

South Australia

Correctional Services Regulations 2016

under the *Correctional Services Act 1982*

Contents

Part 1—Preliminary

- 1 Citation
- 3 Interpretation
- 3A Definition of terrorist offence
- 4 Corresponding laws for purposes of section 27A of Act

Part 2—Admission of prisoners to correctional institutions

- 5 Admission hours
- 6 Declaration by prisoner on admission
- 7 Prisoner may retain certain personal property

Part 3—Prohibited items, activities and communications

- 8 Prohibited items (sections 33, 33A and 51)
- 9 Prohibited activities (section 33)
- 10 Penalties for breaches of regulations (sections 43 and 44)
- 11 Prohibited manners of communication (section 51)

Part 4—Conduct of prisoners

Division 1—Prisoners on home detention

- 12 Prisoner on home detention not to damage etc property of Department

Division 2—Prisoners in correctional institutions

Subdivision 1—Interpretation

- 13 Interpretation

Subdivision 2—Serious breaches

- 14 Serious breaches—miscellaneous
- 15 Serious breaches—sexual offences
- 16 Threatening behaviour

Subdivision 3—Minor breaches

- 17 Application of section 42A to this Subdivision
- 18 Minor breaches—miscellaneous
- 19 Minor breaches—alcohol and drugs
- 20 Defence to minor breaches relating to drugs

Subdivision 4—Complicity

- 21 Complicity

Part 5—Procedures on hearings and appeals

- 22 Procedure where CE deals with breach of regulations under section 43
- 23 Procedure of Visiting Tribunal dealing with breach of regulations
- 24 Orders relating to possession of prohibited item etc
- 25 Appeal against penalty imposed by CE (section 46)
- 26 Appeals against orders of Visiting Tribunals (section 47)

Part 6—Parole Board procedures

- 27 Summons by Board
- 28 Prisoners excluded from automatic release on parole (section 66)
- 29 Release on parole—application by prisoner
- 30 Release on parole—application by CE
- 31 Release on parole—details to be included in application
- 32 Order for release on parole
- 33 Community corrections officer may give directions to parolee
- 34 Variation or revocation of parole conditions (section 71)
- 35 Application for discharge from parole (section 72)

Part 7—Drug testing of prisoners

- 36 Definitions (section 4 of Act)
- 37 Authorised officers
- 38 CE may establish drug testing procedures

Part 8—Miscellaneous

- 39 Prescribed number of visitors (section 34)
- 40 Dealing with surrendered items
- 41 Medical examinations
- 42 Prohibition on supply and administration of certain drugs
- 43 Unauthorised dealings with prisoners prohibited (section 82 of Act)
- 44 Prescribed weapons (section 86A)

Schedule 1—Forms

Legislative history

Part 1—Preliminary

1—Citation

These regulations may be cited as the *Correctional Services Regulations 2016*.

3—Interpretation

In these regulations—

Act means the *Correctional Services Act 1982*;

authorised telephone call means a telephone call that is made or received by a prisoner in accordance with rules made by the CE, or that has been specifically authorised by the manager of the correctional institution in which the prisoner is imprisoned;

prohibited activity—see regulation 9;

prohibited item—see regulation 8.

3A—Definition of terrorist offence

- (1) For the purposes of paragraph (e) of the definition of **terrorist offence** in section 4(1) of the Act, the following kinds of offences against the laws of South Australia are prescribed:
 - (a) an offence against section 83CA of the *Criminal Law Consolidation Act 1935*;
 - (b) any offence against Part 3D of the *Criminal Law Consolidation Act 1935*;
 - (c) an offence against section 37 of the *Summary Offences Act 1953*.
- (2) For the purposes of paragraph (e) of the definition of **terrorist offence** in section 4(1) of the Act, the following kinds of offences against the laws of other States and Territories of the Commonwealth are prescribed:
 - (a) an offence against section 310J of the *Crimes Act 1900* of New South Wales;
 - (b) the following offences against Schedule 1 of the *Criminal Code Act 1983* of the Northern Territory:
 - (i) an offence against section 51 where the unlawful organisation to which the offence relates is a terrorist organisation;
 - (ii) an offence against section 53 where the unlawful organisation to which the offence relates is a terrorist organisation;
 - (iii) an offence against section 54;
 - (iv) an offence against section 55;
 - (c) an offence against section 4B of the *Terrorism (Community Protection) Act 2003* of Victoria.
- (3) In this regulation—

terrorist organisation means an organisation referred to in paragraph (b) of the definition of **terrorist organisation** in Division 102 of the Commonwealth Criminal Code.

