

Authorised Version No. 017
Corrections Regulations 2009

S.R. No. 40/2009

Authorised Version incorporating amendments as at
3 September 2018

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Part 1—Preliminary

1 Objectives

The objectives of these Regulations are—

- (a) to provide for the management, administration and security of prisons and locations; and
- (b) to provide for the welfare of prisoners and offenders; and
- (c) to prescribe various forms and procedures and other matters authorised by the **Corrections Act 1986**.

2 Authorising provisions

These Regulations are made under sections 112 and 112A of the **Corrections Act 1986**.

3 Commencement

These Regulations come into operation on 10 May 2009.

4 Revocation

The Regulations listed in Schedule 1 are **revoked**.

5 Definitions

(1) In these Regulations—

Commissioner means the Commissioner appointed under section 8A of the Act;

drug of dependence has the same meaning as in the **Drugs, Poisons and Controlled Substances Act 1981**;

explosive substance has the same meaning as in section 317 of the **Crimes Act 1958**;

garment search means a search of any article of clothing worn by a person or in the person's possession, where the article of clothing is touched or removed from the person's body;

high security, in relation to a prisoner, means classification of the prisoner as a very high risk to prison security, the community or to himself or herself or any other person;

intensive parole period means the period fixed by the Adult Parole Board under regulation 83C;

Reg. 5(1) def.
of *intensive
parole period*
inserted by
S.R. No.
12/2014
reg. 14.

maximum security, in relation to a prisoner, means classification of the prisoner as a high risk to prison security, the community or to himself or herself or any other person;

medium security, in relation to a prisoner, means classification of the prisoner as a moderate risk to prison security, the community or to himself or herself or any other person;

minimum security, in relation to a prisoner, means classification of the prisoner as a low risk to prison security, the community or to himself or herself or any other person;

officer, unless otherwise stated, means a person defined as an officer in section 14 or 85 of the Act;

Ombudsman officer has the same meaning as it has in the **Ombudsman Act 1973**;

Reg. 5(1)
def. of
*Ombudsman
officer*
inserted by
S.R. No.
15/2013 reg. 5.

pat-down search means a search of a person where the person's clothed body is touched;

prisoner trust account means the trust account established by the Commissioner to hold money on behalf of prisoners;

prohibited poison means a Schedule 8 poison or Schedule 9 poison, both within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981**;

Reg. 5(1)
def. of
*prohibited
poison*
inserted by
S.R. No.
12/2014 reg. 5.

scanning search means a search of a person, or of the property of a person, using an electronic or other device, where the person is not touched;

strip search means a search of a person that requires—

- (a) the person to remove any or all of the person's clothing; and
- (b) an examination of the person's body and of that clothing—

but does not require the person to be touched by the person or persons conducting the search.

the Act means the **Corrections Act 1986**;

Reg. 5(1)
def. of
*unauthorised
substance or
article*
substituted by
S.R. No.
147/2014
reg. 19.

unauthorised substance or article means a
substance or article specified in
regulation 33(1).

- (2) The powers and functions of a Governor under these Regulations only apply in respect of the prison, prisoners and officers under that Governor's management and direction.
- (3) The powers and functions of a Regional Manager only apply in respect of community corrections centres and locations, offenders and officers under that Regional Manager's management and direction.

Part 2—Officers

6 Conduct of all officers

- (1) An officer must disclose to the Governor of a prison or a Regional Manager at the time they occur—
 - (a) any criminal charges laid by police against the officer; and
 - (b) any finding of a court in relation to those charges; and
 - (c) any penalty imposed on that officer in relation to those charges.
- (2) The Governor or Regional Manager, within 24 hours of an officer disclosing one of the matters referred to in subregulation (1), must—
 - (a) inform the Secretary of the disclosure; and
 - (b) advise the Secretary of the possible impact on the management or security of the prison or location having regard to the seriousness of the charges.
- (3) Any uniform or equipment provided to an officer by the Secretary remains the property of the Crown.
- (4) The Secretary may publish a code of conduct for officers.
- (5) An officer must comply with any code of conduct published under subregulation (4).

7 Officers under sections 14(f) and 85(e) of the Act

For the purposes of sections 14(f) and 85(e) of the Act, the prescribed class of persons are psychiatrists, medical practitioners, dentists, nurses and health workers, whether or not employed by the Government or a government agency.

Part 3—Management and security

Division 1—Firearms

8 Non-lethal firearms

Reg. 8
substituted by
S.R. Nos
20/2014 reg. 5,
95/2015 reg. 3.

For the purpose of section 55EC of the Act, a prescribed non-lethal firearm is—

- (a) a tear gas gun or projector; or
- (b) a shotgun which fires rounds commonly known as 'bean bag' rounds.

9 Unauthorised removal of firearms etc.

An escort officer acting in the course of his or her duties must not remove a firearm or ammunition from a prison unless authorised by the Governor to do so.

Penalty: 10 penalty units.

* * * * *

Reg. 10
revoked by
S.R. No.
20/2014 reg. 6,
new reg. 10
inserted by
S.R. No.
60/2017 reg. 5,
revoked by
S.R. No.
116/2018
reg. 4.

Division 2—Dogs

11 Approved dogs

For the purposes of section 27(3) of the Act, a dog is an approved dog if it has completed a training programme approved by the Secretary in the previous 12 months.

12 Use of dogs

A prison officer or an escort officer must not use a dog in a prison to assist him or her in performing one or more of the activities in section 27(1) of the Act unless the dog is an approved dog.

Division 3—Restraint

13 Prescription of instruments of restraint and their manner of use

- (1) A prison officer or an escort officer may apply an instrument of restraint to a prisoner only if the Governor believes on reasonable grounds that the instrument of restraint is necessary.
- (2) A prisoner must not be kept under restraint longer than is necessary.
- (3) If the immediate safety of a prisoner or the security of the prison is threatened, a prison officer or an escort officer may apply an instrument of restraint to a prisoner if the officer believes on reasonable grounds that it is necessary.
- (4) Subject to this Division, a prison officer or escort officer may restrain a prisoner by using any of the following instruments of restraint—
 - (a) handcuffs;
 - (b) arm restraints;
 - (c) leg restraints;
 - (d) belts which restrain parts of the body;
 - (e) one or more chains connected to—
 - (i) any of the instruments of restraint in paragraphs (a) to (d); or

Reg. 13(4)(d)
amended by
S.R. No.
147/2014
reg. 5(1)(a).

Reg. 13(4)(e)
inserted by
S.R. No.
147/2014
reg. 5(1)(b).

Reg.
13(4)(e)(ii)
substituted by
S.R. No.
140/2015
reg. 5

- (ii) any of the instruments of restraint in paragraphs (a) to (d) and a fixture.

Example

An example of a chain connected in accordance with subparagraph (ii) is a chain that is connected to a handcuff at one end and an ankle bracelet at the other end that secures to the prisoner and to a secure fixture when the prisoner is on a hospital bed or in a wheelchair.

Reg. 13(4A)
inserted by
S.R. No.
147/2014
reg. 5(2).

- (4A) Any of the instruments of restraint in subregulation (4) may be secured with one or more locks.

- (5) An instrument of restraint must be used—
- (a) as directed by the Governor; and
 - (b) in the manner approved by the Commissioner.

14 Use of restraint for lengthy period

- (1) The Governor must advise the Secretary immediately if an instrument of restraint is applied to a prisoner—
- (a) for a continuous period of more than 18 hours; or
 - (b) for a cumulative period of 36 hours in any 96 hour period.
- (2) The Secretary may order the removal of the instrument of restraint at any time.

15 Use of restraint during transport

- (1) A prison officer or an escort officer may apply an instrument of restraint to a prisoner for the duration of a transfer of the prisoner under escort

from one place to another if the Governor believes on reasonable grounds that the application of the instrument of restraint is necessary to prevent the escape of the prisoner or the assault of, or injury to, any person.

- (2) A prison officer or an escort officer may apply an instrument or an additional instrument of restraint to a prisoner during a transfer of the prisoner under escort from one place to another if the prisoner's conduct during transfer has been such that it is reasonable to believe that the application of the instrument of restraint is necessary to prevent the escape of the prisoner or the assault of, or injury to, any person.
- (3) A transfer of a prisoner from one place to another referred to in subregulations (1) and (2) includes a prisoner moving from one area of a prison to another area of a prison.

16 Report to Governor by prison officer

Except when a prison officer or an escort officer has applied handcuffs to a prisoner under escort as directed by the Governor, the officer must report to the Governor the use of an instrument of restraint on a prisoner as soon as possible after the instrument is applied to the prisoner.

Division 4—Control of communication

17 Control of letters and parcels

- (1) In this regulation—
 - (a) a *letter* includes a facsimile;
 - (b) a *parcel* includes any contents contained in or associated with a parcel, whether or not the parcel is accompanied or associated with a letter.

- (2) If the Governor reasonably suspects that any parcel to, or from, a prisoner contains an unauthorised article or substance that could pose an immediate danger to any person, the Governor may dispose of the parcel in any manner he or she considers to be appropriate.
- (3) Subject to subregulation (2), this regulation does not apply to parcels exchanged between a prisoner and—

Reg. 17(3)(a)
substituted by
S.R. No.
15/2013 reg. 6.

- (a) an Ombudsman officer; or

Reg. 17(3)(b)
substituted by
S.R. No.
15/2013 reg. 6.

- (b) the IBAC or an IBAC Officer within the meaning of the **Independent Broad-based Anti-corruption Commission Act 2011**; or

Reg. 17(3)(c)
inserted by
S.R. No.
15/2013 reg. 6.

- (c) the Victorian Inspectorate or a Victorian Inspectorate Officer within the meaning of the **Victorian Inspectorate Act 2011**.

Reg. 17(4)
amended by
S.R. No.
79/2016 reg. 5.

- (4) Subject to subregulation (2), if the Governor reasonably suspects that any unauthorised article or substance is contained in a parcel to, or from, a lawyer, the Commissioner for Privacy and Data Protection, the Health Services Commissioner, the Human Rights Commissioner, the Victorian Equal Opportunity and Human Rights Commission, the Victorian Legal Services Commissioner, the Freedom of Information Commissioner, the Mental Health Complaints Commissioner, any person or body listed in regulation 17A, or any person authorised to act on their behalf, the Governor—

- (a) may hold the parcel and notify the prisoner and the lawyer, or the relevant Commissioner, of his or her suspicions; and

- (b) may inspect the parcel—
- (i) in the presence of the prisoner and a representative of the lawyer or relevant Commissioner; or
 - (ii) in accordance with any alternative arrangement agreed with the lawyer or relevant Commissioner.
- (5) If the Governor has not received a response from the relevant Commissioner or lawyer within 7 days after notice is given under subregulation (4), the Governor may require the prisoner to open the parcel to enable the Governor to inspect it.
- (6) Subject to subregulation (2), if the Governor reasonably suspects that any unauthorised article or substance is contained in a parcel to, or from, a Minister, a member of Parliament, the Secretary, the Commissioner, an independent prison visitor or a lawyer, the Governor may require a prisoner to open a parcel in the presence of an officer for the officer's inspection.
- (7) A parcel referred to in subregulations (5) and (6) may be inspected by an officer but the officer must not read or censor any letter associated with the parcel.
- (8) If a prisoner refuses to open a parcel referred to in subregulation (6), the Governor may open the parcel.
- (9) Subject to subregulations (3), (4) and (6), the Governor may inspect and stop a parcel if the Governor reasonably believes that a parcel to be sent by a prisoner to, or sent to a prisoner by, any person—
- (a) is a threat to prison security; or
 - (b) may be of a threatening or harassing nature; or

Reg. 17(6)
amended by
S.R. No.
12/2014
reg. 7(1).

- (c) may be used to further an unlawful activity or purpose; or
- (d) contains indecent, abusive, threatening or offensive written or pictorial matter, or written or pictorial matter that may be regarded by a victim as distressing or traumatic, or an indecent, obscene or offensive article or substance.

Reg. 17A
inserted by
S.R. No.
79/2016 reg. 6.

17A Prisoners' letters—prescribed persons and bodies

For the purposes of section 47(1)(m)(xv) of the **Corrections Act 1986**, the following persons and bodies are prescribed—

- (a) the Royal Commission into Institutional Responses to Child Sexual Abuse;
- (b) a Public Interest Monitor appointed under the **Public Interest Monitor Act 2011**;
- (c) the Victorian Electoral Commission established under the **Electoral Act 2002**;
- (d) any law enforcement agency within the meaning of section 51A of the **Crimes Act 1958**;
- (e) the Independent Commissioner Against Corruption established under the Independent Commissioner Against Corruption Act 2012 of South Australia;
- (f) the Independent Commission Against Corruption established under the Independent Commission Against Corruption Act 1988 of New South Wales;
- (g) the Corruption and Crime Commission established under the Corruption, Crime and Misconduct Act 2003 of Western Australia;

Reg. 17A(d)
amended by
S.R. No.
133/2017
reg. 3.

- (h) the Crime and Corruption Commission established under the Crime and Corruption Act 2001 of Queensland;
- (i) the Integrity Commission established under the Integrity Commission Act 2009 of Tasmania;
- (j) a person authorised to act on behalf of a person or body referred to in paragraph (a), (b), (c), (d), (e), (f), (g), (h) or (i).

18 Register of letters and parcels

- (1) Each Governor must establish and maintain a register containing—
 - (a) details of—
 - (i) every letter read, censored or stopped under section 47D of the Act; and
 - (ii) every parcel inspected under regulation 17; and
 - (b) the reason for the reading, censoring or inspection; and
 - (c) details of any unauthorised substance or article found in the letter or parcel; and
 - (d) details of any subsequent action taken.
- (2) If a letter or parcel sent by a prisoner is censored, the Governor must notify the prisoner who sent the letter or parcel and give him or her details of the parts censored.

19 Restrictions of communications during emergency

Despite anything to the contrary in these Regulations, a Governor may, during an emergency resulting in a substantial disruption or disturbance within the prison—

- (a) restrict or prohibit telephone communication between a prisoner and any other person; or

Reg. 19(b)
amended by
S.R. Nos
15/2013 reg. 7,
12/2014
reg. 7(2).

- (b) restrict or prohibit any written communication between a prisoner and any other person, except an Ombudsman officer, the Minister, the Secretary, the Commissioner, the Governor or an independent prison visitor.

Division 5—Leave of absence to attend court or a hearing

20 Absence to attend court or a hearing

Reg. 20(1)
amended by
S.R. No.
12/2014
reg. 8(a).

- (1) If a court or coroner so orders, a prisoner may be removed from a prison and brought before the court or coroner to answer a charge or give evidence or for any other purpose, in a civil or criminal proceeding.
- (2) An order for the removal of a prisoner under subregulation (1) must be in the form of Schedule 2.
- (3) The notice in Schedule 2 must be completed by the person in charge of the prison from which the prisoner is removed.
- (4) While a prisoner who is ordered to be brought before a court or coroner is absent from a prison, the prisoner is in the legal custody of the person or persons having custody of the prisoner under the order made under subregulation (1).
- (5) The person who has custody of a prisoner under subregulation (4) must return the prisoner to the prison from which the prisoner was removed unless the prisoner is discharged by process of law in respect of all matters requiring the prisoner's detention or is released on bail.
- (6) This regulation does not apply when a prisoner who is required to appear before a court is directed by the court to make his or her appearance by audio visual link or audio link from

Reg. 20(6)
amended by
S.R. No.
12/2014
reg. 8(b).

a prison under Part IIA of the **Evidence (Miscellaneous Provisions) Act 1958**.

21 Wearing of non-prison clothing

- (1) A Governor must ensure that a prisoner who is to appear before a court as a party or a witness—
 - (a) is permitted to wear the prisoner's own clothes during the appearance; or
 - (b) if the prisoner does not have suitable clothes, is provided with civilian clothes to wear during the appearance.
- (2) Subregulation (1) is in addition to any right which a prisoner has under section 47(1)(e) of the Act.

Division 6—Classification

22 Classification of prisoners

- (1) A prisoner's classification—
 - (a) includes decisions about a prisoner's security rating, placement and sentence plan; and
 - (b) may include reasons for decisions made under paragraph (a), directions as to future placement reviews and conditions applicable to the decision.
- (2) Subject to this Division, a prisoner may be given one of the following security ratings—
 - (a) high security;
 - (b) maximum security;
 - (c) medium security;
 - (d) minimum security.

23 Sentence management panels

- (1) There are to be one or more sentence management panels to carry out the functions of—
 - (a) prisoner classification;

- (b) developing a sentence plan for each prisoner;
and
 - (c) determining the placement of each prisoner.
- (2) The Secretary may set rules for the composition of the panels as he or she thinks necessary for the proper functioning of the panels.
- (3) The Secretary may appoint members to the sentence management panels and may determine the terms and conditions of appointment.
- (4) The panels must—
- (a) meet with such frequency as is determined by the Secretary; and
 - (b) conduct their procedures as determined by the Secretary; and
 - (c) establish and maintain the records determined by the Secretary.
- (5) The Secretary may at any time—
- (a) carry out the functions of a sentence management panel referred to in subregulation (1); or
 - (b) vary any decision made by a sentence management panel in relation to a prisoner's classification.

Reg. 23(5)
inserted by
S.R. No.
135/2009
reg. 3.

Reg. 24
amended by
S.R. No.
135/2009
reg. 4,
substituted by
S.R. No.
147/2014
reg. 6.

