



New South Wales

Crimes (Administration of Sentences) Amendment (Category AA Inmates) Regulation 2004

under the

Crimes (Administration of Sentences) Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Crimes (Administration of Sentences) Act 1999*.

JOHN HATZISTERGOS, M.L.C.,
Minister for Justice

Explanatory note

The object of this Regulation is to amend the *Crimes (Administration of Sentences) Regulation 2001* so as:

- (a) to establish new categories of inmates (Category AA for male inmates and Category 5 for female inmates), being categories of inmates who represent a special risk to national security, and
- (b) to prescribe inmates in these new categories to be serious offenders for the purposes of the *Crimes (Administration of Sentences) Act 1999*, and
- (c) to prohibit contact visits between visitors and inmates belonging to these new categories, and
- (d) to ensure that correspondence to and from inmates belonging to these new categories must be opened, inspected, read and copied, and be subject to strict registration procedures, and
- (e) to exclude inmates belonging to these new categories from being given access to the Official Visitors for the correctional centres in which they are detained.

This Regulation is made under the *Crimes (Administration of Sentences) Act 1999*, including section 271 (the general power to make regulations), section 3 (the definition of *serious offender*) and section 79 (the power to make regulations relating to inmates in full-time custody).

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Clause 1 Crimes (Administration of Sentences) Amendment (Category AA Inmates)
Regulation 2004

**Crimes (Administration of Sentences) Amendment
(Category AA Inmates) Regulation 2004**

under the

Crimes (Administration of Sentences) Act 1999

1 Name of Regulation

This Regulation is the *Crimes (Administration of Sentences) Amendment (Category AA Inmates) Regulation 2004*.

2 Amendment of Crimes (Administration of Sentences) Regulation 2001

The *Crimes (Administration of Sentences) Regulation 2001* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 2)

[1] Clause 22 Classification of male inmatesInsert before the matter relating to *Category A1* in clause 22 (1):

Category AA, being the category of inmates who, in the opinion of the Commissioner, represent a special risk to national security (for example, because of a perceived risk that they may engage in, or incite other persons to engage in, terrorist activities) and should at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment.

[2] Clause 22 (3)

Insert after clause 22 (2):

- (3) Male inmates who are classified in Category AA are prescribed to be serious offenders, as referred to in paragraph (f) of the definition of *serious offender* in section 3 (1) of the Act.

[3] Clause 23 Classification of female inmatesInsert before the matter relating to *Category 4* in clause 23 (1):

Category 5, being the category of inmates who, in the opinion of the Commissioner, represent a special risk to national security (for example, because of a perceived risk that they may engage in, or incite other persons to engage in, terrorist activities) and should at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment.

[4] Clause 23 (3)

Insert after clause 23 (2):

- (3) Female inmates who are classified in Category 5 are prescribed to be serious offenders, as referred to in paragraph (f) of the definition of *serious offender* in section 3 (1) of the Act.

[5] Clause 28 High security classification of inmates for purposes of interstate leave permits

Insert "AA," before "A1" and "5," before "4", respectively.

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Schedule 1 Amendments

[6] Clause 28A

Insert after clause 28:

28A Information to be considered for classification purposes

For the purpose of making any decision with respect to a person's classification under this Division, consideration must be given to any advice received from NSW Police or from any other public authority (whether of this or any other State or Territory or of the Commonwealth) established for law enforcement, security or anti-terrorist purposes.

[7] Clause 98 Prevention of physical contact with inmates

Insert after clause 98 (3):

- (4) Despite subclauses (1), (2) and (3), a visit to a Category AA male inmate or Category 5 female inmate may not be a contact visit unless the Commissioner so approves.

[8] Clause 100 Special arrangements for legal documents

Insert after clause 100 (2):

- (3) Nothing in this clause limits the operation of clause 98.

[9] Clause 107 Correspondence generally

Omit "an authorised officer" from clause 107 (2).

Insert instead "a nominated officer".

[10] Clause 109 Opening of letters and parcels generally

Omit clause 109 (5). Insert instead:

- (5) This clause does not apply to:
 - (a) any letter or parcel addressed to, or received from, an exempt body or exempt person, or
 - (b) any letter or parcel to which clause 110A applies.

[11] Clause 110 Certain letters and parcels privileged

Omit "an authorised correctional" from clause 110 (1).

Insert instead "a nominated".

[12] Clause 110 (2)

Omit "an authorised". Insert instead "a nominated".