4—Corresponding laws for purposes of section 27A of Act

The following laws are corresponding laws for the purposes of section 27A of the Act:

- (a) Chapter 12, Part 12.2 of the *Corrections Management Act 2007* of the Australian Capital Territory;
- (b) Part 2 Division 3 Subdivision 2 (sections 27 to 37) of the *Crimes (Administration of Sentences) Act 1999* of New South Wales;
- (c) Chapter 3, Part 3.3, Division 3 of the *Correctional Services Act 2014* of the Northern Territory;
- (d) Chapter 2, Part 2, Division 9 of the *Corrective Services Act 2006* of Queensland;
- (e) Part 6 (sections 47 to 56) of the *Corrections Act 1997* of Tasmania;

- (f) Part 8A (sections 80 to 84EA) of the *Corrections Act 1986* of Victoria.

Part 2—Admission of prisoners to correctional institutions

5—Admission hours

- (1) New prisoners may only be admitted for detention to the following correctional institutions from Monday to Friday (except public holidays), between 9 am and 6 pm:
- (a) Adelaide Remand Centre;
 - (b) Adelaide Women's Prison;
 - (c) Cadell Training Centre;
 - (d) Mount Gambier Prison;
 - (e) Port Augusta Prison;
 - (f) Port Lincoln Prison;
 - (g) Yatala Labour Prison.
- (2) However, the CE may admit a new prisoner to an institution on some other day or at some other time if the CE thinks good reason exists for doing so.

6—Declaration by prisoner on admission

On admission to a correctional institution, a prisoner must make a declaration in writing that specifies the personal property that the prisoner has with him or her or that is on or about the prisoner's person.

7—Prisoner may retain certain personal property

- (1) A prisoner—
- (a) must be permitted by the CE to retain at the correctional institution at which the prisoner is detained personal property—
 - (i) the total value of which does not exceed \$500; and
 - (ii) that is capable of being stored in a receptacle of a total volume of 60 litres; and
 - (b) may, on written application to the CE, be permitted by the CE to retain at the correctional institution personal property that is of a kind other than that referred to in paragraph (a).
- (2) If a prisoner is in possession of any personal property that the prisoner is not permitted to retain at the correctional institution under subregulation (1) the prisoner must make arrangements to store it at a place other than a correctional institution and any costs incurred in storing the property will be borne by the prisoner.
- (3) If a prisoner refuses or fails to make arrangements, within a period specified by the CE for the purposes of this subregulation (which must be a period of at least 60 days), to store property as required by subregulation (2), the CE may make such arrangements as are necessary—
- (a) to have the property stored at a place other than the correctional institution; or

- (b) to otherwise deal with or dispose of the goods as the CE thinks fit (for example, by selling or destroying them),

and the CE may deduct any costs incurred in making such arrangements from any money held to the credit of the prisoner.

- (4) For the purposes of subregulation (1), if the value of personal property of a prisoner is not apparent, the CE may determine the value of the property.

Part 3—Prohibited items, activities and communications

8—Prohibited items (sections 33, 33A and 51)

- (1) For the purposes of sections 33(3)(f), 33A(4) and (5), and 51(1)(b), of the Act, the following items are prohibited items:
 - (a) a substance that is—
 - (i) a prescription drug; or
 - (ii) a controlled drug,under the *Controlled Substances Act 1984*;
 - (b) a syringe or needle;
 - (c) a device capable of being used for the administration of a controlled drug by means of the drawing of smoke or fumes (resulting from the heating or burning of the drug or substance), including a device known as a bong;
 - (d) any—
 - (i) flammable, corrosive or toxic substance that is a dangerous substance under the *Dangerous Substances Act 1979*; or
 - (ii) alcohol; or
 - (iii) paint; or
 - (iv) oil; or
 - (v) acid or alkali; or
 - (vi) glue; or
 - (vii) herbicide, fungicide or insecticide;
 - (e) any pressurised spray canister;
 - (f) any explosive, explosive device or incendiary device, or any substance or device that can be used in the manufacture of an explosive or incendiary device;
 - (g) any pistol, revolver, rifle, machine gun, shot gun or any other kind of gun or weapon;
 - (h) any device or instrument designed or commonly used, or that has been or is capable of being adapted or modified, for the purpose of—
 - (i) inflicting any kind of bodily injury or harm to a person; or
 - (ii) assisting a prisoner to escape from a correctional institution;