24 Establishment and functions of case management review committees

- (1) In each prison there is to be one or more case management review committees.
- (2) A case management review committee has the following functions—
 - (a) to oversee the case management of prisoners;

- (b) to review prisoners' classification, subject to any rules made by the Secretary under regulation 24C;
 - (c) to consider prisoners' access to programmes;
 - (d) to monitor prisoners' welfare.
- (3) A case management review committee must—
- (a) meet with the frequency determined by the Secretary; and
 - (b) conduct its procedures in the manner determined by the Secretary; and
 - (c) establish and maintain the records determined by the Secretary.

24A Appointment of case management review committees

Reg. 24A
inserted by
S.R. No.
147/2014
reg. 6.

The Secretary may—

- (a) appoint members to a case management review committee; and
- (b) determine the terms and conditions of appointment.

24B Variation of classification

Reg. 24B
inserted by
S.R. No.
147/2014
reg. 6.

- (1) A case management review committee may—
- (a) subject to any rules made in accordance with regulation 24C, vary the classification of a prisoner; or
 - (b) make recommendations to a sentence management panel regarding the classification of a prisoner.
- (2) The Secretary or sentence management panel, at any time, may vary a decision made by a case management review committee in relation to a prisoner's classification.

Reg. 24C
inserted by
S.R. No.
147/2014
reg. 6.

24C Secretary may make rules

The Secretary may make rules for the following—

- (a) the variation of the classification of prisoners and the exercise by case management review committees of the power to vary prisoners' classification;
- (b) the composition of case management review committees;
- (c) the conduct of proceedings of case management review committees.

Reg. 25
amended by
S.R. Nos
135/2009
reg. 5,
147/2014
reg. 7.

25 Determination of classification

When determining or varying a prisoner's classification, a sentence management panel, a case management review committee, or the Secretary must consider the risk the prisoner presents to prison security, the community, himself, herself or any other person, having regard to any one or more of the following—

- (a) the nature of the offence for which the prisoner has been charged or convicted;
- (b) the risk of the prisoner escaping, or attempting to escape, from custody;
- (c) the risk of the prisoner committing a further offence and the impact the commission of the further offence is likely to have on the community;
- (d) any risk the prisoner poses to prison management, security and good order;
- (e) any risk the prisoner poses to the welfare of himself or herself and any other person;
- (f) the length of the prisoner's sentence or, if the prisoner is awaiting trial, the maximum sentence applicable to the offences in respect of which the prisoner has been charged;

- (g) any other matter considered relevant to prison management, security and good order and the safe custody and welfare of the prisoner.

Division 7—Placement

26 Determination of placement

When determining or varying a prisoner's placement and developing a sentence plan, a sentence management panel or the Secretary may consider and assess the following factors—

- (a) the prisoner's security rating and relevant risk factors, including sentence length, and risk of escape;
- (b) the programmes and other processes the prisoner requires to lower the risk of committing a further offence;
- (c) any risk the prisoner poses to the welfare of himself or herself or any other person;
- (d) any drug and alcohol use and treatment;
- (e) any prison or other relevant institution history;
- (f) any medical or psychiatric condition;
- (g) any physical limitations or disability;
- (h) cultural background;
- (i) any relevant family issues;
- (j) where known, any sentencing remarks;
- (k) any transitional requirements for the prisoner to re-enter the community, if appropriate;
- (l) any other matter considered relevant to prison management, security and good order and the safe custody and welfare of the prisoner.

Reg. 26
amended by
S.R. No.
135/2009
reg. 6.

Division 8—Separation

27 Separation by the Secretary

- (1) If reasonable for the safety or protection of the prisoner or other persons, or the security, good order or management of the prison, the Secretary may, in writing, order the separation of a prisoner from other prisoners.
- (2) The amount of time a prisoner is separated must not be longer than is necessary to achieve the purposes set out in subregulation (1).
- (3) The requirement in subregulation (1) that a separation order be in writing does not apply if the separation of a prisoner from other prisoners is, in the opinion of the Secretary, required urgently.
- (4) If an oral separation order is made under subregulation (3), the order must be confirmed in writing within 12 hours where practicable but not exceeding 24 hours.
- (5) Before making a separation order, the Secretary must consider the medical and psychiatric condition of the prisoner.
- (6) The prisoner must be advised of the reasons for the separation and given a copy of the separation order.
- (7) Unless extended by a new order, a separation order ceases—
 - (i) on expiry of the order; or
 - (ii) when the prisoner is classified by a sentence management panel; or
 - (iii) when cancelled by the Secretary.

Reg. 27(5)
amended by
S.R. No.
79/2016 reg. 7.

Division 9—Prisoners' money

28 Prisoner trust account

- (1) Each Governor must ensure that money belonging to a prisoner or received on behalf of the prisoner, including money payable to a prisoner as a gratuity or remuneration for work done or for alternative attendance at a prison educational, treatment or rehabilitation programme is paid into the prisoner trust account and is held in that account on behalf of the prisoner.
- (2) A prisoner is not entitled to receive interest on money in the prisoner trust account.

28A Secretary may approve expenditure of interest on money in prisoner trust account for victims' assistance

Reg. 28A
inserted by
S.R. No.
12/2014 reg. 6.

- (1) The Secretary may approve expenditure of interest on money in the prisoner trust account for purposes related to assisting victims or their family members.
- (2) The Secretary must issue guidelines for seeking an approval under subregulation (1).
- (3) Guidelines issued by the Secretary under subregulation (2) must be published in the Government Gazette.

29 Regulation of prisoners' money

- (1) The Governor must ensure that a record is kept of all money—
 - (a) held on behalf of each prisoner in the prisoner trust account, including details of all transactions involving that money; and
 - (b) credited to each prisoner as remuneration for work done by the prisoner in a prison industry or for participation in educational programmes or as a gratuity.

- (2) Once a month a prisoner may request to see statements showing—
 - (a) all transactions involving the money held on behalf of the prisoner in the prisoner trust account; and
 - (b) details of amounts credited to the prisoner as remuneration for work done by the prisoner in a prison industry or for participation in educational, treatment or rehabilitation programmes or as a gratuity.
- (3) The Governor must accede as soon as possible to the prisoner's request under subregulation (2).
- (4) The Commissioner may determine the maximum amount that may be credited to the prisoner trust account and held on behalf of a prisoner each calendar month.
- (5) In exceptional circumstances, the Governor may approve the receipt of additional money for a prisoner from private funds above the amount determined under subregulation (4) for approved purchases as described in regulation 30.
- (6) There is no maximum limit on how much money may be held on behalf of a prisoner in the prisoner trust account.
- (7) If, apart from this regulation, a prisoner is entitled to receive or be credited with an amount that, if it were credited to or debited from the prisoner trust account in respect of a prisoner, would result in the amount credited to or debited from that account exceeding any maximum amount determined under subregulation (4), the prisoner's entitlement to receive or be credited with that amount is not affected by subregulation (4).

30 Expenditure of prisoner's money

- (1) A prisoner may spend money held on his or her behalf in the prisoner trust account to—
 - (a) buy personal items including toiletries, food, confectionery and stationery; and
 - (b) make telephone calls; and
 - (c) make payments to the prisoner's family members or government agencies; and
 - (d) buy or pay for other items approved by the Governor.
- (2) In addition to subregulation (1), the Governor, on receiving a request for a specified purpose from a prisoner to spend or transfer a specified amount of money from the amount held on behalf of the prisoner in the prisoner trust account, may authorise the expenditure or transfer.
- (3) The Governor must not authorise the transfer of money from the amount held on behalf of a prisoner in the prisoner trust account to the credit of another prisoner.
- (4) The Governor may deduct an amount of money from the amount held on behalf of the prisoner in the prisoner's trust account of not more than the cost of replacement or repair of property damaged or lost as a result of a negligent or wilful act or omission of the prisoner.
- (5) The Governor must report to the Secretary—
 - (a) each deduction made under subregulation (4);
 - (b) the circumstances of each deduction; and
 - (c) how the amount of each deduction was established.

31 Prisoner savings

- (1) The Governor of a prison must retain 20 per cent of remuneration paid to a prisoner for work done in prison industries or for participation in alternative educational, treatment or rehabilitation programmes on behalf of the prisoner in the prisoner trust account until the prisoner is released from prison.

Reg. 31(1A)
inserted by
S.R. No.
140/2015
reg. 6(1).

- (1A) The Secretary may—
- (a) approve of and enter into an agreement (an art program agreement) with a prisoner to participate in the sale of art and other things that have been made or produced by the prisoner at a prison in exchange for payment; and
 - (b) determine the rates to be retained on behalf of a prisoner in the prisoner's trust account from any payment or remuneration received by a prisoner under an art program agreement.

Reg. 31(1B)
inserted by
S.R. No.
140/2015
reg. 6(1).

- (1B) If a prisoner has executed an art program agreement and despite subregulation (1), the Governor must retain an amount calculated in accordance with the Secretary's determination under subregulation (1A) in the prisoner's trust account until the prisoner is released from prison.

Reg. 31(2)
amended by
S.R. No.
140/2015
reg. 6(2).

- (2) A prisoner may apply to the Governor for some, or all, of the portion of remuneration that is retained in accordance with subregulation (1) or subregulation (1B) to be paid to a relative or person appointed under a power of attorney at any time prior to his or her release from prison, or used to assist in the prisoner's transition into the community.

- (3) The Governor may authorise the expenditure of money referred to in subregulation (2) after considering—
- (a) the welfare of the prisoner; and
 - (b) the prisoner's sentence; and
 - (c) the money he or she might require upon release from prison.
- (4) Before the prisoner is released, the Governor may deduct from the money retained in accordance with subregulation (1) or subregulation (1B)—
- (a) any fine imposed under section 53 of the Act; or
 - (b) any money required to be paid by the prisoner under regulation 30.

Reg. 31(4)
amended by
S.R. No.
140/2015
reg. 6(2).

Division 9A—Paid prisoner employment outside prison

Pt 3 Div. 9A
(Heading
and regs
31A–31G)
inserted by
S.R. No.
116/2018
reg. 5.

31A Definitions

In this Division—

eligible prisoner means a prisoner who is eligible under regulation 31B to engage in paid employment outside a prison;

net earnings means wages paid to a prisoner for employment outside a prison after any deductions required under a law of the Commonwealth;

Examples

Deductions for child support or social security overpayments; Commonwealth income tax.

Reg. 31A
inserted by
S.R. No.
116/2018
reg. 5.

program means the program of allowing eligible prisoners to engage in paid employment outside a prison;

Valid Visitors List means the list administered by the Department of Justice and Regulation for recording persons who may visit or contact prisoners.

Reg. 31B
inserted by
S.R. No.
116/2018
reg. 5.

31B Eligibility to engage in paid employment outside prison

A prisoner is eligible to engage in paid employment outside a prison if the prisoner meets the following criteria—

- (a) the prisoner has not been charged with or convicted of a sexual offence referred to in Schedule 1 of the **Serious Offenders Act 2018** at any time;
- (b) the prisoner has not been charged with or convicted of a serious violent offence as defined in the **Corrections Act 1986** at any time;
- (c) the prisoner—
 - (i) has been sentenced to a minimum of 3 years imprisonment; and
 - (ii) has between 3 and 12 months still to serve, either before their earliest parole eligibility date or before the end of their sentence; and
 - (iii) is suitable for placement in a minimum security prison or in a transition centre; and
 - (iv) has no pending court matters; and

- (v) has no outstanding disciplinary matters;
and
- (vi) is entitled to work in Australia.

31C Assessment of prisoner to engage in paid employment outside prison

Reg. 31C
inserted by
S.R. No.
116/2018
reg. 5.

- (1) Subject to regulation 31D, the Secretary may approve an eligible prisoner to engage in paid employment outside a prison if the prisoner has been assessed by the Secretary as being suitable to participate in the program.
- (2) A prisoner is suitable to participate in the program if, in the opinion of the Secretary, the prisoner—
 - (a) has no current identified drug user status;
and
 - (b) has no current suicide or self-harm concerns;
and
 - (c) understands and is committed to the program; and
 - (d) has release needs that can be appropriately addressed while participating in the program;
and
 - (e) is capable of satisfying the rules and requirements expected of the program; and
 - (f) would not pose a risk to community safety if allowed to participate in the program.

31D Restriction on employment

Reg. 31D
inserted by
S.R. No.
116/2018
reg. 5.

The Secretary must not approve employment proposed to be undertaken by a prisoner if the employment—

- (a) may exacerbate any risk factors relevant to the risks of reoffending of that prisoner; or
- (b) is child-related work as defined in the **Working with Children Act 2005**; or

- (c) would result in the prisoner operating as a sole trader; or
- (d) is considered inappropriate following a security and intelligence assessment of the proposed employer by the Department of Justice and Regulation.

Reg. 31E
inserted by
S.R. No.
116/2018
reg. 5.

31E Form of approval for a prisoner to engage in paid employment outside prison

- (1) The Secretary may approve a prisoner to engage in paid employment outside a prison by entering into an agreement with the prisoner in accordance with this regulation.
- (2) The approval—
 - (a) takes effect when the agreement is signed by the Secretary and the prisoner; and
 - (b) may be revoked by the Secretary at any time.
- (3) The agreement must contain the following terms and conditions—
 - (a) the prisoner will not consume any alcoholic substance or drug of dependence before, while, or after attending their place of employment unless medically prescribed;
 - (b) while away from the prison, the prisoner will not have unapproved contact with visitors, including family members, friends or former criminal associates, regardless of whether those visitors are on the Valid Visitors List;
 - (c) unapproved, unsupervised or unscheduled contact with visitors who are not attending the place of employment on a genuine basis may result in immediate termination of the approval to participate in paid employment outside a prison;

- (d) the prisoner must go directly to the place of employment at the start of each work shift and return directly to the prison at the end of the work shift, unless otherwise approved by the Governor of the prison or, if the prisoner cannot go directly to their place of employment or return directly to prison, the prisoner must contact their employer or the prison as soon as possible;
 - (e) the prisoner must not bring contraband items from the community to the prison (for example, tobacco products, alcoholic substances or drugs of dependence);
 - (f) if the prisoner is unable to work or continue to work for any reason while outside the prison, the prisoner must return directly to the prison or, if unable to return directly, the prisoner must contact the prison as soon as possible and advise them that they are unable to work but cannot return;
 - (g) if the prisoner requires medical attention while outside the prison at any time, the prisoner or another person must contact the prison as soon as possible and inform them that the prisoner is receiving medical treatment.
- (4) The agreement must include the following written explanations to the prisoner—
- (a) the approval to engage in paid employment outside a prison does not commence until the prisoner agrees to the terms and conditions of the agreement;
 - (b) the approval may be withdrawn at any time;
 - (c) failure to comply with the terms and conditions may result in the immediate termination of the approval;

- (d) the Department of Justice and Regulation will inform the prisoner's employer that the prisoner's wages must be paid into the prisoner private monies bank account;
- (e) the amount of 20 percent of the prisoner's net earnings will be deducted by the Department of Justice and Regulation from payments made to the prisoner by their employer and allocated for the purpose of assisting victims of crime or their family members at the discretion of the Secretary;
- (f) the Department of Justice and Regulation will be in contact with the prisoner's employer to ensure they are attending the paid employment as and when agreed between the prisoner and their employer;
- (g) funds withheld in the prisoner trust account that have been paid to the prisoner by their employer will be returned to the prisoner at the end of their sentence of imprisonment and are only available to the prisoner in accordance with the procedure set out in regulation 30;
- (h) if the Department of Justice and Regulation is informed that the prisoner's work performance is unsatisfactory, or the prisoner's behaviour places the safety of any co-worker or member of the community at risk, the prisoner will not be permitted to continue to participate in paid employment;
- (i) the Department of Justice and Regulation will be in contact with the employer to ensure that the prisoner and members of the public are not at risk as a result of their behaviour while undertaking paid employment outside a prison;

- (j) the Department of Justice and Regulation will determine the appropriateness of the prisoner's work prior to commencing paid employment, and will continue to determine the appropriateness after paid employment has commenced.

31F Earnings to be paid into prisoner trust account

Subject to regulation 31G, all money paid to a prisoner undertaking paid employment outside a prison must be paid into the prisoner trust account and disbursements from this account will be made to the prisoner in accordance with regulation 30.

Reg. 31F
inserted by
S.R. No.
116/2018
reg. 5.

31G Earnings to assist victims of crime or family members

The amount of 20 percent of all net earnings paid to a prisoner undertaking paid employment outside a prison must be allocated by the Secretary for the purpose of assisting victims of crime or their family members.

Reg. 31G
inserted by
S.R. No.
116/2018
reg. 5.

Division 10—Property of prisoners

32 Bringing property into prison

- (1) A person bringing into a prison any property belonging to a prisoner or as a gift to a prisoner must surrender that property to a prison officer for inspection.
- (2) A prison officer to whom property is surrendered must—
- (a) deal with the property in accordance with any applicable provision of these Regulations; or
- (b) if the Act or these Regulations prohibit the property being given to the prisoner, return the property to the person on the person leaving the prison.

- (3) Subject to subregulation (2), the Governor must ensure that a prisoner who can keep any property referred to in subregulation (1) receives the property as soon as possible.

33 Entry of property

- (1) For the purposes of the management, good order and security of a prison, entry of the following unauthorised substances or articles to a prison is prohibited—

- (a) weapons;
- (b) drugs of dependence;
- (c) explosive substances or devices;
- (d) flammable liquids;
- (e) alcohol;

Reg. 33(1)(ea)
inserted by
S.R. No.
147/2014
reg. 20.

