



Crimes (Administration of Sentences) Amendment Regulation 2013

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*.

GREG SMITH, MP
Minister for Justice

Explanatory note

The object of this Regulation is to amend the *Crimes (Administration of Sentences) Regulation 2008* as follows:

- (a) to make it clear that correctional officers are authorised to search an inmate's cell and any property in the cell,
- (b) to provide that inmates may be housed in cells or dormitories, by themselves or with other inmates, as the general manager or an authorised officer at the correctional centre considers appropriate,
- (c) to prescribe, as a mandatory condition of intensive correction orders, a condition that requires an offender to submit to a medical examination by a specified medical practitioner, as directed by a supervisor, in relation to the offender's capacity to undertake community service work or to otherwise comply with the offender's obligations under the intensive correction order,
- (d) to provide that the Information Commissioner is an exempt body, with the result that correspondence sent to an inmate from the Information Commissioner, and correspondence sent from an inmate to the Information Commissioner, is not to be opened or read by correctional staff (other than in the case of certain high risk inmates),
- (e) to make it clear that correctional officers must not have a concentration of alcohol in their blood or breath that is of or above 0.02% while on duty (rather than a concentration exceeding 0.02%),

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- (f) to provide that correctional officers of or above the rank of Chief Correctional Officer (rather than Assistant Superintendent) may require inmates to take urine tests.

This Regulation is made under the *Crimes (Administration of Sentences) Act 1999*, including sections 79 and 271 (the general regulation-making power).

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Crimes (Administration of Sentences) Act 1999

1 Name of Regulation

This Regulation is the *Crimes (Administration of Sentences) Amendment Regulation 2013*.

2 Commencement

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

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Schedule 1 Amendment of Crimes (Administration of Sentences) Regulation 2008

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[1] Clause 33 Accommodation

Omit clause 33 (1) and (2). Insert instead:

- (1) Each inmate of a correctional centre is to be housed in a cell or dormitory, by himself or herself or with one or more other inmates, as the general manager or an authorised officer considers appropriate.

[2] Clause 43 Searching of inmates and cells

Omit clause 43 (1). Insert instead:

- (1) A correctional officer may, at such times as the general manager directs and at such other times as the correctional officer considers appropriate:
 - (a) search (including strip-search) an inmate, and
 - (b) search an inmate's cell and any property in the cell.

[3] Clause 43 (3)

Insert "and the inmate's cell" after "inmate".

[4] Clauses 143 (3), 149 (1) and 150 (1)

Omit "Assistant Superintendent" wherever occurring.

Insert instead "Chief Correctional Officer".

[5] Clause 175 Mandatory conditions for intensive correction orders

Insert after clause 175 (q):

- (r) a condition that requires the offender to submit to a medical examination by a specified medical practitioner, as directed by a supervisor, in relation to the offender's capacity to undertake community service work or to otherwise comply with the offender's obligations under the intensive correction order.

[6] Clause 265 Interpretation

Omit the definition of *the 0.02 level*. Insert instead in alphabetical order:

prescribed concentration of alcohol means a concentration of 0.02 grams or more of alcohol in 210 litres of breath or 100 millilitres of blood.

[7] Clause 265 (3)

Omit “the concentration of alcohol in his or her breath or blood exceeded the 0.02 level”.

Insert instead “the prescribed concentration of alcohol was present in his or her breath or blood”.

[8] Clause 268 Correctional staff’s breath or blood must not have prescribed concentration of alcohol

Omit “a concentration of alcohol exceeding the 0.02 level” from clause 268.

Insert instead “the prescribed concentration of alcohol”.

[9] Clause 272 Breath testing and breath analysis of members of correctional staff

Omit “the concentration of alcohol in the staff member’s breath may exceed the 0.02 level” from clause 272 (2) (a).

Insert instead “the prescribed concentration of alcohol may be present in the staff member’s breath”.

[10] Clause 277 Certificate evidence of concentration of alcohol in breath or blood determined by breath test or breath analysis

Omit “the concentration of alcohol in the staff member’s breath at that time did not exceed the 0.02 level” wherever occurring in clause 277 (5) and (6).

Insert instead “the prescribed concentration of alcohol was not present in the staff member’s breath at that time”.

[11] Clause 278 Certificate evidence of concentration of alcohol in blood otherwise than in relation to a breath test or breath analysis

Omit “the concentration of alcohol in the staff member’s blood at that time did not exceed the 0.02 level” wherever occurring in clause 278 (6) and (7).

Insert instead “the prescribed concentration of alcohol was not present in the staff member’s blood at that time”.

[12] Dictionary

Insert “the Information Commissioner,” after “the Privacy Commissioner,” in the definition of *exempt body*.