- (i) any book, diagram, plan or other document, or audio or video recording, or any other material of any kind, that instructs, teaches or otherwise guides a person—
 - (i) how to make any item referred to in the preceding paragraphs; or
 - (ii) about a method of escaping from a correctional institution or causing an insurrection, riot or other disturbance at a correctional institution;
 - (j) a film classified RC, X 18+ or R 18+, or a computer game classified RC, under the *Classification (Publications, Films and Computer Games) Act 1995*;
 - (k) any pornographic material;
 - (l) a camera or other device capable of capturing or recording images (whether digitally or on film or tape);
 - (m) a mobile telephone, mobile telephone accessory or other device that may be used to make or receive a telephone call other than an authorised telephone call;
 - (n) a 2-way radio (also known as a walkie talkie);
 - (o) any device that includes a modem or other device enabling it to transmit or receive data to or from a network of computers;
 - (p) any unauthorised data storage device.
- (2) For the purposes of paragraph (p) of subregulation (1)—
- unauthorised data storage device*** means a data storage device that has not been specifically authorised by the CE, but does not include a data storage device of a kind referred to in a preceding paragraph of that subregulation or a data storage device containing only a film or computer game classified G under the *Classification (Publications, Films and Computer Games) Act 1995*.
- (3) For the purposes of paragraph (a)(ii) of the penalty provision of section 51(1) of the Act, the items specified in paragraphs (g) and (m) of subregulation (1) are prescribed.

9—Prohibited activities (section 33)

For the purposes of section 33(3)(e) of the Act, the following activities are prohibited:

- (a) a riot, insurrection or disturbance in a correctional institution;
- (b) the taking of a hostage in a correctional institution;
- (c) escape from lawful custody.

10—Penalties for breaches of regulations (sections 43 and 44)

- (1) For the purposes of section 43(2)(a) of the Act, the prescribed amount is \$40.
- (2) For the purposes of section 44(2)(c) of the Act, the prescribed amount is \$75.
- (3) For the purposes of section 44(4) of the Act, the prescribed amount is \$3 000.

11—Prohibited manners of communication (section 51)

- (1) For the purposes of section 51(1)(a) of the Act, all manners of communication between a prisoner and a person (other than a person who is lawfully in the same place as the prisoner) are prohibited except communications—
 - (a) at a lawful visit; or
 - (b) by an authorised telephone call; or
 - (c) by a letter lawfully sent to a prisoner.
- (2) Without limiting subsection (1), for the purposes of section 51(1)(a) of the Act, all manners of communication between a prisoner and a person or organisation engaged in the provision of a service for the purposes of facilitating relationships between prisoners and persons who are not prisoners are prohibited.
- (3) In this regulation—

communication includes conversation and a message, and any part of a conversation or message, whether—

 - (a) in the form of—
 - (i) speech, music or other sounds; or
 - (ii) data; or
 - (iii) text; or
 - (iv) visual images, whether or not animated; or
 - (v) signals; or
 - (b) in any other form or in any combination of forms.

Part 4—Conduct of prisoners

Division 1—Prisoners on home detention

12—Prisoner on home detention not to damage etc property of Department

A prisoner serving a period of home detention must not, without lawful authority or reasonable excuse, damage, interfere with, alter or dispose of any property belonging to the Department that is in the prisoner's custody.

Division 2—Prisoners in correctional institutions

Subdivision 1—Interpretation

13—Interpretation

In this Division—

prisoner does not include—

- (a) a prisoner serving a period of home detention under Part 4 of the Act; or
- (b) a prisoner released on parole under Part 6 of the Act; or

- (c) a prisoner on home detention subject to a home detention order under the *Criminal Law (Sentencing) Act 1988*.