- (ea) tobacco product;

Reg. 33(1)(eb)
inserted by
S.R. No.
147/2014
reg. 20.

- (eb) tobacco smoking accessory;

- (f) tattooing equipment;
- (g) aerosol pressure spray cans;
- (h) equipment that may aid an escape;
- (i) all publications, films and computer games, except those classified as unrestricted or general under the Classification (Publications, Films and Computer Games) Act 1995 of the Commonwealth;
- (j) cameras or other photographic devices;
- (k) mobile telephones;

- (l) portable digital media players;
 - (m) USB storage devices;
 - (n) any other substance or article which may threaten the safety or security of the prison.
- (2) Despite subregulation (1), the Governor may approve the entry of an unauthorised substance or article if, in the opinion of the Governor, the substance or article will not threaten the management, good order and security of the prison.
- (3) For the purposes of the management, good order and security of a prison, the Governor may refuse the entry of the following controlled articles or substances to the prison—
- (a) currency;
 - (b) tools;
 - (c) pens and highlighters;
 - (d) needles and syringes;
 - (e) computer software and hardware, including computer peripherals;
 - (f) optical disk storage media;
 - (g) medication not prescribed by a prescribed class of person.

34 Storage of prisoner's property

- (1) Each Governor must ensure that a prisoner's property is stored in a secure location that is not accessible to prisoners.
- (2) Each Governor must maintain an inventory of each prisoner's property.

- (3) Despite subregulation (1), a prisoner may keep in the prisoner's cell the articles of the prisoner's property authorised by the Secretary or by the Governor.
- (4) The Secretary may set the maximum value of any property that is allowed to be stored on behalf of a prisoner under subregulation (1).
- (5) The Governor may refuse to store any property belonging to a prisoner if its value exceeds the value set by the Secretary under subregulation (4).

35 Refusal to store prisoner's property

- (1) In addition to regulation 34(5), a Governor may, at any time, refuse to store an item of a prisoner's property.
- (2) If a Governor refuses to store an item of a prisoner's property the Governor must ensure that—
 - (a) the prisoner is advised in writing that the item cannot be stored in the prison and is required to make arrangements to remove the item within a specified time; and
 - (b) if the prisoner does not make arrangements to remove the item within a specified time, the item is disposed of; and
 - (c) the disposal or other dealing with the property is recorded in the inventory of that prisoner's property.
- (3) The Governor must pay into the prisoner trust account on behalf of the prisoner any money received on the disposal of, or dealing with, the prisoner's property under subregulation (2).
- (4) The Governor may deduct from any money required to be paid under subregulation (3) an amount that is no more than the cost of disposing

of, or dealing with, the prisoner's property, under subregulation (2).

- (5) A prisoner may apply to the Governor that an item of his or her property not be disposed of under this regulation if the prisoner gives reasonable grounds that he or she is unable to make arrangements to remove the property within the specified time referred to under subregulation (2)(a).
- (6) The Governor, on receiving a request referred to in subregulation (5), may authorise the storage of an item of a prisoner's property for a specified time not exceeding 3 months.

36 Dealing with a prisoner's property

- (1) The Governor may issue to the prisoner, or to a person nominated in writing by the prisoner to receive property on the prisoner's behalf, all or part of the prisoner's property.
- (2) The Governor must not issue any of a prisoner's property to a person receiving that property on behalf of that prisoner unless that person signs a receipt acknowledging delivery of that property.
- (3) A Governor must ensure that any of a prisoner's property found in a prison that the Secretary has forbidden to be kept in a prison is seized and dealt with according to regulation 74.

37 Transfer of prisoner's property

- (1) The Secretary may determine the amount of a prisoner's property that may be transferred with the prisoner from one prison to another.
- (2) If any of a prisoner's property is not to be transferred with the prisoner because the amount referred to in subregulation (1) has been exceeded, the Governor of the prison where the property is held must ensure—

- (a) that the prisoner is advised in writing that the property cannot be transferred and that the prisoner is required to make arrangements to remove the property within a specified time; and
 - (b) if the prisoner does not make arrangements to remove the property within a specified time, that the property is disposed of; and
 - (c) that the disposal or other dealing with the property is recorded in the inventory of that prisoner's property.
- (3) The Governor must pay into the prisoner trust account on behalf of the prisoner any money received on the disposal of, or dealing with, the prisoner's property under subregulation (2).
- (4) The Governor may deduct from any money required to be paid under subregulation (3) an amount that is no more than the cost of disposing of, or dealing with, the prisoner's property, under subregulation (2)(b).

38 Giving or selling of prisoner's property

- (1) Except as authorised by the Act or these Regulations, a prisoner must not give or sell any of the prisoner's property to another prisoner.
- (2) Except as authorised by the Act or these Regulations, a prisoner's property must not be received or bought by another prisoner or a prison officer.
- (3) In this regulation, *officer* means an officer under Part 5 or Part 9 of the Act.

39 Deceased prisoner's personal effects

- (1) Upon completion of a coroner's inquest into the death of a prisoner, the Governor must arrange for the prisoner's personal effects and any money standing to the credit of the prisoner in the

prisoner trust account to be delivered to the executor or administrator of the deceased prisoner's estate.

- (2) At any time before a coroner's inquest into a prisoner's death is completed, the Governor may at the request of the executor or administrator of the deceased's prisoner's estate deliver the prisoner's personal effects and any money standing to the credit of the prisoner in the prisoner trust account to the executor or administrator.

Division 11—Work and remuneration

40 Remuneration

- (1) Unless a prisoner is working in an essential work programme determined by the Governor, a prisoner must be paid up to a maximum of 30 hours per week—
 - (a) for work done by the prisoner in a prison industry; and
 - (b) for participation in educational, treatment and rehabilitation programmes.
- (2) A prisoner must be paid a minimum rate if the prisoner is—
 - (a) on remand; or
 - (b) in police custody; or
 - (c) unable to work due to illness, disability or age.
- (3) If a prisoner refuses to work, or is dismissed from work, that prisoner is not entitled to be paid, but must be supplied with essential toiletries.

Note

Essential toiletries include soap, toothpaste and, for women, sanitary products.

- (4) The Secretary must determine the rates of remuneration to be paid to prisoners under subregulations (1) and (2), having regard to—
 - (a) the cost of items in regulation 30(1)(a) and (b); and
 - (b) the payments made to prisoners in other Australian jurisdictions.
- (5) The Secretary must annually review the minimum levels of remuneration determined under subregulation (4).

41 Dismissal from work

- (1) A Governor may dismiss from work a prisoner who—
 - (a) is consistently idle or disruptive; or
 - (b) is charged with a prison offence where the offence alleged prevents or impacts on the prisoner participating in work.
- (2) A Governor may dismiss from work a prisoner who is an unsatisfactory worker.

Division 12—Prisoner privileges

42 Prisoner privileges

- (1) Annually, the Commissioner must submit to the Secretary, for the Secretary's approval, a list of prisoner privileges to operate in the prisons for all prisoners on general or special classifications.
- (2) The Secretary may approve or refuse to approve the list submitted under subregulation (1), or approve it with changes and may, at any time, delete from or add to the list of prisoner privileges to operate in a prison.
- (3) The privileges for the time being appearing in a list approved under this regulation are the privileges determined for the prison.

Division 13—Children of prisoners

43 Temporary placement of prisoner's children

- (1) This regulation applies if a prisoner requests that his or her child be permitted to live with him or her in the prison under section 31 of the Act.
- (2) Pending the determination of the request, the Secretary may permit the prisoner's child to live with the prisoner in the prison.
- (3) The Secretary may revoke his or her permission under subregulation (2) at any time.
- (4) Subject to the management, security and good order of the prison and the safe custody and welfare of the prisoners, the prisoner is responsible for the safety and care of his or her child while the child lives in the prison if the child is permitted to live in the prison under this regulation.

44 Placement of prisoner's children

- (1) A request by a prisoner under section 31 of the Act must be made in writing.
- (2) The Secretary must—
 - (a) ensure that a written report of his or her assessment of any request made under section 31 of the Act is made; and
 - (b) ensure that a copy of the report is sent to the relevant Governor; and
 - (c) advise the prisoner, in writing, whether the request under subregulation (1) has been permitted.

45 Review of placement

The Secretary must review at least annually the case of each child of a prisoner living in a prison to assess whether the continued placement of the

child is in the child's best interest and in the interest of prison security and must give the Governor any directions that are necessary because of the assessment.

46 Record of children living in prison

A Governor must—

- (a) keep a record of all children of prisoners living in the prison; and
- (b) provide a copy of all records referred to in paragraph (a) to the Secretary; and
- (c) report to the Secretary any accident or injury involving a child of a prisoner living in the prison.

47 Restrictions on children

A Governor may restrict the movement about a prison of a child of a prisoner living in the prison if the Governor considers the restriction necessary to maintain the good order and security of the prison and to ensure the safety of the child.

Division 14—Custodial community permits

48 Issue of permit

The Secretary may issue a custodial community permit if he or she is satisfied that—

- (a) the purpose for which the application is made is a purpose under section 57(1) of the Act; and
- (b) adequate consideration has been given to the safety and welfare of the prisoner and members of the public; and
- (c) facilities exist for the provision of adequate and suitable escort and transport where necessary.

49 Conditions of permit

In addition to any condition stated in a custodial community permit issued by the Secretary, the permit is subject to the conditions that—

- (a) the prisoner is to be of good behaviour; and
- (b) the prisoner must not consume alcohol; and
- (c) the prisoner must comply with all lawful orders given by an escorting or supervising officer; and
- (d) the prisoner may be returned to the prison if the escorting or supervising officer reasonably believes that there has been a breach of the permit or failure to comply with an order or direction given by the officer; and
- (e) a copy of the custodial community permit is to be retained by the prisoner when unescorted for the duration of the permit period; and
- (f) the prisoner must not use non-prescribed drugs; and
- (g) the prisoner must comply with all times of attendance as stated in the permit.

Division 15—Smoking

49A Offence to smoke at a prison

A person must not smoke or use a tobacco product at a prison or in any part of a prison.

Penalty: 10 penalty units.

Pt 3 Div. 15
(Heading and
reg. 49A)
inserted by
S.R. No.
147/2014
reg. 21.

Reg. 49A
inserted by
S.R. No.
147/2014
reg. 21.

Pt 3 Div. 16
(Heading and
reg. 49B)
inserted by
S.R. No.
3/2018 reg. 5.

Division 16—Remotely piloted aircraft or helicopters

Reg. 49B
inserted by
S.R. No.
3/2018 reg. 5.

49B Prescribed persons allowed to operate remotely piloted aircraft or helicopter

For the purposes of section 32A(1) of the Act,
a person employed by the Department in
Corrections Victoria and acting in the course
of their employment is a prescribed person.

Part 4—Prison discipline

Division 1—General

50 Prison offences

- (1) A prisoner must not—
- (a) assault or threaten another person; or
 - (b) act in a disruptive, abusive, offensive, racist, discriminatory or indecent manner, whether by language or conduct; or
 - (c) engage in gambling; or
 - (d) traffic in unauthorised articles or substances; or
 - (e) have in his or her possession an article or substance, unless the article or substance—
 - (i) has been issued or authorised by an officer, or
 - (ii) has been prescribed by a medical officer, medical practitioner or dentist, or
 - (iii) is permitted under the Act or these Regulations; or
 - (f) take or use alcohol, a drug of dependence or possess an unauthorised substance or article that has not been lawfully issued to the prisoner or take or use alcohol or a drug of dependence lawfully issued in a manner that was not prescribed or authorised; or
 - (g) smoke or use a tobacco product; or

**Reg. 50(1)(g)
substituted by
S.R. No.
147/2014
reg. 22.**

- (h) misuse telephones to threaten people receiving the calls or to speak to people who are not approved by the Governor; or
- (i) use communication devices, including radios and mobile telephones, which are not approved by the Governor; or
- (j) misuse computers or other electronic equipment accessed by installing, using or possessing hardware, programmes, software or other material which are not approved by the Commissioner; or
- (k) send a letter or parcel if the letter or parcel—
 - (i) is a threat to prison security; or
 - (ii) may be of a threatening nature; or
 - (iii) may be used to further an unlawful activity or purpose; or
 - (iv) contains indecent, abusive, threatening or offensive written or pictorial material, or material which a victim may regard as distressing or traumatic; or
 - (v) contains an indecent, obscene or offensive article or substance; or
- (l) receive a letter or parcel where the prisoner knows that the letter or parcel—
 - (i) is a threat to prison security; or
 - (ii) may be of a threatening nature; or
 - (iii) may be used to further an unlawful activity or purpose; or

- (iv) contains indecent, abusive, threatening or offensive written or pictorial material, or material which a victim may regard as distressing or traumatic; or
- (v) contains an indecent, obscene, offensive or unauthorised article or substance; or
- (m) act in a way which is detrimental to or threatens prison property; or
- (n) without the direction or permission of an officer—
 - (i) be in a place where he or she is not permitted to be; or
 - (ii) leave the place where he or she is required to be; or
- (o) work in a careless or negligent way; or
- (p) disobey a lawful order, direction or instruction of an officer; or
- (q) fail to comply with a direction under section 29A of the Act; or
- (r) in relation to tests conducted under section 29A of the Act—
 - (i) interfere with a test or sample; or
 - (ii) adulterate or substitute a sample; or
- (s) give, sell or receive any of a prisoner's property to another prisoner; or
- (t) damage another prisoner's property; or
- (u) commit an act or omission that is contrary to the security or safety of the prison or the prisoners; or
- (v) attempt any of the above.

- (2) A prisoner contravenes subregulation (1)(q) if he or she has not provided a sample of his or her urine within 3 hours of being directed to do so under section 29A of the Act.

Division 2—Governor's hearing

51 Conduct of disciplinary officers

Before being satisfied that a prison offence has occurred for which it is appropriate to charge a prisoner, the disciplinary officer, in investigating the alleged offence, must—

- (a) review all reports; and
- (b) interview relevant staff; and
- (c) seek additional evidence, if necessary; and
- (d) interview the prisoner, putting the allegation and recording the response; and
- (e) check any relevant prison registers; and
- (f) consider any special needs or circumstances of the prisoner.

52 Conduct of Governor's hearing

In conducting a Governor's hearing, the Governor—

- (a) in addition to ensuring that the hearing is conducted in accordance with the Act, must ensure that it is also conducted in accordance with this Division;
- (b) must ensure that the proceedings are conducted with as little formality and technicality and as expeditiously as the requirements of the Act and these Regulations and a proper consideration of the matters before the Governor's hearing permit; and

- (c) is not bound by the rules of evidence but may be informed on any matter in such manner as the Governor thinks appropriate.

53 Prisoner must be given details of the charge and hearing procedure

A Governor who is required to give a prisoner a notice under section 53(1) of the Act of the time, date and place of the hearing must also, on giving notice, give the prisoner written advice of—

- (a) the charge; and
- (b) the procedure of a Governor's hearing.

54 Preliminary steps if prisoner present at the hearing

- (1) If a prisoner charged with a prison offence attends the hearing of the charge—
 - (a) the prisoner must be informed of the procedure for the hearing; and
 - (b) the charge must be read to the prisoner; and
 - (c) the prisoner must be given an opportunity to state his or her plea.
- (2) The charge must include—
 - (a) the name of the informant; and
 - (b) the details of the place of the alleged contravention; and
 - (c) the details of the relevant provision of the Act or Regulations allegedly contravened.

55 Procedure if prisoner pleads not guilty

If the prisoner does not plead guilty—

- (a) the informant must present evidence to support the charge; and
- (b) the informant must be given a reasonable opportunity to call relevant witnesses; and

- (c) the prisoner or the prisoner's representative must be given a reasonable opportunity to cross-examine the informant and the informant's witnesses (if any); and
- (d) the Governor must decide whether there is sufficient evidence to warrant proceeding with the charge and must dismiss the charge if he or she decides there is insufficient evidence to warrant proceeding with the charge; and
- (e) if the Governor does not dismiss the charge, the prisoner or the prisoner's representative must be given a reasonable opportunity to present the prisoner's case, including calling relevant witnesses; and
- (f) the informant must be given a reasonable opportunity to cross-examine the prisoner and the prisoner's witnesses (if any); and
- (g) if the Governor does not dismiss the charge, he or she must decide whether the prisoner is guilty or not guilty of the prison offence after hearing all the evidence presented in accordance with this regulation; and
- (h) if the Governor finds the prisoner guilty of the prison offence, the Governor must determine the penalty.

56 Procedure if prisoner pleads guilty

If the prisoner pleads guilty, the Governor must—

- (a) review the circumstances of the case; and
- (b) consider mitigating factors; and
- (c) invite the prisoner to make a plea concerning penalty; and
- (d) determine the penalty.

