



New South Wales

# Crimes (Administration of Sentences) Amendment (Re-integration Home Detention) Regulation 2018

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 object of this Regulation is to amend the *Crimes (Administration of Sentences) Regulation 2014*, in connection with re-integration home detention orders, as follows:

- (a) to enable a person to seek parole within less than 12 months after the person's parole order is revoked, if the order was revoked while the person was subject to a re-integration home detention order,
- (b) to set out the matters that must be included in an assessment report on the suitability of an offender for a re-integration home detention order,
- (c) to set out the standard conditions for re-integration home detention orders, including to make supervision a standard condition of a re-integration home detention order,
- (d) to make the standard conditions for home detention orders consistent with the standard conditions for re-integration home detention orders and to apply those conditions to existing orders,
- (e) to set out the matters that must be included in the pre-release report on the suitability for parole of an offender who is subject to a re-integration home detention order and serving a sentence of more than 3 years,
- (f) to require the Parole Authority to give written notice to the Commissioner of Corrective Services of the revocation of a re-integration home detention order consequent on the revocation of a parole order.

This Regulation is made under the *Crimes (Administration of Sentences) Act 1999*, including sections 103 (1) (a), 124H (1), 124I (3), 124J, 137B and 271 (the general regulation-making power).

## **Crimes (Administration of Sentences) Amendment (Re-integration Home Detention) Regulation 2018**

under the

Crimes (Administration of Sentences) Act 1999

### **1 Name of Regulation**

This Regulation is the *Crimes (Administration of Sentences) Amendment (Re-integration Home Detention) Regulation 2018*.

### **2 Commencement**

This Regulation commences on 28 May 2018 and is required to be published on the NSW legislation website.

## **Schedule 1      Amendment of Crimes (Administration of Sentences) Regulation 2014**

### **[1]    Clause 3 Interpretation**

Insert in alphabetical order in clause 3 (1):

*electronic monitoring officer* means any person who is employed for the purpose of monitoring offenders who are subject to electronic monitoring.

### **[2]    Clause 190**

Omit the clause. Insert instead:

#### **190    Standard conditions applying to home detention**

- (1) For the purposes of section 103 (1) (a) of the Act, the following are the standard conditions of home detention:
  - (a) to report to a community corrections officer on the day the home detention order is made,
  - (b) the same standard conditions that apply to an offender who is subject to a re-integration home detention order and that are set out in clause 232B (b)–(i) and clause 232C (1) and (2).
- (2) A community corrections officer may vary or waive the obligation to report to a community corrections officer under subclause (1) (a).
- (3) Supervision of an offender who is subject to a supervision condition imposed under this clause is to be carried out by a community corrections officer.
- (4) This clause applies to a home detention order in force immediately before the commencement of this clause.

### **[3]    Clause 223 Circumstances constituting manifest injustice**

Insert after clause 223 (1) (e):

- (f) if the decision to revoke parole was made while the offender was subject to a re-integration home detention order.

### **[4]    Part 14A**

Insert after Part 14:

## **Part 14A Re-integration home detention orders**

### **232A    Assessment of suitability for re-integration home detention**

- (1) A report prepared for the purposes of section 124C of the Act (a *re-integration home detention report*) must address the following matters:
  - (a) whether or not the person who prepared the report recommends that a re-integration home detention order be made for the offender,
  - (b) the offender's suitability for home detention,
  - (c) any risks associated with imposing home detention, including any risks to the offender or any other persons, including children, and any strategies that could manage the risks,
  - (d) any other matters relevant to administering a re-integration home detention order.

- (2) A re-integration home detention report on an offender who is serving a sentence of 3 years or less must also address the following matters:
  - (a) the risk of the offender re-offending while on release under a re-integration home detention order,
  - (b) how the offender would be managed in the community while on release under the order, as set out in a post-release plan prepared by a community corrections officer in relation to the offender.
- (3) In considering whether to make a re-integration home detention order for an offender who is serving a sentence of more than 3 years, the Parole Authority is to consider the report prepared in relation to the granting of parole for the offender under section 135 of the Act.
- (4) A re-integration home detention report for an offender is not required to include a matter under subclause (1) (b)–(d) or (2) if a previous re-integration home detention report has been prepared for the offender and the person preparing the report is of the opinion that the particulars of that matter have not changed since the previous report was prepared.
- (5) Despite subclause (4), the Parole Authority may require a re-integration home detention report for an offender to include any or all of the matters referred to in subclause (1) (b)–(d) or (2).
- (6) If it appears that the offender does not have accommodation suitable for the purposes of home detention, the re-integration home detention report is not to be finalised until reasonable efforts have been made by a community corrections officer, in consultation with the offender, to find suitable accommodation.