Subdivision 2—Serious breaches

14—Serious breaches—miscellaneous

- (1) A prisoner must not assault another person.
- (2) A prisoner must not—
 - (a) disrupt security or order in a correctional institution; or
 - (b) incite another person to disrupt security or order in a correctional institution.
- (3) A prisoner must not—
 - (a) make preparation for a prohibited activity; or
 - (b) possess plans for the carrying out of a prohibited activity; or
 - (c) attempt to carry out a prohibited activity; or
 - (d) without the specific authorisation of the CE—possess an article that may assist a prisoner to engage in a prohibited activity.
- (4) A prisoner must not disobey, or refuse or fail to comply with—
 - (a) a lawful order or direction of an officer or employee of the Department or of a person authorised by the CE, individually or by class, to give directions to prisoners; or
 - (b) a procedure for, or notice or direction about, work safety promulgated by an officer or employee of the Department.
- (5) A prisoner must not perform work in an unsafe manner—
 - (a) knowing it to be unsafe; or
 - (b) with reckless indifference as to whether or not it is unsafe.
- (6) A prisoner must not set fire to any article without the authority of an officer or employee of the Department.
- (7) A prisoner must not communicate with a person in a manner prohibited under these regulations.

15—Serious breaches—sexual offences

- (1) A prisoner must not sexually harass another person.
- (2) A prisoner sexually harasses another person if he or she does any of the following acts in such a manner or in such circumstances that the other person feels offended, humiliated or intimidated:
 - (a) he or she subjects the other person to an unsolicited act of physical intimacy;
 - (b) he or she demands or requests (directly or by implication) sexual favours from the other person;
 - (c) he or she makes, on more than 1 occasion, a remark with sexual connotations relating to the other person,

and it is reasonable in all the circumstances that the other person should feel offended, humiliated or intimidated by that conduct.

16—Threatening behaviour

- (1) A prisoner must not threaten any person (whether for the purposes of obtaining a benefit or not).
- (2) It is a defence to a charge against subregulation (1) if the prisoner proves that the threat was a threat to invoke the due process of the law and that—
 - (a) the prisoner did not intend to obtain a benefit for himself, herself or any other person by making the threat; or
 - (b) the prisoner made the threat only for the purpose of avoiding the circumstance in relation to which the law would be invoked.

Subdivision 3—Minor breaches

17—Application of section 42A to this Subdivision

Section 42A of the Act applies to the regulations in this Subdivision.

18—Minor breaches—miscellaneous

- (1) A prisoner must obey the rules made by the CE relating to the management of the correctional institution in which the prisoner is imprisoned.
- (2) A prisoner must not behave in a disorderly manner or cause unreasonable disturbance or annoyance to another person.
- (3) A prisoner must not forge, counterfeit or alter any document, article of identification or signature.
- (4) A prisoner must not hinder or obstruct—
 - (a) an officer or employee of the Department in the exercise of his or her powers or functions; or
 - (b) any other person lawfully exercising powers or carrying out functions in relation to prisoners.
- (5) A prisoner must not make a complaint against a person unless the prisoner has adequate grounds to believe that the complaint is true.
- (6) A prisoner must not use language or make a gesture that is abusive, insolent or obscene.
- (7) A prisoner must not refuse to work or carry out his or her duties without a reasonable excuse.
- (8) A prisoner must not—
 - (a) tattoo himself or herself; or
 - (b) tattoo another prisoner; or
 - (c) allow himself or herself to be tattooed.
- (9) A prisoner must not, without lawful authority, be in possession of any property of the Department or another person.