57 Procedure if prisoner not present when charge heard

If a prisoner charged with a prison offence does not attend the hearing of the charge—

- (a) the charge must be read, including—
 - (i) the name of the informant; and
 - (ii) details of the place of the alleged contravention; and
 - (iii) details of the relevant provision of the Act or regulations allegedly contravened;
- (b) a plea of not guilty must be recorded on behalf of the absent prisoner, following which—
 - (i) the informant must present evidence that notice of the charge was served on the prisoner; and
 - (ii) the informant must present evidence to support the charge; and
 - (iii) the informant must be given a reasonable opportunity to call relevant witnesses; and
 - (iv) the Governor must decide if there is sufficient evidence to warrant proceeding with the charge and must dismiss the charge if he or she decides there is insufficient evidence to warrant proceeding with the charge; and
 - (v) if the Governor does not dismiss the charge, he or she must decide whether the prisoner is guilty or not guilty of the prison offence after hearing all the evidence presented in accordance with this regulation; and

- (vi) if the Governor finds the prisoner guilty of the prison offence, the Governor must proceed to determine the penalty.

58 Governor may dismiss charge any time after plea recorded

Despite regulations 55 to 57, the Governor may dismiss a charge against a prisoner at any time after—

- (a) the prisoner is given an opportunity to state his or her plea; or
- (b) a plea of not guilty has been recorded on behalf of the prisoner, if the prisoner did not attend the hearing.

59 Steps to be taken once Governor's decision made

After determining the guilt of a prisoner charged with a prison offence, the Governor must—

- (a) inform the prisoner of the Governor's decision; and
- (b) record that decision and the penalty imposed (if any) in the form determined by the Secretary; and
- (c) record the prisoner's admission of guilt (if any) in the form determined by the Secretary; and
- (d) authorise in writing the payment of any fine imposed under section 53 of the Act out of the amount of money held on behalf of the prisoner in the prisoner trust account; and
- (e) record the withdrawal (if any) of money under paragraph (d).

Part 5—Access to prisoners

Division 1—Professional and independent prison visitors

Part 5 Div. 1
(Heading)
amended by
S.R. No.
12/2014
reg. 7(3).

60 Visits by lawyers to prisoners in prison

- (1) A lawyer acting in the course of a lawyer's practice may enter a prison and visit a prisoner between 8.30 a.m. and 3.30 p.m. or at other times authorised by the Governor of a prison.
- (2) A lawyer visiting a prisoner under these Regulations may exchange legal documents, in a format approved by the Secretary, with the prisoner.
- (3) The provisions of these Regulations relating to letters and parcels sent to or by prisoners apply to legal documents exchanged under subregulation (2).
- (4) A prisoner may retain legal documents in the prisoner's possession, subject to reasonable quantity limits imposed by the Governor.

61 Visits to prisoners awaiting trial

A prisoner who is in the custody of a prison officer or an escort officer and is at court awaiting trial must be given an opportunity to have access to a lawyer but, in arranging access, the officer having custody of the prisoner must take any action which the officer considers reasonable to protect the lawyer's safety, the safe custody of the prisoner and to make security arrangements in respect of the prisoner.

62 Visits by police

A police officer may enter a prison and visit a prisoner between 8.00 a.m. and 3.30 p.m. or at other times authorised by the Governor of a prison.

Reg. 62
amended by
S.R. No.
147/2014
reg. 8.

63 Visit by an independent prison visitor

Reg. 63
(Heading)
amended by
S.R. No.
12/2014
reg. 7(4).

Reg. 63(1)
amended by
S.R. No.
12/2014
reg. 7(5)(a)(b).

- (1) A Governor must ensure that prisoners and officers are informed of the time and date of an independent prison visitor's visit to a prison as soon as practicable after the Governor is notified by the independent prison visitor of the independent prison visitor's intention to visit the prison.

Reg. 63(2)(a)
amended by
S.R. No.
12/2014
reg. 7(5)(b).

- (2) The Governor must—

- (a) bring to the attention of the independent prison visitor the names of officers and prisoners who have requested to see the independent prison visitor; and
- (b) make the necessary arrangements for the independent prison visitor to interview those officers and prisoners.

Reg. 63(2)(b)
amended by
S.R. No.
12/2014
reg. 7(5)(b).

Reg. 63(3)
amended by
S.R. No.
12/2014
reg. 7(5)(b).

- (3) The independent prison visitor may—
 - (a) interview an officer in private; and
 - (b) subject to a direction of the Governor made in the interest of prison security, interview the prisoner out of the hearing, but in the sight, of a prison officer.

Reg. 63(4)
amended by
S.R. No.
12/2014
reg. 7(5)(b)(c).

- (4) The Governor must ensure that during an independent prison visitor's visit, the independent prison visitor is given access to every part of the prison that is necessary in order for the independent prison visitor to perform the duties of the independent prison visitor.

Division 2—Contact and residential visiting programmes

64 Contact and residential visiting programmes

- (1) The instrument approving a contact visiting programme or a residential visiting programme under section 38 of the Act must specify—
 - (a) the nature of the programme; and
 - (b) the persons who are eligible to participate in the programme; and
 - (c) the conditions of participation in the programme.
- (2) If the Secretary approves a contact visiting programme or a residential visiting programme, the Governor must ensure that notices are posted in the prison informing prisoners of the details of the programme.

Division 3—Visits to prisoners in hospital

65 Visits to prisoners at a hospital or other medical facility

- (1) A person, other than a person acting under section 34, 40(1) or 41(1) of the Act or who is required to visit the prisoner in the course of his or her duties under the Act or Regulations, must not enter a hospital for the purpose of visiting a prisoner at a hospital or other medical facility without the permission (subject to any conditions) of the Governor of the prison at which the prisoner was held before entering hospital.
- (2) Subregulation (1) does not include a person who is employed at a hospital or other medical facility and is required to visit the prisoner in the course of his or her duties.

- (3) If a prisoner is seriously ill, the Governor must—
 - (a) advise—
 - (i) the prisoner's next of kin, if known; or
 - (ii) the person nominated by the prisoner as the relative or other person to be contacted in emergencies; and
 - (b) permit visits by those persons referred to in paragraph (a) as are appropriate.
- (4) Subregulation (1) does not affect a prisoner's right to visits under section 47(1)(k) of the Act.

Division 4—Conditions of visits

66 Information to be given by a visitor

- (1) A person who wishes to enter or has entered a prison as a visitor must, if asked by a prison officer—
 - (a) sign the register kept for the purpose of recording visits; and
 - (b) allow the prison officer to sight at least one document confirming his or her identity to the satisfaction of the prison officer.
- (2) Subject to subregulation (1), a person who wishes to enter or has entered a hospital or other medical facility for the purpose of visiting a prisoner must, if asked by a prison officer or an escort officer, allow the officer to sight at least one document confirming his or her identity to the reasonable satisfaction of the officer.

67 Compliance with terms of visit

- (1) For the purposes of the security, good order and management of a prison, the Governor may determine terms and conditions that apply to visits by visitors to the prison and must take all steps that the Governor considers reasonable to bring those terms and conditions to the attention of visitors to, or persons seeking to visit, the prison.
- (2) For the purposes of the security or safety of a prisoner, or the safety of a visitor to a prisoner, authorised to be absent from a prison under a custodial community permit, the Governor of the prison from which a prisoner is absent may determine the terms and conditions that apply to visits by visitors to a prisoner, and must take all steps that the Governor considers reasonable to bring those terms and conditions to the attention of visitors to, or persons seeking to visit, the prisoner.
- (3) Subject to subregulation (5), a prison officer or an escort officer may order a visitor to leave the prison if the visitor does not comply with the terms and conditions of the visit prescribed by the Governor.
- (4) An order made under subregulation (3) applies for the time fixed by the Governor, having regard to the management, security and good order of the prison and the safe custody and welfare of the prisoners.
- (5) A prison officer or an escort officer must not order—
 - (a) a judge of the Supreme Court or the County Court;
 - (b) a magistrate;
 - (c) the Minister;

Reg. 67(5)(e)
amended by
S.R. No.
12/2014
reg. 7(6).

- (d) the Secretary;
- (e) an independent prison visitor;

Reg. 67(5)(f)
substituted by
S.R. No.
15/2013 reg. 8.

- (f) an Ombudsman officer;
- (g) a member of the Adult Parole Board;
- (h) a person authorised by the Secretary under section 8E of the Act to have free and unfettered access at all times to a prison, and his or her assistants;
- (i) an administrator appointed by the Minister under section 8F of the Act, and his or her assistants;
- (j) a monitor appointed under section 9D of the Act—

to leave the prison.

- (6) A person must comply with an order made under subregulation (3).

Penalty: 5 penalty units.

68 Refusal of entry

If a Governor refuses a person entry into a prison to visit a prisoner, or by order under section 58C of the Act prohibits a person from visiting a prisoner, the Governor must—

- (a) record the refusal or order in writing; and
- (b) if requested, provide the person with a written notice of the refusal or order as soon as practicable.

Part 6—Search, seizure and testing

Division 1—Search of prisoners

69 Strip searches at prisons

- (1) Under this regulation—
 - (a) at least two officers may conduct a strip search; but
 - (b) the search must not be conducted by more officers than is reasonably necessary to ensure the safety of the officers and the prisoner.
- (2) An escort officer or a prison officer referred to in subregulation (1) must not conduct a strip search unless the Governor, or an officer authorised by the Governor, believes on reasonable grounds that a strip search is necessary for the security and good order of the prison in the following situations—
 - (a) when a prisoner leaves or enters a prison;
 - (b) prior to or on completion of a contact visiting programme or a residential visiting programme;
 - (c) prior to the testing of substances referred to under regulation 76.
- (3) In addition to subregulation (2), the Governor, or an officer authorised by the Governor, may direct an escort officer or a prison officer to strip search a prisoner at any other time if the Governor or authorised officer believes on reasonable grounds that it is necessary for the security or good order of the prison or the prisoners.

- (4) In addition to subregulations (2) and (3), the Governor, or an officer authorised by the Governor, may direct an escort officer or a prison officer to strip search a prisoner at any other time if the Governor or authorised officer believes on reasonable grounds that a prisoner is concealing anything that—
- (a) is an unauthorised substance or article;
 - (b) might be used in a way that involves—
 - (i) intimidating another person; or
 - (ii) an offence or disciplinary breach; or
 - (iii) a risk to the personal safety of anyone at a prison; or
 - (iv) a risk to security or good order at a prison.
- (5) A strip search of a prisoner may be conducted immediately after any scanning search, garment search or pat-down search.
- (6) Under this regulation, all escort officers or prison officers involved in a strip search must ensure that—
- (a) the strip search is conducted as expeditiously as possible to minimise the impact on the prisoner's dignity and self-respect, avoiding any unnecessary force; and
 - (b) the strip search is conducted in a private place or an area that—
 - (i) provides reasonable privacy for the prisoner being searched; and
 - (ii) is only in the presence or sight of any person necessary to ensure the safety of escort officers, prison officers and the prisoner; and

- (c) subject to section 23(2) of the Act, the strip search does not involve touching the prisoner's body; and
 - (d) the prisoner is allowed to dress in private immediately after the search is finished; and
 - (e) if clothing from a prisoner is seized during a strip search, an escort officer or a prison officer provides the prisoner with appropriate clothing to wear; and
 - (f) the prisoner is not searched by a person of the opposite sex, except where the search is urgently required and a person of the same sex as the person to be searched is unavailable to conduct the search.
- (7) If a prisoner is strip searched under this regulation, the Governor must keep a register containing at least the following information—
- (a) the name of the person searched;
 - (b) the reason for the search;
 - (c) the date and time the search was conducted;
 - (d) the name of all escort officers and prison officers present at any time during the search; and
 - (e) details of anything seized during the search.

70 Random searches

- (1) In addition to regulation 69, the Governor, if he or she determines it is necessary for the detection or prevention of an unauthorised substance or article, may direct a prison officer to search a random sample of prisoners.
- (2) A search under this regulation does not include a strip search.

Division 2—Searches of persons other than prisoners

71 Searches of persons other than prisoners

Reg. 71(1)
amended by
S.R. No.
3/2018 reg. 6.

- (1) Before conducting a search of a person other than a prisoner under section 45(1) or (2) of the Act, the prison officer authorised by the Governor must—
 - (a) inform the person of his or her authority to conduct the search; and
 - (b) inform the person of the reason for the search in that particular case; and
 - (c) inform the person that the person may refuse the search; and
 - (d) inform the person of the consequences of refusal, which may include—
 - (i) refusing the person's participation in contact visits with a prisoner; or
 - (ii) refusing any visits by the person with a prisoner for a fixed time; or
 - (iii) refusing any visits to any prison or any prisoner for a fixed time.
- (2) If a person other than a prisoner consents to a search, the prison officer authorised by the Governor must—
 - (a) ask the person if he or she has in his or her possession an article or substance which may threaten the good order or security of the prison; and
 - (b) ask the person to produce any article or substance referred to in paragraph (a); and
 - (c) provide the person with the opportunity to respond to the requests referred to in paragraphs (a) and (b); and

- (d) record the person's responses to the requests referred to in paragraphs (a) and (b); and
 - (e) record any other details required by the Secretary.
- (3) A person other than a prisoner who is about to be searched may request that a person who accompanied the person to the prison or another person of the same sex who is at the prison, other than a prisoner, be present during the search.
- (4) Under this regulation—
- (a) at least two officers may conduct a strip search; and
 - (b) subject to subregulation (3), the search must not be conducted by more officers than is reasonably necessary to ensure the safety of officers and the person being searched.
- (5) The Governor, or an officer authorised by the Governor, may direct a prison officer or an escort officer to strip search a person under this regulation at any time if the Governor or authorised officer suspects, on reasonable grounds, that the person is concealing anything that—
- (a) is an unauthorised substance or article; or
 - (b) might be used in a way that involves—
 - (i) intimidating another person; or
 - (ii) an offence or disciplinary breach; or
 - (iii) a risk to the personal safety of anyone at a prison; or
 - (iv) a risk to security or good order at a prison.

- (6) A strip search of a person under this regulation may be conducted immediately after any scanning search, garment search or pat down search.
- (7) Under this regulation, all prison officers or escort officers involved in a strip search must ensure that—
- (a) a strip search is conducted as expeditiously as possible and with regard to the decency and self-respect of the person searched; and
 - (b) a strip search is conducted in a private place or an area that—
 - (i) provides reasonable privacy for the person being searched; and
 - (ii) in addition to subregulation (3) is only in the presence or sight of any person necessary to ensure the safety of officers and the prisoner; and
 - (c) the strip search does not involve any touching of the person's body; and
 - (d) the person is allowed to dress in private immediately after the search is finished; and
 - (e) if clothing from a person is seized during a strip search, an officer provides the person with appropriate clothing to wear; and
 - (f) the person is not searched by a person of the opposite sex, except where the search is urgently required and a person of the same sex as the person to be searched is unavailable to conduct the search.
- (8) If a person is strip searched under this regulation, the Governor must keep a register containing at least the following information—
- (a) the name of the person searched;

- (b) the name of any person whose presence is authorised under subregulation (3);
- (c) the reason for the search;
- (d) the date and time the search was conducted;
- (e) the name of the officers present at any time during the search;
- (f) details of anything seized during the search.

71A Searches of persons or vehicles—remotely piloted aircraft and helicopter ban

Reg. 71A
inserted by
S.R. No.
3/2018 reg. 7.

- (1) Before conducting a search of a person under section 45(2A) or (2B) of the Act, the escort officer or police officer must do the following—
 - (a) inform the person of the officer's authority to conduct the search;
 - (b) inform the person of the reason for the search in that particular case;
 - (c) ask the person if the person has any thing in their possession which may threaten the good order or security of the prison, including a remotely piloted aircraft or helicopter;
 - (d) ask the person to produce any thing referred to in paragraph (c);
 - (e) provide the person with the opportunity to respond to the requests referred to in paragraphs (c) and (d);
 - (f) record the person's responses to the requests referred to in paragraphs (c) and (d);
 - (g) record any other details required by the Secretary.
- (2) A person who is about to be searched may request that a person who is accompanying the person be present during the search.

- (3) For the purposes of section 45(2D) of the Act, a search of a person must—
 - (a) be conducted only by either one or more of a scanning search, a garment search or a pat-down search; and
 - (b) not be conducted by more officers than is reasonably necessary to ensure the safety of the officers and the person being searched.
- (4) For the purposes of section 45(2D) of the Act, a search of a vehicle must be conducted in one or more of the following ways—
 - (a) an officer examining the exterior and interior of the vehicle;
 - (b) an officer passing an electronic metal detection device over or in close proximity to the vehicle.
- (5) Nothing in this regulation affects any other power a police officer may have in relation to the search of a person or vehicle.

Division 3—Concealing or leaving articles

72 Concealing or leaving articles

A person must not conceal or leave an article in any place in a prison without the permission of the Governor with the intent that the article be found or received by, or conveyed to, a prisoner.

Penalty: 10 penalty units.

Division 4—Seizure

73 Register of articles or substances seized

- (1) The Governor of a prison must establish and maintain a register of all articles or substances seized in the prison.
- (2) The Governor must ensure that, in respect of each article or substance seized in the prison, an entry is made in the register that contains—
 - (a) a description that includes the quantity (if known) of the article or substance; and
 - (b) the name of the person from whom the article or substance was seized; and
 - (c) the name and address of the owner of the article or substance seized (if known); and
 - (d) the time and date of the seizure; and
 - (e) the name and signature of the escort officer or prison officer who seized the article or substance; and
 - (f) information about how the article or substance was dealt with under regulation 74.
- (3) In addition, if a firearm, explosive substance or quantity of a drug of dependence seized in the prison is given to a police officer under regulation 74(2), the register must contain the name, rank, number and signature of that police officer.

Reg. 73
amended by
S.R. No.
147/2014
reg. 9,
substituted by
S.R. No.
140/2015
reg. 7.

