoners, including:
 - (i) the number and duration of visits, who may visit, visits by legal representatives and officials and searching and control of visitors (Divisions 1–5, Part 9); and
 - (ii) control of written communications to or from prisoners, prohibited articles and privileged communications (Division 6, Part 9); and
 - (iii) use of telephones by prisoners (Division 7, Part 9); and
 - (iv) supply of certain information to the police (Division 8, Part 9);
- (k) requests and complaints by prisoners, including:
 - (i) access to, and action to be taken by, Official Visitors (Division 1, Part 10); and
 - (ii) requests or complaints to the prison governor, the Minister, the Commissioner or the Official Visitor (Division 2, Part 10);
- (l) the procedure for release of prisoners (Part 11);
- (m) prison discipline (including maintenance of order, use of restraints, offences against discipline, punishment and testing for alcohol or drugs) (Part 12);
- (n) certain functions of the Serious Offenders Review Council (clauses 185 and 186, Part 13);
- (o) other minor, consequential or ancillary matters (Part 1 and clauses 178–184 and 187, Part 13).

This Regulation is made under the Prisons Act 1952, including section 50 (the general regulation making power) and various other provisions referred to in the Regulation.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
