



New South Wales

Crimes (Administration of Sentences) Amendment (COVID-19) Regulation 2020

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*.

ANTHONY ROBERTS, MP
Minister for Counter Terrorism and Corrections

Explanatory note

Under section 276 of the *Crimes (Administration of Sentences) Act 1999* (the *Act*) the Commissioner of Corrective Services (the *Commissioner*) may release an inmate on parole if the inmate belongs to a class specified in this Regulation and if the Commissioner is satisfied that it is reasonably necessary because of the risk to public health or to the good order and security of correctional premises arising from the COVID-19 pandemic.

The object of this Regulation is to prescribe the following classes of inmates as eligible for release on parole by the Commissioner during the COVID-19 pandemic—

- (a) an inmate whose health is at higher risk during the COVID-19 pandemic because of an existing medical condition or vulnerability,
- (b) an inmate whose earliest possible release date is within 12 months.

Inmates who are national security interest inmates, male inmates classified as Category AA, A1, A2 or E1 and female inmates classified as Category 5 or 4 or E1 are excluded and cannot be released on parole by the Commissioner.

Section 276(3) of the Act provides that certain inmates may not be released on parole by the Commissioner and section 276(4) of the Act requires the Commissioner to consider various factors before releasing an inmate on parole.

The Commissioner's functions in respect of releasing inmates on parole under section 276 of the Act are limited to a period of 6 months from 25 March 2020 (or a total period of up to 12 months from that date if a longer period is prescribed by the regulations).

This Regulation is made under the *Crimes (Administration of Sentences) Act 1999*, including sections 271 (the general regulation-making power) and 276(1)(a) and (10)(a).

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Crimes (Administration of Sentences) Act 1999

1 Name of Regulation

This Regulation is the *Crimes (Administration of Sentences) Amendment (COVID-19) Regulation 2020*.

2 Commencement

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

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

Part 23

Insert after Part 22—

Part 23 Special provision for COVID-19 pandemic

Note. This Part is made under Part 15 of the Act, which commenced on 25 March 2020 in response to the COVID-19 pandemic. The Commissioner's functions in respect of visits to correctional premises and parole are limited to a period of 6 months from 25 March 2020 (or a total period of up to 12 months from that date if a longer period is prescribed by the regulations).

330 Classes of inmates who may be released on parole by Commissioner

- (1) For the purposes of section 276(1)(a) of the Act, the following classes of inmates are prescribed—
 - (a) an inmate whose health is at higher risk during the COVID-19 pandemic because of an existing medical condition or vulnerability, other than an excluded inmate,
 - (b) an inmate whose earliest possible release date is within 12 months, other than an excluded inmate.

- (2) The Commissioner may make an order under section 276 releasing an inmate on parole only if satisfied that it does not pose an unacceptable risk to community safety.

- (3) In this clause—

earliest possible release date, in relation to an inmate, means the first date on which the inmate is entitled to be released from custody or becomes eligible for release on parole.

excluded inmate means any of the following—

- (a) a national security interest inmate,
- (b) a male inmate classified as Category AA, A1, A2 or E1,
- (c) a female inmate classified as Category 5 or 4 or E1.

Note. Under section 276(1) of the Act, the Commissioner may release an inmate on parole if the inmate belongs to a class specified in this clause and if the Commissioner is satisfied that it is reasonably necessary because of the risk to public health or to the good order and security of correctional premises arising from the COVID-19 pandemic. Section 276(3) of the Act provides that certain inmates may not be released on parole by the Commissioner and section 276(4) of the Act requires the Commissioner to consider various factors before releasing an inmate on parole.