74 Dealing with articles or substances seized

- (1) The Governor of a prison must ensure that an article or substance seized in the prison is dealt with in accordance with this regulation.

Reg. 74
amended by
S.R. No.
147/2014
reg. 10,
substituted by
S.R. No.
140/2015
reg. 7.

- (2) The Governor must ensure that a firearm, explosive substance or drug of dependence seized in the prison is given to a police officer as soon as possible.
- (3) The Governor must direct that any other article or substance seized in the prison is dealt with by one or more of the following methods—
 - (a) retention of the article or substance as evidence;
 - (b) disposal of the article or substance in a manner allowed by law;
 - (c) return of the article or substance to the owner of the article or substance (if reasonably practicable);
 - (d) storage of the article or substance as a part of the property of the prisoner from whom the article or substance was seized;
 - (e) declaration of the article or substance as forfeit to the Crown if the article or substance was involved in the commission of an offence;
 - (f) dismantling of the article in a manner allowed by law;
 - (g) dealing with the article or substance in a manner that is appropriate to the nature of the article or substance and the circumstances under which it was seized.

Reg. 74AA
inserted by
S.R. No.
3/2018 reg. 8.

74AA Register of things seized—remotely piloted aircraft and helicopter ban

- (1) The Governor of a prison must establish and maintain a register of all things seized under section 46(1A) of the Act.

- (2) The Governor must ensure that, in respect of each thing seized, an entry is made in the register that contains—
- (a) a description that includes the quantity (if known) of the thing; and
 - (b) the name of the person from whom the thing was seized; and
 - (c) the name and address of the owner of the thing seized (if known); and
 - (d) the time and date of the seizure; and
 - (e) the name and signature of the escort officer who seized the thing; and
 - (f) information about how the thing was dealt with under regulation 74AB.
- (3) In addition, if a firearm, explosive substance or quantity of a drug of dependence seized under section 46(1A) of the Act is given to a police officer under regulation 74AB(2), the register must contain the name, rank, number and signature of that police officer.

74AB Dealing with things seized—remotely piloted aircraft and helicopter ban

Reg. 74AB
inserted by
S.R. No.
3/2018 reg. 8.

- (1) The Governor of a prison must ensure that a thing seized under section 46(1A) of the Act is dealt with in accordance with this regulation.
- (2) The Governor must ensure that a firearm, explosive substance or drug of dependence seized under section 46(1A) of the Act is given to a police officer as soon as possible.
- (3) The Governor must direct that any other thing seized under section 46(1A) of the Act is dealt with by one or more of the following methods—
- (a) retention of the thing as evidence;

- (b) disposal of the thing in a manner allowed by law;
- (c) return of the thing to the owner or the person from whom it was seized (if reasonably practicable);
- (d) declaration of the thing as forfeit to the Crown if the thing was involved in the commission of an offence under section 32A(1) of the Act;
- (e) dismantling of the thing in a manner allowed by law;
- (f) dealing with the thing in a manner that is appropriate to the nature of the thing and the circumstances under which it was seized.

Reg. 74A
inserted by
S.R. No.
140/2015
reg. 8.

74A Register of articles or substances seized by escort officers

- (1) For the purposes of section 55H(2) of the Act, the Secretary must establish and maintain a register of all articles or substances seized by an escort officer who is transporting or supervising a prisoner.
- (2) The escort officer must ensure that, in respect of each article or substance seized by an escort officer, an entry is made in the register that contains—
 - (a) a description that includes the quantity (if known) of the article or substance; and
 - (b) the name of the person from whom the article or substance was seized; and
 - (c) the name and address of the owner of the article or substance seized (if known); and
 - (d) the time and date of the seizure; and
 - (e) the name and signature of the escort officer who seized the article or substance; and

- (f) information about how the article or substance was dealt with under regulation 74B.
- (3) In addition, if a firearm, explosive substance or quantity of a drug of dependence seized by an escort officer is given to a police officer under regulation 74B(2), the register must contain the name, rank, number and signature of that police officer.

74B Dealing with articles or substances seized by escort officers

Reg. 74B
inserted by
S.R. No.
140/2015
reg. 8.

- (1) For the purposes of section 55H(2) of the Act, the Secretary must ensure that an article or substance seized by an escort officer is dealt with in accordance with this regulation.
- (2) The Secretary must ensure that a firearm, explosive substance or drug of dependence seized by an escort officer is given to a police officer as soon as possible.
- (3) The Secretary must direct that any other article or substance seized by an escort officer is dealt with by one or more of the following methods—
 - (a) retention of the article or substance as evidence;
 - (b) disposal of the article or substance in a manner allowed by law;
 - (c) return of the article or substance to the owner of the article or substance (if reasonably practicable);
 - (d) storage of the article or substance as a part of the property of the prisoner from whom the article or substance was seized;

- (e) declaration of the article or substance as forfeit to the Crown if the article or substance was involved in the commission of an offence;
- (f) dismantling of the article in a manner allowed by law;
- (g) dealing with the article or substance in a manner that is appropriate to the nature of the article or substance and the circumstances under which it was seized.

Division 5—Testing of substances

75 Taking of samples of drugs and alcohol

- (1) A prison officer or an escort officer may take for analysis a sample of a substance that the officer believes to be a drug of dependence or alcohol that is found in the possession of a prisoner and that was not lawfully issued to the prisoner.
- (2) The prison officer or escort officer who takes a sample of a substance that the officer believes to be a drug of dependence or alcohol must as soon as possible advise the Governor accordingly.
- (3) The Governor must ensure that—
 - (a) a sample of a substance believed to be a drug of dependence or alcohol taken under subregulation (1) is sealed in a container; and
 - (b) the container is labelled in the presence of the prisoner in whose possession the substance believed to be a drug of dependence or alcohol was found with the following details—
 - (i) the name of the prisoner in whose possession the substance believed to be a drug of dependence or alcohol was found;

- (ii) the type and quantity of sample;
 - (iii) the name and signature of the officer who took the sample;
 - (iv) the time and date the sample was taken.
- (4) The Governor must ensure that samples of substances believed to be drugs of addiction or drugs of dependence or alcohol taken under subregulation (1) are delivered to the appropriate testing agency.

76 Analysis of sample

- (1) An analyst who conducts tests on a sample must—
- (a) complete a certificate in the form of Schedule 3; and
 - (b) forward that certificate to the relevant Governor.
- (2) In this regulation *analyst* means a person employed by the Government of Victoria as an analyst or a person approved for the time being as an analyst under the **Health Act 1958** for the analyses of food or drugs.

77 Breath tests

- (1) Each Governor must maintain a register of each required breath test, which identifies—
- (a) the name of the escort officer or prison officer conducting the test; and
 - (b) the date and the time of the test; and
 - (c) the name of the prisoner tested; and
 - (d) the breath analysing instrument used; and
 - (e) whether the instrument was in proper working order; and

- (f) whether the instrument was properly operated by the officer; and
 - (g) the result of the test, in grams of alcohol per 100 millilitres of blood, expressed as a percentage.
- (2) The escort officer or prison officer conducting a breath test under section 29A of the Act must complete the register referred to in subregulation (1).
- (3) In this regulation, *breath test* means a test approved by the Secretary for providing an indication of, or for ascertaining, the percentage of alcohol in the blood of a prisoner by means of an apparatus—
- (a) of a type approved by the Secretary; and
 - (b) used by an officer authorised by the Secretary to use that type of apparatus.

Part 7—Emergency management days

78 Emergency management days

- (1) If the Secretary grants emergency management days to a prisoner, the length of the non-parole period or, if a non-parole period has not been fixed in respect of the sentence, the length of the sentence of imprisonment is reduced by the number of emergency management days granted.
- (2) The number of emergency management days granted must not exceed—
 - (a) 4 for each day or part of a day on which the industrial dispute or emergency exists;
 - (b) 14 in other circumstances of an unforeseen and special nature.

Part 8—Release from prison

Division 1—Discharge procedures

79 Notice of discharge

If the Governor has sufficient notice, the Governor must ensure that a prisoner is given at least 7 days notice of the date of his or her discharge from the prison.

80 Property of a prisoner

- (1) On the discharge of a prisoner from a prison, the Governor must ensure that all property and money belonging or due and payable to the prisoner, other than an amount of money (if any) deducted as authorised under the Act or these Regulations, is given to the prisoner.
- (2) Any of a prisoner's property that is left unclaimed by the prisoner 3 months after the prisoner's discharge must be disposed of according to law.

Division 2—Adult Parole Board

81 Procedure

The Adult Parole Board must—

- (a) meet as often as is necessary for the Adult Parole Board to perform its functions under the Act and these Regulations; and
- (b) ensure that the Secretary and the relevant Governor and Regional Manager are notified of the decisions of the Board as soon as possible after decisions are made.

81A Notice to attend the Adult Parole Board

For the purposes of section 71A(2)(a) of the Act, the prescribed form for a notice to attend is—

- (a) if the person to whom the notice to attend is issued is in a prison or a police gaol, Form 1 of Schedule 11; or
- (b) in any other case, Form 2 of Schedule 11.

Reg. 81A
inserted by
S.R. No.
79/2016
reg. 10.

81B Notice to produce to the Adult Parole Board

For the purposes of section 71A(2)(a) of the Act, the prescribed form of a notice to produce is Form 3 of Schedule 11.

Reg. 81B
inserted by
S.R. No.
79/2016
reg. 10.

81C Costs of attending meeting of the Board

For the purposes of section 71J(1) of the Act, the prescribed scale is the scale in Schedule 2 to the County Court Civil Procedure Rules 2008.

Reg. 81C
inserted by
S.R. No.
79/2016
reg. 10.

Division 3—Parole

82 Parole eligibility date

- (1) In this regulation—

non-parole period has the same meaning as in the **Sentencing Act 1991**;

parole eligibility date means the earliest date on which a prisoner may be released on parole if so ordered by the Adult Parole Board.

- (2) As soon as possible after a court has set a non-parole period in respect of a prisoner the Secretary must report to the secretary of the Adult Parole Board the prisoner's parole eligibility date.

Reg. 82(2)
amended by
S.R. No.
79/2016
reg. 8(1).

Reg. 82(3)
amended by
S.R. No.
79/2016
reg. 8(1).

- (3) As soon as possible after—
- (a) a court has further sentenced a prisoner; or
 - (b) the Secretary has granted any emergency management days to a prisoner—

the Secretary must report to the secretary of the Adult Parole Board the prisoner's amended parole eligibility date.

- (4) In determining the parole eligibility date there must be deducted from the non-parole period the emergency management days granted to the prisoner.

83 Parole order

- (1) A parole order must be in the form of Form 1 of Schedule 4.

Reg. 83(1A)
inserted by
S.R. No.
12/2014
reg. 15(1).

- (1A) A parole order must state if the prisoner is released on parole in respect of a sexual offence or a serious violent offence, both within the meaning of section 77 of the Act.

Reg. 83(2)
amended by
S.R. Nos
12/2014
reg. 15(2)(a),
79/2016 reg. 8.

- (2) The secretary of the Adult Parole Board must ensure that 5 copies of the parole order are signed by the secretary or a member of the Adult Parole Board and that—

Reg. 83(2)(b)
amended by
S.R. No.
12/2014
reg. 15(2)(b).

- (a) a copy is retained by the Adult Parole Board; and

- (b) a copy is sent to the relevant Regional Manager; and

- (c) a copy is delivered to the person granted parole; and

Reg. 83(2)(d)
amended by
S.R. No.
12/2014
reg. 15(2)(b).

- (d) a copy is sent to the Governor if the person is released from prison.

- (3) The Secretary to the Department of Justice and Regulation must notify the Chief Commissioner of Police, in writing, of—
- (a) the making of a parole order; and
 - (b) the terms and conditions attached to the parole order that are prescribed for the purposes of section 78A of the Act.

Reg. 83(3)
inserted by
S.R. No.
12/2014
reg. 15(3),
amended by
S.R. No.
79/2016
reg. 9(1).

83A Mandatory terms and conditions of a parole order

- (1) For the purposes of section 74(4)(a) of the Act, the following are mandatory terms and conditions of a parole order—
- (a) the prisoner must not break any law;
 - (b) the prisoner must report to the community corrections centre specified in the parole order within 2 clear working days after the parole order comes into force;
 - (c) the prisoner must notify a community corrections officer of any change of address at least 2 clear working days before the change of address;
 - (d) the prisoner must notify a community corrections officer of any change of employment within 2 clear working days of the change of employment;
 - (e) the prisoner is under supervision of a community corrections officer;
 - (f) the prisoner must report to, and receive visits from, a community corrections officer as and when directed by a community corrections officer;
 - (g) the prisoner must be available for interview by a community corrections officer, the Regional Manager or the Adult Parole Board at the time and place as directed by a

Reg. 83A
inserted by
S.R. No.
12/2014
reg. 16.

community corrections officer, the Regional Manager or the Board;

- (h) the prisoner must attend in person at a community corrections centre as directed in writing by a community corrections officer;
 - (i) the prisoner must not leave Victoria without the written permission of the Regional Manager;
 - (j) the prisoner must comply with any direction given by a community corrections officer, the Regional Manager or the Adult Parole Board that is necessary for a community corrections officer, the Regional Manager or the Board (as the case requires) to give to ensure that the prisoner complies with the parole order.
- (2) A direction under subregulation (1)(h) must state that it is a direction given for the purposes of that subregulation.
- (3) A direction under subregulation (1)(f), (g) or (j) may be given orally or in writing.

Reg. 83B
inserted by
S.R. No.
12/2014
reg. 16.

83B Other terms and conditions of a parole order

- (1) For the purposes of section 74(4)(b) of the Act, the Adult Parole Board may impose any of the following other terms and conditions on a parole order—
- (a) the prisoner must not consume any alcohol;
 - (b) the prisoner must, as directed by a community corrections officer or the Regional Manager, undergo assessment to determine whether the prisoner is suitable for—
 - (i) treatment for abuse of or dependency on alcohol or any drug of dependence or prohibited poison; or

- (ii) medical, psychological or psychiatric treatment—
- and, if assessed as suitable, undergo or submit to that treatment;
- (c) the prisoner must submit to testing for consumption of alcohol, or use of any drug of dependence or prohibited poison, as directed by the Secretary under section 76A of the Act;
- (d) the prisoner must report to the prisoner's supervising community corrections officer as specified in the order, for the period fixed in the order;
- (e) the prisoner must not enter in, or must not be within a specified vicinity of, an area specified in the order unless otherwise approved in writing by the Regional Manager or the Adult Parole Board (whichever is specified in the order);
- (f) the prisoner must remain in an area specified in the order unless otherwise approved in writing by the Regional Manager or the Adult Parole Board (whichever is specified in the order);
- (g) the prisoner must remain at the place specified in the order between specified hours of each day unless otherwise approved in writing by the Regional Manager or the Adult Parole Board (whichever is specified in the order);
- (h) the prisoner must not use or access the Internet;
- (i) the prisoner must not contact, directly or indirectly, a person or class of person (or both) specified in the order;

- (j) the prisoner must not enter in, or must not be within a specified vicinity of, a place specified in the order unless otherwise approved in writing by the Regional Manager or the Adult Parole Board (whichever is specified in the order);
- (k) the prisoner must—
 - (i) undergo assessment, as directed by a community corrections officer or the Regional Manager, to determine whether the prisoner can satisfactorily participate in a program or training specified in the order; and
 - (ii) if the prisoner is assessed as suitable for the program or training specified, participate in that program or training;
- (l) the prisoner must undertake unpaid community work as directed by a community corrections officer or the Regional Manager, unless the prisoner is—
 - (i) employed; or
 - (ii) participating in a program or training under paragraph (k)(ii);
- (m) the prisoner must not reside any night at a place of residence specified in the order unless otherwise approved in writing by the Regional Manager or the Adult Parole Board (whichever is specified in the order);
- (n) the prisoner must reside each night at the place of residence specified in the order, unless otherwise approved in writing by the Regional Manager or the Adult Parole Board (whichever is specified in the order);

(o) the prisoner must not contact, directly or indirectly, a person or class of person (or both) specified in the order without being under the supervision of a person or persons approved in writing by the Regional Manager or the Adult Parole Board (whichever is specified in the order).

Reg. 83B(1)(o)
amended by
S.R. No.
147/2014
reg. 11(1).

(1A) For the purposes of subregulation (1)(m) and (n), the period of an approval in writing by the Regional Manager must not exceed 21 days.

Reg. 83B(1A)
inserted by
S.R. No.
147/2014
reg. 11(2).

(2) For the purposes of subregulation (1)(k), the Adult Parole Board may specify in the order—

- (a) any suitable program or training that addresses factors specific or related to the prisoner's offending behaviour; or
- (b) any other suitable program or training for any purpose including for employment, educational, cultural or personal development purposes.

(3) In this regulation—

area means any public or private geographical area in Victoria;

place means any public or private place in Victoria.

83C Intensive parole period

(1) The Adult Parole Board may specify that one or more terms and conditions imposed on a parole order under regulation 83B are subject to an intensive parole period.

Reg. 83C
inserted by
S.R. No.
12/2014
reg. 16.

- (2) If the Adult Parole Board specifies terms and conditions under subregulation (1)—
 - (a) the Adult Parole Board must fix a period (being part of the period for which the parole order is in force) as the intensive parole period; and
 - (b) the prisoner must complete the specified terms and conditions imposed on the parole order within the intensive parole period.