**232B Standard conditions applying to re-integration home detention orders**

For the purposes of section 124H (1) of the Act, the following are standard conditions of a re-integration home detention order:

- (a) to be of good behaviour,
- (b) not to commit any offence,
- (c) to remain at the offender's address at all times otherwise than:
  - (i) when engaged in activities approved by a community corrections officer, or
  - (ii) when faced with immediate danger (for example, in a fire or medical emergency),
- (d) to submit a schedule of proposed activities for approval by a community corrections officer,
- (e) to comply with all reasonable directions of a community corrections officer about giving consent to third parties providing information to that or another community corrections officer for the purpose of checking compliance with the approved activities,
- (f) to submit to electronic monitoring,
- (g) to comply with all reasonable directions of a community corrections officer or electronic monitoring officer in relation to the electronic monitoring of the offender,
- (h) not to remove or tamper with, damage or disable electronic monitoring equipment,
- (i) not to possess or have in the offender's control any firearm or any prohibited weapon (within the meaning of the *Weapons Prohibition Act*)

1998), unless an approval is granted by a community corrections manager.

**Note.** Under the *Firearms Act 1996*, it is an offence to possess or use a firearm unless authorised to do so by licence or permit in force under that Act. Under the *Weapons Prohibition Act 1998*, it is an offence to possess or use a prohibited weapon unless authorised to do so by permit in force under that Act.

### **232C Standard supervision condition**

- (1) For the purposes of section 124H (1) of the Act, it is a standard condition of a re-integration home detention order that the offender is to be subject to supervision for the period of the order.
- (2) An offender who is subject to supervision has the following obligations:
  - (a) to report to a community corrections officer at the times and places directed by the officer,
  - (b) to comply with all reasonable directions of a community corrections officer relating to any of the following:
    - (i) the place in which the offender is to reside,
    - (ii) participating in programs, treatment, interventions or other related activities,
    - (iii) without limiting subparagraph (ii), participating in employment, education, training or other related activities,
    - (iv) not undertaking specified employment, education, training, volunteer, leisure or other activities,
    - (v) not associating with a specified person,
    - (vi) not frequenting or visiting a specified place or area,
    - (vii) ceasing drug use,
    - (viii) ceasing or reducing alcohol use,
    - (ix) drug and alcohol testing,
    - (x) requirements for the purposes of monitoring compliance with the re-integration home detention order,
    - (xi) giving consent to third parties providing information to a community corrections officer about the offender's compliance with the re-integration home detention order,
  - (c) to comply with any other reasonable directions of a community corrections officer,
  - (d) to permit a community corrections officer to visit the offender at the offender's place of residence at any time and, for that purpose, to enter the premises,
  - (e) to notify a community corrections officer of any change to his or her place of residence, contact details or employment:
    - (i) if practicable, before the change occurs, or
    - (ii) if that is not practicable, within 7 days of the change occurring,
  - (f) not to leave New South Wales without the permission of a community corrections manager,
  - (g) not to leave Australia without the permission of the Parole Authority.
- (3) Supervision of the offender is to be carried out by a community corrections officer.

**232D Review of suitability for parole**

A report prepared for the purposes of section 124I of the Act as to the suitability of an offender for release on parole must address the following matters:

- (a) whether or not the person who prepared the report recommends that the offender be released on parole,
- (b) the offender's response to the re-integration home detention order and the compliance of the offender with the conditions of the order,
- (c) whether there has been any significant change in any of the matters addressed in relation to the offender in the re-integration home detention report prepared under clause 232A.

**[5] Clause 237 Notice of revocation of order**

Insert “, re-integration home detention order” before “or parole order” in clause 237 (1).