



Children (Detention Centres) Amendment (Chaplains) Regulation 2012

under the

Children (Detention Centres) Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children (Detention Centres) Act 1987*.

GREG SMITH, MP
Minister for Justice

Explanatory note

The object of this Regulation is to make provision for the accreditation of ministers of religion to act as chaplains to care for the spiritual welfare of detainees in detention centres.

This Regulation is made under the *Children (Detention Centres) Act 1987*, including sections 32A and 45 (the general regulation-making power).

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Clause 1 Children (Detention Centres) Amendment (Chaplains) Regulation 2012

Children (Detention Centres) Amendment (Chaplains) Regulation 2012

under the

Children (Detention Centres) Act 1987

1 Name of Regulation

This Regulation is the *Children (Detention Centres) Amendment (Chaplains) Regulation 2012*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Children (Detention Centres) Regulation 2010

[1] Clause 20 Religious observance

Omit the clause.

[2] Part 11A

Insert after Part 11:

Part 11A Spiritual welfare

136A Definition

In this Part, *accredited chaplain* means a minister of religion for the time being accredited as a chaplain under clause 136C.

136B Religious denomination of detainees

- (1) A detainee, on admission into a detention centre:
 - (a) may state the detainee's religious denomination, or
 - (b) may state that the detainee is of no religious denomination, or
 - (c) may decline to provide information regarding the detainee's religious denomination.
- (2) A record must be kept at a detention centre in relation to each detainee at the centre:
 - (a) of the detainee's religious denomination, or
 - (b) of the fact that the detainee is of no religious denomination, or
 - (c) that the detainee declined to provide information regarding the detainee's religious denomination.
- (3) The centre manager must, when requested to do so by an accredited chaplain, provide the chaplain with the name of each detainee at the detention centre and the detainee's religious denomination (if the detainee has provided that information).

136C Accreditation of chaplains

- (1) A minister of religion may not perform the functions of a chaplain in a detention centre unless the minister:
 - (a) is accredited by the Director-General under this clause, and

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- (b) is permitted by the appropriate authority for the religious organisation of which the minister is a member to work as a chaplain in the detention centre.
- (2) The Director-General may, by instrument in writing, accredit a minister of religion who has been endorsed as suitable and competent by the Civil Chaplaincies Advisory Committee to work as a full-time, part-time or sessional chaplain to detainees at a detention centre.
- (3) The Director-General must not accredit a minister of religion unless the minister has undergone a criminal record check and been found by the Director-General to be suitable to work as a chaplain in the centre.
- (4) The Director-General may, at any time, by instrument in writing, revoke any such accreditation.
- (5) The Director-General must give written notice of any revocation to the Civil Chaplaincies Advisory Committee.
- (6) In this clause, *Civil Chaplaincies Advisory Committee* means the committee, made up of representatives from various religious organisations, that liaises between those religious organisations and government departments in matters of chaplaincy in correctional centres, detention centres and other public institutions.

136D Privileges of accredited chaplains

- (1) With the approval of the centre manager, an accredited chaplain:
 - (a) may, when visiting a detention centre, be accompanied by assistants, whether ministers of religion or lay persons who are wholly or partly engaged in duties of a religious nature, and
 - (b) may arrange for detainees to be visited by persons suitably qualified in counselling, vocational guidance or other services.
- (2) An accredited chaplain is answerable to the Director-General for the conduct of any assistant who accompanies the accredited chaplain when visiting a detention centre.

136E Responsibilities of accredited chaplains

- (1) An accredited chaplain is responsible for the spiritual care of detainees at the detention centre to which he or she is accredited.

- (2) An accredited chaplain's responsibilities include:
 - (a) visiting detainees who are sick, injured, confined to cell or segregated from other detainees, and
 - (b) visiting detainees (or arranging for them to be visited by another minister of religion of the same denomination) in circumstances in which they are suffering from a potentially fatal illness or injury.