84 Release on parole

- (1) If a person is released from prison by a parole order, the Governor must ensure that—
 - (a) the person, at the person's release, is given a copy of the order; and
 - (b) the following are explained to the person—
 - (i) the terms and conditions attaching to the order;
 - (ii) if a term and condition attached to the order is prescribed for the purposes of section 78A of the Act, that it is an offence to breach that term and condition.
- (2) An officer must request a person being released on parole to sign a declaration in the form of Form 2 in Schedule 4.

Reg. 84(1)(b)
substituted by
S.R. No.
12/2014
reg. 17.

85 Person on parole attending a location

An officer under Part 9 of the Act may give a person on parole who has been ordered to attend a location directions during the attendance of that person at the location that the officer considers necessary for—

- (a) the proper or efficient conduct of a community corrections programme at the location; or

- (b) the good order, conduct, discipline, safe custody or health of that person or other offenders; or
- (c) the safety of any officer or member of the public, either inside or outside the location.

86 Variation of a parole order

- (1) If the Adult Parole Board varies the terms and conditions of a parole order, the varied parole order must be in the form of Form 3 of Schedule 4.
- (2) Not later than 7 days after varying the parole order, the Adult Parole Board must give to the relevant Regional Manager—
 - (a) notice of the variation in the form of Form 1 of Schedule 5; and
 - (b) a copy of the varied parole order.
- (3) If the Adult Parole Board varies the parole order to impose or revoke conditions prescribed for the purposes of section 78A of the Act, it must notify the Chief Commissioner of Police, in writing, of the variation.
- (4) Subject to subregulation (5), the Regional Manager or a community corrections officer must—
 - (a) give the person whose parole was varied a copy of the notice and the varied parole order referred to in subregulation (2) as soon as possible; and
 - (b) explain to that person—
 - (i) the variation of the terms and conditions of the parole order; and

Reg. 86
substituted by
S.R. No.
12/2014
reg. 18.

- (ii) if a term and condition prescribed for the purposes of section 78A of the Act is imposed, that it is an offence to breach that term and condition; and
 - (c) request that person to sign a declaration in the form of Form 2 in Schedule 5.
- (5) If a person whose parole was varied does not attend a community corrections centre as directed by an officer, the Regional Manager or community corrections officer must send to that person's last known address—
 - (a) a copy of the notice and the varied parole order referred to in subregulation (2); and
 - (b) a declaration in the form of Form 2 in Schedule 5; and
 - (c) a notice—
 - (i) explaining the variation of the terms and conditions of the parole order; and
 - (ii) if a term and condition prescribed for the purposes of section 78A of the Act is imposed, explaining that it is an offence to breach that term and condition; and
 - (iii) requesting the person to sign the declaration and return it to the Regional Manager or community corrections officer (as the case requires).

Reg. 86A
inserted by
S.R. No.
12/2014
reg. 18,
substituted by
S.R. No.
60/2017 reg. 6.

86A Revocation of a parole order

- (1) If the Adult Parole Board revokes a parole order under section 74(2) of the Act (*revocation order*), the Adult Parole Board must give notice of the revocation order in Form 1 of Schedule 6 to the relevant Governor and relevant Regional Manager not later than 7 days after it revoked the order.

- (2) If the person whose parole order is revoked is not held in custody in prison, the Regional Manager must, as soon as possible—
 - (a) if the person attends a community corrections centre—arrange for that person to be provided with a copy of the revocation order; or
 - (b) if the person does not attend a community corrections centre within 7 days of the making of the order—send, or cause to be sent, a copy of the revocation order to that person's last known address.
- (3) If a person whose parole order is revoked under section 74(2) of the Act is held in custody in a prison, the Governor must cause that person to be provided with a copy of the notice of the revocation order as soon as possible after receiving or becoming aware of the giving of the notice under subregulation (1).

86B Cancellation of a parole order

- (1) If the Adult Parole Board cancels, or is taken to have cancelled, a parole order under section 77 of the Act, the Adult Parole Board must give notice of the cancellation order (***cancellation order***) in Form 2 of Schedule 6 to the relevant Governor and relevant Regional Manager as soon as possible after it cancelled the order.
- (2) If the person whose parole order is cancelled, or is taken to have been cancelled, under section 77 of the Act is not held in custody in a prison, the Regional Manager must, as soon as possible—
 - (a) if the person attends a community corrections centre—arrange for that person to be provided with a copy of the cancellation order; or

Reg. 86B
inserted by
S.R. No.
60/2017 reg. 6.

- (b) if the person does not attend a community corrections centre within 7 days of the making of the order—send, or cause to be sent a copy of the cancellation order to that person's last known address.
- (3) If the person whose parole order is cancelled, or is taken to have been cancelled, under section 77 of the Act is held in custody in a prison, the Governor must cause that person to be provided with a copy of the notice of the cancellation order as soon as possible after receiving or becoming aware of the giving of the notice under subregulation (1).

Reg. 86C
inserted by
S.R. No.
60/2017 reg. 6.

86C Revocation of a cancellation of a parole order

- (1) If the Adult Parole Board revokes a cancellation of a parole order under section 77A of the Act (*revocation of cancellation order*), the Adult Parole Board must give notice of the revocation of cancellation order in Form 3 of Schedule 6 to the relevant Governor and relevant Regional Manager not later than 7 days after it revoked the order.
- (2) If the person whose parole order was cancelled but is revoked under section 77A of the Act is not held in custody in prison, the Regional Manager must, as soon as possible—
 - (a) if the person attends a community corrections centre—arrange for that person to be provided with a copy of the revocation of cancellation order; or
 - (b) if the person does not attend a community corrections centre within 7 days of the making of the order—send, or cause to be sent, a copy of the revocation of cancellation order to that person's last known address.

- (3) If the person whose parole order was cancelled but is revoked under section 77A of the Act is held in custody in prison, the Governor must cause that person to be provided with a copy of the notice of the revocation of cancellation order as soon as possible after receiving or becoming aware of the giving of the notice under subregulation (1).

87 Warrant under section 77B(1)(a)

Reg. 87
(Heading)
amended by
S.R. No.
147/2014
reg. 12(1).

- (1) A warrant to apprehend a person under section 77B(1)(a) of the Act must be in the form of Schedule 7.

Reg. 87(1)
amended by
S.R. No.
147/2014
reg. 12(2).

- (2) If a person whose parole was cancelled is returned to prison by the execution of a warrant of apprehension, the Secretary must, within 7 days after the return of the person, notify the secretary of the Adult Parole Board and the appropriate Regional Manager that the person has been returned to prison.

Reg. 87(2)
amended by
S.R. No.
79/2016
reg. 8(1).

88 Reception into prison of person on parole

If a person on parole is received into prison for any reason, including reception on remand, the Secretary must notify the secretary of the Adult Parole Board and the relevant Regional Manager of that person's reception into prison.

Reg. 88
amended by
S.R. No.
79/2016
reg. 8(1).

88A Offence to breach a term or condition of parole—prescribed terms and conditions

For the purposes of section 78A of the Act, the following terms and conditions attached to a parole order are prescribed—

Reg. 88A
inserted by
S.R. No.
12/2014
reg. 19.

- (a) the term and condition set out in regulation 83A(1)(a), in circumstances where the prisoner breaks any law, in or outside Victoria, by the commission of an offence punishable by imprisonment;
- (b) the term and condition set out in regulation 83A(1)(h), except in circumstances where the prisoner is directed to attend at a community corrections centre under regulation 86;
- (c) the term and condition set out in regulation 83A(1)(i);
- (d) the terms and conditions set out in regulation 83B(1)(a), (e), (f), (g), (i), (j), (m), (n) and (o).

Reg. 88B
inserted by
S.R. No.
12/2014
reg. 19.

88B Detention required for breach of term or condition of a parole order—prescribed terms and conditions

For the purposes of section 78B(3)(b) of the Act, the following terms and conditions attached to a parole order are prescribed—

- (a) the term and condition set out in regulation 83A(1)(a), in circumstances where the prisoner breaks any law, in or outside Victoria, by the commission of an offence punishable by imprisonment;
- (b) the term and condition set out in regulation 83A(1)(i);
- (c) the terms and conditions set out in regulation 83B(1)(a), (e), (f), (g), (i), (j), (m), (n) and (o).

88C Detention orders for breach of prescribed term or condition of a parole order

Reg. 88C
inserted by
S.R. No.
12/2014
reg. 19.

- (1) For the purposes of section 78C(1) of the Act—
- (a) an order of detention under section 78C(1)(a) must be in the form of Form 1 of Schedule 10;
 - (b) an order under section 78C(1)(b) that detention cease must be in the form of Form 2 of Schedule 10.

- (2) The secretary of the Adult Parole Board must ensure that the order under section 78C(1)(a) or (b) of the Act is signed by the secretary or a member of the Adult Parole Board and—
- (a) a copy is given to the person to be detained or in detention; and
 - (b) a copy is retained by the Adult Parole Board; and
 - (c) a copy is sent to—
 - (i) the Secretary to the Department of Justice and Regulation; and

Reg. 88C(2)
amended by
S.R. No.
79/2016 reg. 8.

Reg. 88C
(2)(c)(i)
amended by
S.R. No.
79/2016
reg. 9(1).

- (ii) the Chief Commissioner of Police.
- (3) If, after considering the breach of the term or condition under section 78C(3) of the Act, the Adult Parole Board decides not to cancel the prisoner's parole, the secretary of the Adult Parole Board must ensure that a notice in the form of Form 3 of Schedule 10 is signed by the secretary or a member of the Adult Parole Board and—
- (a) a copy is given to the prisoner; and
 - (b) a copy is retained by the Adult Parole Board; and

Reg. 88C(3)
amended by
S.R. No.
79/2016 reg. 8.

Reg. 88C
(3)(c)(i)
amended by
S.R. No.
79/2016
reg. 9(1).

(c) a copy is sent to—

(i) the Secretary to the Department of
Justice and Regulation; and

(ii) the Chief Commissioner of Police.

Reg. 88D
inserted by
S.R. No.
60/2017 reg. 7.

88D Dealing with seized things

- (1) For the purposes of section 78J(5) of the Act, the Commissioner must deal with a thing seized under Division 5A of Part 8 of the Act in accordance with this regulation.
- (2) Where the thing may be required as evidence of an offence, the Commissioner must direct that the thing be retained.
- (3) Where the thing has been forfeited, or may otherwise be disposed of under law, the Commissioner must direct that the thing be disposed of in a manner allowed by law.
- (4) Where subregulation (2) or (3) does not apply, the Commissioner must direct that the thing be—
 - (a) returned to the person from whom it was seized; or
 - (b) returned to the owner of the thing if reasonably practicable in the circumstances and the Commissioner forms the reasonable belief that the person from whom the thing was seized is not entitled at law to possess it;
or
 - (c) stored on behalf of the prisoner on parole until such time as the grounds for seizure no longer apply.

88E Receipt for seized things

Reg. 88E
inserted by
S.R. No.
60/2017 reg. 7.

- (1) For the purposes of section 78O(2)(a) of the Act, the prescribed information is—
 - (a) the time, date and place of the seizure; and
 - (b) the name of the specified officer who—
 - (i) seized the thing; or
 - (ii) is responsible for recording the details of the seized thing; and
 - (c) a description of the thing seized; and
 - (d) the name of the person from whom the thing was seized; and
 - (e) if the person from whom the thing was seized is not the owner of the thing, the name and address of the owner of the thing (if known).
- (2) The information specified in subregulation (1) may be contained in one or more receipts.
- (3) Subject to subregulations (4) and (5), for the purposes of section 78O(2)(b) of the Act, a receipt must be signed by—
 - (a) the person from whom the thing was seized; and
 - (b) the specified officer who—
 - (i) seized the thing; or
 - (ii) is responsible for recording the details of the seized thing.
- (4) If the person from whom the thing was seized refuses to sign a receipt, a receipt may be signed by—
 - (a) a community corrections officer or a specified officer who is present at the time of the seizure, other than the specified

- officer who has signed the receipt in accordance with subregulation (3)(b); or
- (b) any other adult not referred to in paragraph (a) who is present at the time of the seizure.
- (5) The signature by the officer present at the time of seizure is sufficient for the purposes of subregulation (3) if—
- (a) the person from whom the thing was seized refuses to sign a receipt; and
 - (b) there is only one specified officer present at the time of the seizure; and
 - (c) there is no other adult present at the time of the seizure.

Pt 8 Div. 4
(Heading and
reg. 88F)
inserted by
S.R. No.
60/2017 reg. 8.

Division 4—Unlawfully released prisoners

Reg. 88F
inserted by
S.R. No.
60/2017 reg. 8.

88F Return of prisoner unlawfully released

- (1) For the purposes of section 108A of the Act—
 - (a) a warrant signed by the Secretary under section 108A(2) must be in the form of Form 4 of Schedule 10;
 - (b) a warrant by a magistrate under section 108A(3) must be in the form of Form 5 of Schedule 10.
- (2) An officer authorised by a warrant referred to in section 108A(2) or by a warrant referred to in section 108A(3) to arrest a prisoner and return the prisoner to prison must ensure that a copy of the warrant is given to the prisoner.

Part 9—Community based corrections

Division 1—Definitions

89 Definitions

In this Part—

approved escort officer means an escort officer approved by the Secretary;

Reg. 89 def. of *approved escort officer* inserted by S.R. No. 135/2009 reg. 7.

location does not include a place at which an offender is by a correctional order required to live;

officer means an officer under Part 9 of the Act.

Division 2—Community work

90 Community work

As part of an individual programme determined under section 95(4) of the Act a Regional Manager may direct an offender to perform unpaid community work on any land owned, leased or occupied for a public purpose.

Division 3—Offences

91 Offences by offenders participating in community corrections programmes—offenders who are not prisoners on parole

Reg. 91 (Heading) amended by S.R. No. 12/2014 reg. 9(1).

(1) An offender (other than an offender who is a prisoner released on parole) must not—

Reg. 91(1) substituted by S.R. No. 12/2014 reg. 9(2).

(a) fail to comply with a direction of a Regional Manager or an officer; or

- (b) bring any unauthorised substance or article into a location; or
- (c) commit an act or omission that is contrary to the good order, management or security of the location or is contrary to the good order of a community corrections programme; or
- (d) attempt to commit any of the offences referred to in paragraphs (a), (b) and (c).

Penalty: 10 penalty units.

- (2) An offender's contravention of the Act, this regulation, or a direction of the Secretary, a Regional Manager or an officer is an act of misconduct for the purposes of the Act.

91A Offences by prisoner on parole participating in community corrections programs

- (1) A prisoner released on parole must not—
 - (a) fail to comply with a direction of the Regional Manager or an officer; or
 - (b) consume alcohol—
 - (i) at least 8 hours before attending a location; or
 - (ii) when attending a location; or
 - (c) use a drug of dependence or a prohibited poison when attending a location; or
 - (d) be under the influence of alcohol, a drug of dependence or a prohibited poison when attending a location; or
 - (e) be in possession of alcohol, a drug of dependence or a prohibited poison at a location; or
 - (f) bring any unauthorised substance or article into a location; or

Reg. 91A
inserted by
S.R. No.
12/2014
reg. 10.

- (g) leave the location which the prisoner has been directed to attend without the permission of the relevant officer; or
- (h) fail to notify the relevant officer at the location which the prisoner has been directed to attend, of the person's inability to attend at the location at the required time—
 - (i) at least 24 hours before the prisoner is due to attend the location, if the prisoner has at least 24 hours notice of that inability; or
 - (ii) immediately on becoming unable to attend if the prisoner did not have at least 24 hours notice of the prisoner's inability to attend at the location; or
- (i) fail to attend at the location to which the prisoner has been directed to attend unless the prisoner has obtained the permission of the relevant officer not to attend at the required time; or
- (j) fail to produce a medical certificate as soon as is practicable in respect of non-attendance at a location due to illness; or
- (k) enter an unauthorised area of a location without the permission of the relevant officer; or
- (l) commit an act or omission that is contrary to the good order, management or security of the location or is contrary to the good order of a community corrections programme; or
- (m) attempt to commit any of the offences referred to in paragraphs (a) to (l).

Penalty: 10 penalty units.

(2) A prisoner's contravention of the Act, this regulation, or a direction of a Regional Manager or an officer is an act of misconduct for the purposes of the Act.

(3) In this regulation—

unauthorised area means an area of a location designated by the Regional Manager or a community corrections officer to be an unauthorised area.

Part 9 Div. 4
(Heading)
substituted by
S.R. No.
12/2014
reg. 11.

Division 4—Seizure of articles and substances

Reg. 92
amended by
S.R. No.
135/2009
reg. 8,
revoked by
S.R. No.
12/2014
reg. 12.

* * * * *

93 Register of seized articles or substances

- (1) A Regional Manager must establish and maintain a register of articles or substances seized at a community corrections centre.
- (2) The register must contain, in respect of each article or substance seized at a community corrections centre—
 - (a) a description that includes the quantity (if known) of the article or substance; and
 - (b) the name of the person from whom the article or substance was seized; and
 - (c) the name and address of the owner of the article or substance (if known); and
 - (d) the time and date of the seizure; and

- (e) the name and signature of the community corrections officer or approved escort officer who seized the article or substance; and
- (f) details of the disposal or other dealing with the article or substance.

- (3) In addition to the matters referred to in subregulation (2), the register must contain the name, rank, number and signature of the police officer who received each firearm, explosive substance or quantity of a drug of dependence seized at the community corrections centre.

