



New South Wales

# Crimes (Administration of Sentences) Further Amendment (Smoke-free Prisons) Regulation 2015

under the

Crimes (Administration of Sentences) Act 1999

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

DAVID ELLIOTT, MP  
Minister for Corrections

## Explanatory note

The *Crimes (Administration of Sentences) Amendment (Smoke-free Prisons) Regulation 2015* amends the *Crimes (Administration of Sentences) Regulation 2014* (**the Principal Regulation**) to make it an offence to smoke, or use tobacco or e-cigarettes, in correctional centres or residential facilities. The object of this Regulation is to make further amendments to the Principal Regulation to ensure that it is not an offence for certain residents of correctional centres or residential facilities to smoke, or use tobacco or e-cigarettes, in designated areas of those centres or facilities. The residents concerned are subject to community-based orders or are correctional officers or residential facility officers.

This Regulation and the *Crimes (Administration of Sentences) Amendment (Smoke-free Prisons) Regulation 2015* both commence on 10 August 2015.

This Regulation is made under the *Crimes (Administration of Sentences) Act 1999*, including sections 79, 236M (2) and 271 (the general regulation-making power).

## **Crimes (Administration of Sentences) Further Amendment (Smoke-free Prisons) Regulation 2015**

under the

Crimes (Administration of Sentences) Act 1999

### **1 Name of Regulation**

This Regulation is the *Crimes (Administration of Sentences) Further Amendment (Smoke-free Prisons) Regulation 2015*.

### **2 Commencement**

This Regulation commences on 10 August 2015 and is required to be published on the NSW legislation website.

## **Schedule 1      Amendment of Crimes (Administration of Sentences) Regulation 2014 (as amended by the Crimes (Administration of Sentences) Amendment (Smoke-free Prisons) Regulation 2015)**

**[1]      Clause 322 Smoking and possession of smoking-related items in correctional centres and residential facilities**

Omit clause 322 (2). Insert instead:

- (2)      Subclause (1) does not apply in relation to a resident of a correctional centre or residential facility smoking, or using tobacco or an e-cigarette, in an area of the centre or facility designated under subclause (4A) (a).

**[2]      Clause 322 (3) (b)**

Omit “this clause”. Insert instead “subclause (4A) (b)”.

**[3]      Clause 322 (4A) and (4B)**

Insert after clause 322 (4):

- (4A)      The Commissioner may designate:
- (a)      an area of a correctional centre or residential facility as an area in which residents may smoke, or use tobacco or an e-cigarette, or
  - (b)      an area of a correctional centre as an area in which no person may have any tobacco, tobacco-related accessory, e-cigarette or e-cigarette accessory in his or her possession.
- (4B)      An area is to be designated under this clause by signs or notices displayed in, or at entrances to, the area.

**[4]      Clause 322 (5)**

Omit the subclause.

**[5]      Clause 322 (6)**

Insert in alphabetical order:

*resident* of a correctional centre or residential facility includes any of the following persons accommodated at the centre or facility and does not include an inmate:

- (a)      a person who is the subject of a community-based order (within the meaning of section 236M of the Act),
- (b)      a correctional officer,
- (c)      a residential facility officer.