136F Powers of accredited chaplains

- (1) An accredited chaplain is entitled:
 - (a) to visit the detention centre to which he or she is accredited at all reasonable times, but not so as to disturb the ordinary routine of the centre, and
 - (b) to have access to detainees for the purpose of religious ministrations.
- (2) On Sundays or other recognised days of religious observance, and on such other days as the centre manager may permit, an accredited chaplain:
 - (a) may hold or conduct such rites, services or assemblies as pertain to the accredited chaplain's denomination, or
 - (b) with the permission of the centre manager, may hold or conduct combined services in association with ministers of religion of other denominations.
- (3) An accredited chaplain may minister to any detainee at the detention centre, unless the detainee objects.
- (4) An accredited chaplain is entitled to have access to a detainee under this clause beyond the hearing (but within the sight) of a juvenile justice officer.
- (5) An accredited chaplain is authorised, despite any other law, to disclose information relating to the welfare of a detainee to the centre manager if the chaplain considers it in the interests of the detainee or other detainees at the detention centre to do so.
- (6) With the approval of the centre manager, an accredited chaplain may pursue such matters as the accredited chaplain considers to be in the interests of the welfare of detainees at the detention centre to which he or she is accredited, and of their families.

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136G Non-accredited ministers of religion

- (1) With the approval of the centre manager, a minister of religion of a particular denomination who is not accredited in relation to a particular detention centre:
 - (a) may visit the centre, and
 - (b) may have access to detainees of that denomination, if no other minister of religion of that denomination has been accredited for the centre.
- (2) On request by a detainee belonging to a denomination for which no minister of religion has been accredited, the centre manager (after consultation with accredited chaplains) may arrange for the detainee to be visited by a minister of religion of that denomination.
- (3) A decision by the centre manager to grant a request under subclause (2) does not affect the number of visits and maximum number of visitors to which the detainee may otherwise be entitled.
- (4) A minister of religion is entitled to have access to a detainee under this clause beyond the hearing (but within the sight) of a juvenile justice officer.
- (5) A minister of religion may only visit a detainee under this clause if the detainee does not object.

136H Participation of detainees in religious observances

- (1) The centre manager must take all reasonable steps to facilitate the participation of detainees in the religious observances of their respective religious denominations, but not so as to offer any inducement, or impose any sanction, with respect to any such participation.
- (2) A detainee may attend the following rites, services and assemblies conducted at the detention centre:
 - (a) rites, services or assemblies of the detainee's denomination,
 - (b) combined rites, services or assemblies conducted by ministers of religion of the detainee's denomination in association with ministers of religion of other denominations,
 - (c) rites, services or assemblies of other denominations.

- (3) Religious books, recognised objects of religious devotion and similar items belonging to a detainee are to be treated as approved property of the detainee.

136I Use of chapels

- (1) A detention centre chapel or a part of a detention centre that is used for the conduct of rites, services or assemblies may be used for such other purposes that are in keeping with the nature of the building, as may be determined by the centre manager after consultation with the relevant accredited chaplains.
- (2) On request by an accredited chaplain, the centre manager of a detention centre must, if reasonably practicable, make available:
- (a) a suitable part of the centre as a detention centre chapel for the conduct of rites, services or assemblies, and
 - (b) suitable facilities for the safekeeping of books and other objects used in connection with the conduct of rites, services or assemblies,
- if no such detention centre chapel or facilities currently exist.
- (3) The centre manager of a detention centre is to encourage detainees to use the detention centre chapel for personal devotion, worship and meditation.
- (4) A detainee must not desecrate or abuse any books or other objects used in connection with the rites, services or assemblies of a religious denomination.
- (5) A juvenile justice officer must not damage any books or other objects used in connection with the rites, services and assemblies of a religious denomination, otherwise than in circumstances where the damage is:
- (a) unavoidable, and
 - (b) in the course of a search or of carrying out the officer's duties.

136J Accredited chaplains may advise committees

- (1) With the approval of the centre manager, an accredited chaplain:
- (a) may attend meetings of any committee concerned with the management of the detention centre to which he or she is accredited, and
 - (b) at any such meeting, may offer advice in relation to the welfare of detainees.

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

136K Accredited chaplaincy services generally

- (1) The accredited chaplains, in collaboration with the Director-General and the appropriate religious authorities, may assist in:
- (a) the development of community support for juvenile justice services, and
 - (b) the development and extension of accredited chaplaincy services in detention centres.
- (2) In consultation with the accredited chaplains and appropriate religious authorities, the Director-General must from time to time review the effectiveness of the accredited chaplaincy services in detention centres.

136L Exclusion of ministers of religion on grounds of security

The Director-General may prohibit:

- (a) a particular minister of religion, or
 - (b) a minister of religion of a particular denomination,
- from visiting a detention centre if of the opinion that it would be prejudicial to the good order and security of the centre to allow such a visit.