Reg. 93(3)
amended by
S.R. No.
147/2014
reg. 13.

94 Dealing with seized articles or substances

- (1) If an article or substance is seized by a community corrections officer or approved escort officer at a community corrections centre, other than a firearm, explosive substance or drug of dependence, the Regional Manager must deal with that article or substance in accordance with this regulation.
- (2) Where the article or substance may be required as evidence of an offence, the Regional Manager must direct that the article or substance be retained.
- (3) Where the article or substance has been forfeited, or may otherwise be disposed of under law, the Regional Manager must direct that the article or substance be disposed of in a manner allowed by law.
- (4) Where subregulation (2) or (3) does not apply, the Regional Manager must direct that the article or substance be—
 - (a) returned to the person from whom it was seized; or

Reg. 94
amended by
S.R. No.
147/2014
reg. 14,
substituted by
S.R. No.
60/2017 reg. 9.

- (b) returned to the owner of the article or substance if reasonably practicable in the circumstances and the Regional Manager forms the reasonable belief that the person from whom the article or substance was seized is not entitled at law to possess it; or
- (c) stored on behalf of the person from whom it was seized until such time as the grounds for seizure no longer apply.

Division 5—Offender's property

95 Purchase of offender's property

- (1) An officer must not purchase any of an offender's property.
- (2) In this regulation *officer* means an officer under Part 5 or Part 9 of the Act.

**Part 9A—Prisoner compensation
quarantine funds**

Pt 9A
(Heading and
regs 95A,
95B)
inserted by
S.R. No.
135/2009
reg. 9.

95A Notification of claim

For the purposes of section 104ZE(1) of the Act,
the form in Schedule 8 is prescribed.

Reg. 95A
inserted by
S.R. No.
135/2009
reg. 9.

95B Notification of determination of claim

For the purposes of section 104ZE(2) of the Act,
the form in Schedule 9 is prescribed.

Reg. 95B
inserted by
S.R. No.
135/2009
reg. 9.

Pt 9B
(Heading and
reg. 95C)
inserted by
S.R. No.
133/2017
reg. 4.

Part 9B—Use or disclosure of information

Reg. 95C
inserted by
S.R. No.
133/2017
reg. 4.

95C Use or disclosure of personal or confidential information

For the purposes of section 104ZY(2)(dj) of the Act, the following persons and bodies are prescribed—

- (a) a Public Interest Monitor appointed under the **Public Interest Monitor Act 2011**;
- (b) the Royal Commission into Institutional Responses to Child Sexual Abuse established by the Commonwealth on 13 November 2014;
- (c) the Independent Commissioner Against Corruption established under the Independent Commissioner Against Corruption Act 2012 of South Australia;
- (d) the Independent Commission Against Corruption established under the Independent Commission Against Corruption Act 1988 of New South Wales;
- (e) the Corruption and Crime Commission established under the Corruption, Crime and Misconduct Act 2003 of Western Australia;
- (f) the Crime and Corruption Commission established under the Crime and Corruption Act 2001 of Queensland;
- (g) the Integrity Commission established under the Integrity Commission Act 2009 of Tasmania;

Reg. 95C(g)
amended by
S.R. No.
116/2018
reg. 6(a).

- (h) the National Disability Insurance Scheme Launch Transition Agency as established by the National Disability Insurance Scheme Act 2013 of the Commonwealth—where the information is reasonably necessary to support the determination of eligibility for the National Disability Insurance Scheme as established by the National Disability Insurance Scheme Act 2013 of the Commonwealth or the planning and provision of supports through the National Disability Insurance Scheme;
- (i) any person or body who delivers services or advice in relation to the National Disability Insurance Scheme—where the information is reasonably necessary to support the determination of eligibility for the National Disability Insurance Scheme or the planning and provision of supports through the National Disability Insurance Scheme.

Reg. 95C(h)
inserted by
S.R. No.
116/2018
reg. 6(b).

Reg. 95C(i)
inserted by
S.R. No.
116/2018
reg. 6(b).

Part 10—Exemptions

96 Exemptions for emergency

- (1) If there is an emergency resulting in a substantial disruption or disturbance within a prison, the Secretary may by instrument—
 - (a) grant an exemption from any provision of these Regulations; and
 - (b) impose conditions subject to which the exemption is granted; and
 - (c) vary or revoke the exemption.
- (2) An exemption under this regulation is restricted to the emergency resulting in a substantial disruption or disturbance within a prison.

Schedules

Schedule 1—Revocations

Regulation 4

<i>S.R. No.</i>	<i>Title</i>
52/1998	Corrections Regulations 1998
14/2006	Corrections (Amendment) Regulations 2006
30/2008	Corrections (Amendment) Regulations 2008

Corrections Regulations 2009
S.R. No. 40/2009
Schedule 2—Order to bring a prisoner before a court or coroner

Sch. 2
amended by
S.R. Nos
12/2014
reg. 13,
147/2014
reg. 15,
133/2017
reg. 5.

**Schedule 2—Order to bring a prisoner
before a court or coroner**

Regulation 20

To *(insert title of person in charge of prison)*

at *(insert name of place of prison)*

AND to all police officers in Victoria.

Under the provisions of regulation 20 of the Corrections Regulations 2009

I order that *(insert name of prisoner)*

a prisoner detained at *(insert name of prison)*

be brought before the *(insert name of court)*

to be held at *(insert place where court to be held)*

on *(insert date)*

for the purpose of *(insert purpose for which the prisoner is required to attend. If the purpose is to answer a charge include the nature of the offences with which the prisoner is charged)*

and the prisoner is to remain in the custody of those officers and police officers acting under this order until the prisoner is returned to the prison from which the prisoner was removed or is released by order of the court.

Dated the day of , 20

Judge

Registrar of Criminal Appeals

Judicial Registrar of the Supreme Court

Magistrate

Coroner

**NOTICE TO THE OFFICERS AND POLICE OFFICERS
BRINGING A PRISONER BEFORE A COURT OR CORONER**

The prisoner *(insert name of prisoner)*
is detained for other matters and must be returned to the place of detention
or is not detained for other matters
or is granted bail
and may be released if so ordered by the court.*

Name and signature of the person in charge
of the prison from which the prisoner is
removed to attend before a court or coroner }
}

**Strike out whichever is inapplicable*

Schedule 3—Certificate of analyst

Regulation 76

I, *(name of analyst)*
of *(name of employer)*

CERTIFY that—

1. On *(insert date)*
I received a sealed container labelled
2. The sealed container contained
(insert description of contents including description by weight)
3. I analysed a sample of the contents of the sealed container and found
the sample to constitute
(insert analysis of sample)

Signature of analyst

Qualification of analyst

Date

Schedule 4

Sch. 4
substituted by
S.R. No.
12/2014
reg. 20.

FORM 1

Regulations 83 and 84

Sch. 4 Form 1
amended by
S.R. Nos
147/2014
reg. 16(1),
79/2016
reg. 9(2).

PAROLE ORDER

TO

(Given Names and Surname)

(Surname in BLOCK letters)

of (Address)

You were convicted of

Now the Adult Parole Board orders that you be released on parole on
the day of 20 .

*You are a prisoner released on parole in respect of:

- a sexual offence/sexual offences.
- a serious violent offence/serious violent offences.
- Tick whichever applies. *Delete if inapplicable

Within 2 clear working days you are required to report to the following
Community Corrections Centre:

Terms and conditions of Parole Order

The terms and conditions of this Order apply to you for the period of your
parole, except for any terms and conditions that must be completed in an
intensive parole period.

You are released on parole on the following mandatory terms and conditions
of this Order:

1. You must not break any law.
2. You must report to the community corrections centre specified in this
Order within 2 clear working days after this Order comes into force.
3. You must notify a community corrections officer of any change of
address at least 2 clear working days before the change of address.
4. You must notify a community corrections officer of any change of
employment within at least 2 clear working days of the change of
employment.

Corrections Regulations 2009
S.R. No. 40/2009
Schedule 4

5. You are under supervision of a community corrections officer.
6. You must report to, and receive visits from, a community corrections officer as and when directed by the community corrections officer.
7. You must be available for interview by a community corrections officer, the Regional Manager or the Adult Parole Board at the time and place as directed by the community corrections officer or the Regional Manager or Adult Parole Board.
8. You must attend in person at a community corrections centre as directed in writing by a community corrections officer.
9. You must not leave Victoria without the written permission of the Regional Manager.
10. You must comply with any direction given by a community corrections officer or the Regional Manager or the Adult Parole Board that is necessary for a community corrections officer or the Regional Manager or the Adult Parole Board to give to ensure that you comply with this Order.

(If applicable, insert term and condition)

*The following other terms and conditions also apply to you under this Order:

11. *You must not consume any alcohol.
12. *You must undergo assessment, as directed by a community corrections officer or the Regional Manager, to determine whether you are suitable for treatment for abuse of or dependency on alcohol or any drug of dependence or prohibited poison, or medical, psychological or psychiatric treatment, AND, if you are assessed as suitable, undergo or submit to that treatment.
13. *You must submit to testing for alcohol consumption or use of a drug of dependence or prohibited poison as directed by the Secretary to the Department of Justice and Regulation.
14. *You must report to your supervising community corrections officer [*specify reporting frequency*] until [*specify end of reporting period*].
15. *You must not enter in or be within [*specify vicinity*] of [*specify area*] unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].
16. *You must remain in [*specify area*] unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].
17. *You must remain at [*specify place*] between [**am/pm*] and [**am/pm*] each day unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].

Corrections Regulations 2009
S.R. No. 40/2009
Schedule 4

18. *You must not use or access the Internet.
19. *You must not contact, directly or indirectly, [*specify person or class of person or both*].
20. *You must not enter in or be within [*specify vicinity*] of [*specify place*] unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].
21. *You must undergo assessment, as directed by a community corrections officer or the Regional Manager, to determine whether you can satisfactorily participate in [*specify any suitable program or training that addresses factors specific or related to the prisoner's offending behaviour or any other suitable program or training for any purpose including for employment, educational, cultural or personal development purposes*] AND, if you are assessed as suitable, participate in that program or training.
22. *You must undertake unpaid community work as directed by a community corrections officer or the Regional Manager, unless you are employed or participating in [*program or training specified under term and condition 21*].
23. *You must not reside any night at [*specify place of excluded residence*] unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].
24. *You must reside each night at [*specify place of required residence*] unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].
25. *You must not contact, directly or indirectly, [*specify person or class of person or both*] without being under the supervision of a person or persons approved in writing by the [**Regional Manager/Adult Parole Board*].

**Delete if inapplicable*

*The following additional terms and conditions also apply to you:

26.

**Delete if inapplicable*

***Electronic monitoring requirement**

27. You must be electronically monitored in relation to [*specify term and condition*].

**Delete if inapplicable*

FORM 2

DECLARATION BY PERSON GRANTED PAROLE

I, (*name, in block letters, of person granted parole*) declare that I have been given an explanation of the terms and conditions of my parole and I acknowledge that I must comply with this Order.

Signed

Dated

Sch. 4 Form 3
amended by
S.R. Nos
147/2014
reg. 16(2),
79/2016
reg. 9(3).

FORM 3

Regulation 86

VARIED PAROLE ORDER

TO

(Given Names and Surname) (Surname in BLOCK letters)

of (Address)

You were convicted of

The Adult Parole Board ordered that you be released on parole

on the day of 20 subject to terms and conditions.

*You are a prisoner released on parole in respect of:

- a sexual offence/ sexual offences.
 a serious violent offence/ serious violent offences.
 Tick whichever applies. *Delete if inapplicable

Now, the Adult Parole Board, on the day of 20 ,
varies the terms and conditions of the Order, with effect from [date].

On and from that date the terms and conditions of your parole are as set out
in this Order.

*Delete as inapplicable

Terms and conditions of Parole Order

The terms and conditions of this Order apply to you on and from the [insert
date of variation by the Board] for the period of your parole, except for any
terms and conditions that must be completed in an intensive parole period.

You are released on parole on the following mandatory terms and conditions
of this Order:

1. You must not break any law.
2. You must report to the community corrections centre specified in this
Order within 2 clear working days after this Order comes into force.
3. You must notify a community corrections officer of any change of
address at least 2 clear working days before the change of address.
4. You must notify a community corrections officer of any change of
employment within at least 2 clear working days of the change of
employment.
5. You are under supervision of a community corrections officer.

Corrections Regulations 2009
S.R. No. 40/2009
Schedule 4

6. You must report to, and receive visits from, a community corrections officer as and when directed by the community corrections officer.
7. You must be available for interview by a community corrections officer, the Regional Manager or the Adult Parole Board at the time and place as directed by the community corrections officer or the Regional Manager or Adult Parole Board.
8. You must attend in person at a community corrections centre as directed in writing by a community corrections officer.
9. You must not leave Victoria without the written permission of the Regional Manager.
10. You must comply with any direction given by a community corrections officer or the Regional Manager or the Adult Parole Board that is necessary for a community corrections officer or the Regional Manager or the Adult Parole Board to give to ensure that you comply with this Order.

(If applicable, insert term and condition)

*The following other terms and conditions also apply to you under this Order:

11. *You must not consume any alcohol.
12. *You must undergo assessment, as directed by a community corrections officer or the Regional Manager, to determine whether you are suitable for treatment for abuse of or dependency on alcohol or any drug of dependence or prohibited poison, or medical, psychological or psychiatric treatment, AND, if you are assessed as suitable, undergo or submit to that treatment.
13. *You must submit to testing for alcohol consumption or use of a drug of dependence or prohibited poison as directed by the Secretary to the Department of Justice and Regulation.
14. *You must report to your supervising community corrections officer [*specify reporting frequency*] until [*specify end of reporting period*].
15. *You must not enter in or be within [*specify vicinity*] of [*specify area*] unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].
16. *You must remain in [*specify area*] unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].
17. *You must remain at [*specify place*] between [**am/pm*] and [**am/pm*] each day unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].
18. *You must not use or access the Internet.

Corrections Regulations 2009
S.R. No. 40/2009
Schedule 4

19. *You must not contact, directly or indirectly, [*specify person or class of person or both*].
20. *You must not enter in or be within [*specify vicinity*] of [*specify place*] unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].
21. *You must undergo assessment, as directed by a community corrections officer or the Regional Manager, to determine whether you can satisfactorily participate in [*specify any suitable program or training that addresses factors specific or related to the prisoner's offending behaviour or any other suitable program or training for any purpose including for employment, educational, cultural or personal development purposes*] AND, if you are assessed as suitable, participate in that program or training.
22. *You must undertake unpaid community work as directed by a community corrections officer or the Regional Manager, unless you are employed or participating in [*program or training specified under term and condition 21*].
23. *You must not reside any night at [*specify place of excluded residence*] unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].
24. *You must reside each night at [*specify place of required residence*] unless otherwise approved in writing by the [**Regional Manager/Adult Parole Board*].
25. *You must not contact, directly or indirectly, [*specify person or class of person or both*] without being under the supervision of a person or persons approved in writing by the [**Regional Manager/Adult Parole Board*].

**Delete if inapplicable*

*The following additional terms and conditions also apply to you:

26.

**Delete if inapplicable*

***Electronic monitoring requirement**

27. You must be electronically monitored in relation to [*specify term and condition*].

**Delete if inapplicable*

Sch. 5
substituted by
S.R. No.
12/2014
reg. 21.

Schedule 5

FORM 1

Regulation 86

NOTICE OF VARIATION OF PAROLE ORDER

TO

(Given Names) (Surname in BLOCK letters)

of (Address)

On (*Date of Order*) you were granted release on a parole order by the Adult Parole Board subject to certain terms and conditions.

On (*Date of varied Order*) the Adult Parole Board has varied the terms and conditions of the Order, with effect from [date]. A copy of the varied Order is attached to this notice.

TAKE NOTICE that the order has been varied as above.

Dated this day of 20

For and on behalf of the Adult Parole Board

Member/Secretary of the Adult Parole Board

FORM 2

DECLARATION

I, (*name, in block letters, of person whose parole order is varied*) declare that I have been given a copy of the varied parole order, and an explanation of the variation to the conditions of my parole order and I acknowledge that I must comply with the Order.

Signed

Dated

Sch. 6
amended by
S.R. Nos
12/2014
reg. 22,
79/2016
reg. 11,
substituted by
S.R. No.
60/2017
reg. 10.

Schedule 6

FORM 1

REVOCATION OF A PAROLE ORDER

Regulation 86A

(Given Names) (Surname in BLOCK Letters)

was convicted and sentenced to a term of imprisonment with a non-parole period for [*insert offence(s), name of Court; and date of sentence*]

and by the order of the Adult Parole Board dated [*insert date*]

was to be released on parole on [*insert date*]

Now the Adult Parole Board, by further Order, revokes the parole order pursuant to section 74(2) of the **Corrections Act 1986**.

[*Insert reasons for decision.*]*

Dated this day of 20

For and on behalf of the Adult Parole Board

Member/secretary of the Adult Parole Board*

**Strike out whichever is inapplicable*

FORM 3
**REVOCATION OF A CANCELLATION OF A
PAROLE ORDER**

Regulation 86C

(Given Names)

(Surname in *BLOCK* Letters)

was convicted and sentenced to a term of imprisonment with a non-parole period for [*insert offence(s), name of Court; and date of sentence*].

By the order of the Adult Parole Board dated [*insert date*] your parole order was cancelled on [*insert date*].