[13] Clause 110 (5)

Insert after clause 110 (4):

- (5) This clause does not apply to any letter or parcel to which clause 110A applies.

[14] Clause 110A

Insert after clause 110:

110A Correspondence with Category AA and Category 5 inmates

- (1) This clause applies to all letters and parcels that are sent:
- (a) by a Category AA male inmate or Category 5 female inmate to any other person (including an exempt body and an exempt person), or
 - (b) to a Category AA male inmate or Category 5 female inmate from any other person (including an exempt body and an exempt person).
- (2) The governor of a correctional centre or a nominated officer must open, inspect, read and copy:
- (a) any letter or parcel received from an inmate and addressed to a person (other than an exempt body), or
 - (b) any letter or parcel received from a person (other than an exempt body) and addressed to an inmate,
- and, if it contains prohibited goods, must confiscate the letter or parcel and its contents and deal with them in accordance with the directions of the Commissioner.
- (3) The inmate need not be informed of any action taken under subclause (2).
- (4) As soon as practicable after receiving from an inmate any letter or parcel addressed to an exempt body, a nominated officer must post the letter or parcel to the addressee, without opening, inspecting or reading it.
- (5) As soon as practicable after receiving from an exempt body any letter or parcel addressed to an inmate, a nominated officer must deliver the letter or parcel to the inmate, without opening, inspecting or reading it, but only if:
- (a) the letter or parcel is contained in an envelope or package, addressed to the governor, together with a note to the effect that it is to be delivered to the inmate without being opened, inspected or read by any person other than the inmate, and

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- (b) a nominated officer has confirmed with the exempt body that the body has in fact sent it and addressed it to the inmate.
- (6) A register must be kept for each correctional centre, being a register in which nominated officers are to record the following details with respect to each letter or parcel dealt with under this clause:
 - (a) in the case of a letter or parcel received from an inmate to be sent to any person:
 - (i) the date on which it was received,
 - (ii) the name of the inmate from whom it was received,
 - (iii) the name of the person to whom it was addressed,
 - (iv) the name of the nominated officer by whom it was dealt with,
 - (v) in the case of a letter or parcel referred to in paragraph (a) of subclause (2), the outcome of the action taken under that subclause,
 - (b) in the case of a letter or parcel received from any person to be delivered to an inmate:
 - (i) the date on which it was received,
 - (ii) the name of the person from whom it was received,
 - (iii) the name of the inmate to whom it was addressed,
 - (iv) the name of the nominated officer by whom it was dealt with,
 - (v) in the case of a letter or parcel referred to in paragraph (b) of subclause (2), the outcome of the action taken under that subclause,
 - (vi) in the case of a letter or parcel received from an exempt body, the date on which a nominated officer confirmed with the exempt body that it did in fact send the letter or parcel and address it to the inmate.
- (7) On receiving any letter or parcel that has been dealt with under this clause, an inmate must sign the register to acknowledge its receipt.
- (8) The Commissioner may, on the application of an exempt person, make an order declaring that this clause is to apply (either unconditionally or subject to conditions) to letters and parcels sent to or from that person as if that person were an exempt body and, on the making of such an order, this clause so applies.

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- (9) This clause applies to facsimile transmissions in the same way as it applies to letters and parcels.

[15] Clause 111 Correspondence with legal practitioner

Omit “This Regulation”.

Insert instead “Subject to clause 110A, this Regulation”.

[16] Clause 154 Notice of availability of Official Visitors

Insert after clause 154 (2):

- (3) This clause does not apply in relation to any Category AA male inmate or Category 5 female inmate.

[17] Clause 155 Complaints and inquiries

Insert after clause 155 (4):

- (5) Nothing in this clause permits an Official Visitor to deal with a complaint or inquiry received from a Category AA male inmate or Category 5 female inmate.

[18] Clause 158 Requests to Minister, Commissioner or Official Visitors

Insert after clause 158 (4):

- (5) Despite any other provision of this Regulation, a Category AA male inmate or Category 5 female inmate is not entitled, and is not to be permitted, to speak with an Official Visitor.

[19] Dictionary

Insert “the Police Integrity Commission,” after “the New South Wales Crime Commission,” in paragraph (a) of the definition of *exempt body*.

[20] Dictionary, definition of “prohibited goods”

Insert at the end of paragraph (d):

, or

- (e) anything that could constitute a risk to national security (for example, because of a perceived risk that it may be used in connection with terrorist activities).