Now the Adult Parole Board, by further Order, revokes the cancellation of the parole order, pursuant to section 77A of the **Corrections Act 1986**.

Your parole order is revived by this further Order.

You remain on parole.

*[Insert reasons for decision. If the parole order was taken to be cancelled under section 77(6) of the **Corrections Act 1986** but the Adult Parole Board by further Order revokes the cancellation of a prisoner's parole under section 77(6), the Board must note that it is satisfied that exceptional circumstances exist.]**

Dated this day of 20

For and on behalf of the Adult Parole Board

Member/secretary of the Adult Parole Board*

**Strike out whichever is inapplicable*

Schedule 7—Warrant for apprehension and return to prison

Regulation 87

To the Chief Commissioner of Police and to all police officers in the State of Victoria, and to the Governor of Her Majesty's Melbourne Assessment Prison or any other prison in the State which is more accessible or convenient.

(Given Names) *(Surname in BLOCK Letters)*

was convicted of

and by the order of the Adult Parole Board dated

was released on parole on

The Adult Parole Board cancelled that parole order on

This warrant authorises any police officer to apprehend the person whose parole was cancelled and return him or her to a prison, and this warrant requires the Governor of the Prison to receive that person into custody and detain him or her until released according to law.

Dated this day of 20

For and on behalf of the Adult Parole Board

Member/Secretary of the Adult Parole Board

Sch. 7
amended by
S.R. Nos
147/2014
reg. 17,
79/2016
reg. 11.

Corrections Regulations 2009

S.R. No. 40/2009

Schedule 8—Notification to the Secretary of legal proceedings against a
prisoner in respect of a criminal act by the prisoner

Sch. 8
inserted by
S.R. No.
135/2009
reg. 10.

Schedule 8—Notification to the Secretary of legal proceedings against a prisoner in respect of a criminal act by the prisoner

Regulation 95A

Ref. No.

DETAILS OF PERSON COMMENCING THE LEGAL PROCEEDINGS

Surname:

Given names:

Address:

Postcode:

DETAILS OF THE LEGAL PROCEEDINGS

Name of prisoner against whom proceedings have been commenced:

Parties to the proceedings:

Court in which proceedings commenced:

Date proceedings commenced:

Court Reference Number:

Schedule 9—Notification to the Secretary of the final determination of legal proceedings against a prisoner in respect of a criminal act by the prisoner

Sch. 9
inserted by
S.R. No.
135/2009
reg. 10.

Regulation 95B

Ref. No.

DETAILS OF PERSON WHO COMMENCED THE LEGAL PROCEEDINGS

Surname:

Given names:

Address:

Postcode:

DETAILS OF THE FINAL DETERMINATION OF THE LEGAL PROCEEDINGS

Name of prisoner against whom proceedings have been commenced:

Parties to the proceedings:

Court in which proceedings commenced:

Court Reference Number:

Date proceedings finalised:

Final determination of proceedings:

Amount awarded to the victim in those proceedings:

Sch. 10
inserted by
S.R. No.
12/2014
reg. 23.

Schedule 10

Sch. 10
Form 1
amended by
S.R. Nos
147/2014
reg. 18(1),
79/2016
reg. 12.

FORM 1

Regulation 88C

ORDER TO DETAIN PERSON UNDER SECTION 78C(1)(a) OF THE CORRECTIONS ACT 1986

To the Chief Commissioner of Police and to all police officers in the State of Victoria, and to the Governor of Her Majesty's Melbourne Assessment Prison or any other prison in the State which is more accessible or convenient..

The Adult Parole Board under section 78C(1)(a) of the **Corrections Act 1986** orders that [*insert name of prisoner*] **be detained** in a prison or a police gaol pending consideration by the Adult Parole Board of the breach of the term or condition of the prisoner's parole order.

This order authorises any police officers to detain the person named in this order until released according to law.

TAKE NOTICE that the order has been made as above.

Dated this day of 20
at [*insert time*] a.m./p.m.

For and on behalf of the Adult Parole Board
Member/Secretary of the Adult Parole Board

FORM 2

Regulation 88C

Sch. 10
Form 2
amended by
S.R. Nos
147/2014
reg. 18(2),
79/2016
reg. 12.

**ORDER UNDER SECTION 78C(1)(b) OF THE CORRECTIONS
ACT 1986 TO CEASE DETENTION UNDER SECTION 78B OF
THE CORRECTIONS ACT 1986**

To the Chief Commissioner of Police and to all police officers in the State of Victoria, and to the Governor of Her Majesty's Melbourne Assessment Prison or any other prison in the State which is more accessible or convenient..

The Adult Parole Board, under section 78C(1)(b) of the **Corrections Act 1986**, orders that [*insert name of prisoner*] **cease to be detained** in custody under section 78B of the **Corrections Act 1986**.

TAKE NOTICE that the order has been made as above.

Dated this day of 20
at [*insert time*] a.m./p.m.

For and on behalf of the Adult Parole Board
Member/Secretary of the Adult Parole Board

FORM 4

Regulation 88F

Sch. 10
Form 4
inserted by
S.R. No.
60/2017
reg. 11.

**WARRANT TO ARREST AND RETURN AN
UNLAWFULLY RELEASED PRISONER TO PRISON
ISSUED BY THE SECRETARY UNDER SECTION 108A(2)
OF THE CORRECTIONS ACT 1986**

Prisoner name:

Prisoner JAID/MNI:

Prisoner CRN:

Prisoner date of birth:

Case number/s:

**To the Chief Commissioner of Police and to all police officers in the
State of Victoria:**

The prisoner named on this warrant is not legally entitled to be released and has been released from custody.

The Secretary to the Department of Justice and Regulation, under section 108A(2)(a) of the **Corrections Act 1986**, authorises any police officer to break, enter and search any place where the prisoner named on this warrant is reasonably believed to be and to arrest the prisoner and return the prisoner to prison.

You must take and safely convey the prisoner named on this warrant to a prison and deliver the prisoner to the person in charge of that prison.

To all prison officers and escort officers:

The prisoner named on this warrant is not legally entitled to be released and has been released from custody.

The Secretary to the Department of Justice and Regulation, under section 108A(2)(b) of the **Corrections Act 1986**, authorises any prison officer or escort officer to arrest the prisoner and return the prisoner to prison.

You must take and safely convey the prisoner named on this warrant to a prison and deliver the prisoner to the person in charge of that prison.

**To the person in charge of a prison into whose custody the prisoner
named in this warrant is received:**

You are directed and authorised to receive the prisoner named in this warrant into custody and detain that prisoner for the period specified in the original court warrant identified by the case number above, or until that person is otherwise released from custody according to law.

Corrections Regulations 2009
S.R. No. 40/2009
Schedule 10

Dated:

Signature of the Secretary to the Department of Justice and Regulation:

FORM 5

Regulation 88F

Sch. 10
Form 5
inserted by
S.R. No.
60/2017
reg. 11.

**WARRANT TO ARREST AND RETURN AN
UNLAWFULLY RELEASED PRISONER TO PRISON
BY A MAGISTRATE UNDER SECTION 108A(3)
OF THE CORRECTIONS ACT 1986**

Prisoner name:

Prisoner JAID/MNI:

Prisoner CRN:

Prisoner date of birth:

Case number/s:

**To the Chief Commissioner of Police and to all police officers in the
State of Victoria:**

The prisoner named on this warrant is not legally entitled to be released and has been released from custody.

The Secretary to the Department of Justice and Regulation, under section 108A(3) of the **Corrections Act 1986**, has authorised the making of an application to a magistrate for a warrant authorising any police officer to break, enter and search any place where the prisoner named on this warrant is reasonably believed to be and to arrest the prisoner and return the prisoner to prison.

This warrant authorises you to take and safely convey the prisoner named on this warrant to a prison and deliver the prisoner to the person in charge of that prison.

To all prison officers and escort officers:

The prisoner named on this warrant is not legally entitled to be released and has been released from custody.

The Secretary to the Department of Justice and Regulation, under section 108A(3) of the **Corrections Act 1986**, has authorised the making of an application to a magistrate for a warrant authorising any prison officer or escort officer to arrest the prisoner and return the prisoner to prison.

This warrant authorises you to take and safely convey the prisoner named on this warrant to a prison and deliver the prisoner to the person in charge of that prison.

Corrections Regulations 2009
S.R. No. 40/2009
Schedule 10

To the person in charge of a prison into whose custody the prisoner named in this warrant is received:

This warrant directs and authorises you to receive the prisoner named in this warrant into custody and detain that prisoner for the period specified in the original court warrant identified by the case number above, or until that person is otherwise released from custody according to law.

Dated:

Magistrate

Schedule 11—Forms

FORM 1

Regulation 81A

Sch. 11
inserted by
S.R. No.
79/2016
reg. 13.

NOTICE TO ATTEND ISSUED TO PERSON IN CUSTODY

TO: *[insert name and title of person in charge of the place where person is held in custody e.g. the Governor of the prison or the officer in charge of the police gaol]*

AT: *[insert name and address of place where person is held in custody]*

In accordance with section 71F of the **Corrections Act 1986**, I direct that *[name of person held in custody]* who is detained at *[insert name of place where person is held in custody]**—

- be brought to a place equipped with facilities to enable the person to appear before the Adult Parole Board by audio visual link; or
- be brought before the Adult Parole Board.

**Tick one of these options*

LOCATION: *[insert specified place to which person held in custody is to be brought]*

DATE: *[insert date on which person held in custody is to be brought to the specified place]* and from day to day until excused from further attendance.

TIME: *[insert time when person held in custody is to be brought to the specified place]*

for the purpose of *[insert purpose e.g. to produce documents or to give evidence in relation to a matter before the Adult Parole Board]*

and the person is to be returned to the place from which they were removed or to a police gaol each day by the direction of the Adult Parole Board.

Name: *[insert name of person giving direction]*

Title: *[insert position of person giving direction]*

Date: *[insert date the direction is made]*

FORM 2

Regulation 81A

NOTICE TO ATTEND THE ADULT PAROLE BOARD

TO: [*insert name of person to whom notice is directed*]

OF: [*insert address*]

The Adult Parole Board may, under section 71A of the **Corrections Act 1986**, serve written notice on a person for the purposes of obtaining evidence and informing itself in the performance of its functions.

What you must do

You must*—

- attend a meeting of the Adult Parole Board to produce the document/s or other thing/s specified below; or
- attend a meeting of the Adult Parole Board to give evidence from day to day until excused; or
- attend a meeting of the Adult Parole Board to give evidence from day to day until excused and produce the document/s or other thing/s specified below.

**Tick one of these options*

Where and when you must *attend and/or *produce documents and/or things

[*Insert details of where and when (including date and time) a person must attend, and/or insert details of where, when and how a person must produce the document/s and/or thing/s*]

**Delete if not applicable.*

What you must produce to the Adult Parole Board (if applicable)

[*Insert description of document/s or thing/s to be produced*]

Note:

You must bring this notice with you when you attend at the Adult Parole Board at the time and place specified in this notice.

Objecting to this notice

You may object to this notice under section 71B of the **Corrections Act 1986** if you have (or will have) a reasonable excuse for failing to comply with this notice. For example, it is a reasonable excuse to fail to provide a document or thing if the document or thing—

Corrections Regulations 2009
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Schedule 11—Forms

- might tend to incriminate you or make you liable to a penalty; or
- is the subject of parliamentary privilege; or
- is the subject of legal professional privilege; or
- is the subject of public interest immunity; or
- is prohibited from disclosure by a court order; or
- is prohibited from disclosure by a provision of another Act that specifically applies to the giving of information or the production of documents or other things to the Adult Parole Board.

You may also object to the notice by claiming that the document/s or thing/s specified in the notice are not relevant to the subject matter of the meeting of the Adult Parole Board.

If you wish to object to this notice, you must do so in writing to [*insert name and contact details*] by [*insert date*]. Your written objection must outline your reasons for objecting and attach any relevant evidence or documents in support of your claim. If the Adult Parole Board is satisfied that your excuse for failure to comply is reasonable, the Adult Parole Board may vary or revoke this notice under section 71B of the **Corrections Act 1986**.

Failure or refusal to comply with this notice without reasonable excuse may constitute a criminal offence. The maximum penalty for this offence is 30 penalty units or imprisonment for 3 months. This penalty is set out in section 71H of the Corrections Act 1986.

Name: [*insert name of person issuing this notice*]

Title: [*insert title of person issuing notice*]

Date: [*insert date*]

FORM 3

Regulation 81B

**NOTICE TO PRODUCE DOCUMENTS AND/OR THINGS TO
THE ADULT PAROLE BOARD**

TO: *[insert name of person to whom notice is directed]*

OF: *[insert address]*

The Adult Parole Board may, under section 71A of the **Corrections Act 1986**, serve written notice on a person for the purposes of obtaining evidence and informing itself in the performance of its functions.

What you must do

You must produce to the Adult Parole Board the document/s or other thing/s specified below.

Where and when you must produce documents and/or things

[Insert details of where, when and how a person must produce the document/s and/or thing/s]

What you must produce to the Adult Parole Board

[Insert description of document/s and/or thing/s to be produced]

Objecting to this notice

You may object to this notice under section 71B of the **Corrections Act 1986** if you have (or will have) a reasonable excuse for failing to comply with this notice. For example, it is a reasonable excuse to fail to produce a document or thing if the document or thing—

- might tend to incriminate you or make you liable to a penalty;
or
- is the subject of parliamentary privilege; or
- is the subject of legal professional privilege; or
- is the subject of public interest immunity; or
- is prohibited from disclosure by a court order; or
- is prohibited from disclosure by a provision of another Act that specifically applies to the giving of information or the production of documents or other things to the Adult Parole Board.

Corrections Regulations 2009
S.R. No. 40/2009
Schedule 11—Forms

If you wish to object to this notice, you must do so in writing to [*insert name and contact details*] by [*insert date*]. Your written objection must outline your reasons for objecting and attach any relevant evidence or documents in support of your claim. If the Adult Parole Board is satisfied that your excuse for failure to comply is reasonable, the Adult Parole Board may vary or revoke this notice under section 71B of the **Corrections Act 1986**.

Failure or refusal to comply with this notice without reasonable excuse may constitute a criminal offence. The maximum penalty for this offence is 30 penalty units or imprisonment for 3 months. This penalty is set out in section 71H of the Corrections Act 1986.

Name: [*insert name of person issuing this notice*]

Title: [*insert title of person issuing notice*]

Date: [*insert date*]

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Corrections Regulations 2009, S.R. No. 40/2009 were made on 28 April 2009 by the Lieutenant-Governor as the Governor's deputy with the advice of the Executive Council under sections 112 and 112A of the **Corrections Act 1986**, No. 117/1986 and came into operation on 10 May 2009: regulation 3.

The Corrections Regulations 2009 will sunset 10 years after the day of making on 28 April 2019 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

Corrections Regulations 2009
S.R. No. 40/2009
Endnotes

2 Table of Amendments

This publication incorporates amendments made to the Corrections Regulations 2009 by statutory rules, subordinate instruments and Acts.

Corrections Amendment Regulations 2009, S.R. No. 135/2009

Date of Making: 4.11.09

Date of Commencement: 4.11.09

Corrections Amendment Regulations 2013, S.R. No. 15/2013

Date of Making: 5.2.13

Date of Commencement: 10.2.13: reg. 3

Corrections Amendment (Breach of Parole and Other Matters) Regulations 2014, S.R. No. 12/2014

Date of Making: 8.4.14

Date of Commencement: Regs 5–13 on 8.4.14: reg. 3(1); regs 14–23 on 1.7.14: reg. 3(2)

Corrections Amendment (Firearms) Regulations 2014, S.R. No. 20/2014

Date of Making: 29.4.14

Date of Commencement: 1.5.14: reg. 3

Corrections Amendment (Smoke-Free Prisons and Other Matters) Regulations 2014, S.R. No. 147/2014

Date of Making: 30.9.14

Date of Commencement: Regs 5, 8–18 on 1.10.14: reg. 3(1); regs 6, 7 on 1.12.14: reg. 3(2); regs 19–22 on 1.7.15: reg. 3(3)

Corrections Amendment (Firearms) Regulations 2015, S.R. No. 95/2015

Date of Making: 18.8.15

Date of Commencement: 18.8.15

Corrections Amendment Regulations 2015, S.R. No. 140/2015

Date of Making: 24.11.15

Date of Commencement: Regs 5-8 on 30.11.15: reg. 3

Corrections Amendment Regulations 2016, S.R. No. 79/2016

Date of Making: 28.6.16

Date of Commencement: 1.7.16: reg. 3

Corrections Amendment Regulations 2017, S.R. No. 60/2017

Date of Making: 27.6.17

Date of Commencement: Regs 5, 8, 9, 11 on 28.6.17: reg. 3(1); regs 6, 7, 10 on 1.8.17: reg. 3(2)

Corrections Further Amendment Regulations 2017, S.R. No. 133/2017

Date of Making: 19.12.17

Date of Commencement: 19.12.17

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Corrections Amendment (Remotely Piloted Aircraft and Helicopter Ban)
Regulations 2018, S.R. No. 3/2018

Date of Making: 30.1.18

Date of Commencement: 1.2.18: reg. 3

Corrections Amendment (Paid Employment and Other Matters) Regulations 2018,
S.R. No. 116/2018

Date of Making: 28.8.18

Date of Commencement: 3.9.18: reg. 3

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

No entries at date of publication.