- (10) A prisoner must not, without lawful authority or reasonable excuse, damage, interfere with, alter or dispose of any property belonging to the Department or to another person.
- (11) A prisoner must not possess, or supply to another prisoner, a prohibited item.
- (12) A prisoner must not supply any property to another prisoner or receive any property from another prisoner—
 - (a) without the authorisation of the CE; or
 - (b) in exchange for any valuable consideration, benefit or service.
- (13) A prisoner must not fight with another prisoner.
- (14) A prisoner must not gamble.
- (15) A prisoner must not deposit litter, refuse or waste matter in any place other than a receptacle provided for the purpose.
- (16) A prisoner must not enter a cell or quarters other than his or her own without the authorisation of an officer or employee of the Department.
- (17) A prisoner must not leave—
 - (a) an area in which the prisoner is directed to be; or
 - (b) the areas in which the prisoner is authorised to be,without the permission of an officer or employee of the Department.
- (18) A prisoner must not use equipment or machinery of the Department without the authorisation of an officer or employee of the Department or of any other person who has lawful control over the use of the machinery or equipment.
- (19) A prisoner must not—
 - (a) intentionally; or
 - (b) with reckless indifference as to whether or not a task is mismanaged or improperly performed,mismanage or improperly perform prison work or any other task assigned to the prisoner by an officer or employee of the Department.

19—Minor breaches—alcohol and drugs

- (1) A prisoner must not supply or administer to another person—
 - (a) alcohol; or
 - (b) a substance that is a prescription drug or controlled drug under the *Controlled Substances Act 1984*.
- (2) A prisoner must not possess or consume, or administer to himself or herself, alcohol unless the alcohol was possessed, consumed or administered in accordance with the authorisation of an officer or employee of the Department.
- (3) A prisoner must not possess or consume, or administer to himself or herself, a substance that is a controlled drug (other than a drug of dependence) under the *Controlled Substances Act 1984*.

- (4) A prisoner must not possess or consume, or administer to himself or herself, a substance that is a prescription drug or a drug of dependence under the *Controlled Substances Act 1984* unless—
- (a) the substance has, for the purposes of that Act, been lawfully prescribed for or supplied to the prisoner; and
 - (b) the prisoner possesses or consumes or administers the substance for the purpose for which it was prescribed or supplied.

20—Defence to minor breaches relating to drugs

- (1) If a drug is found to be present in a biological sample of a prisoner, the prisoner will be taken to be guilty of an offence against the relevant provision of regulation 19 unless—
- (a) the drug was lawfully supplied or administered to the prisoner; or
 - (b) the prisoner had not, on the day the biological sample was given, been in prison for the prescribed period; or
 - (c) the prescribed period had not, on that day, elapsed since the prisoner last gave a biological sample in which the same drug was found to be present.
- (2) For the purposes of subregulation (1), the *prescribed period* means, in relation to the following drugs or a drug of the following classes:
- (a) amphetamines—7 days;
 - (b) cocaine metabolite—7 days;
 - (c) opiates—7 days;
 - (d) tricyclic antidepressants—7 days;
 - (e) methadone—21 days;
 - (f) barbiturates—28 days;
 - (g) benzodiazapines—28 days;
 - (h) cannabinoids—70 days.

Subdivision 4—Complicity

21—Complicity

A prisoner who aids, abets, counsels or procures the commission of an offence under this Part is guilty of an offence and liable to be dealt with under the Act as a principal offender.

Part 5—Procedures on hearings and appeals

22—Procedure where CE deals with breach of regulations under section 43

- (1) For the purposes of section 43(1) of the Act—
- (a) the prescribed time within which the CE may charge a prisoner with the offence of a breach of the regulations is 8 weeks from the date of the alleged breach; and

- (b) the prescribed manner of conducting an inquiry into the allegation (except where the proceedings are to be heard and determined in the absence of the prisoner) is set out in the following subregulations.
- (2) On charging a prisoner with an offence against the regulations, the CE must—
 - (a) immediately give the prisoner a notice in writing that—
 - (i) sets out the date of the alleged offence and briefly states the facts on which the alleged offence is founded; and
 - (ii) identifies the particular regulation that is alleged to have been breached; and
 - (b) as soon as practicable after giving the prisoner notice of the alleged offence, fix a time, date and place for the hearing of the inquiry; and
 - (c) after fixing the time, date and place for the hearing of the inquiry, immediately inform the prisoner, by notice in writing, of the time, date and place of the hearing.
 - (3) At the commencement of the inquiry, the CE must—
 - (a) read out the charge to the prisoner; and
 - (b) explain in simple language to the prisoner—
 - (i) the nature of the charge; and
 - (ii) the penalty that may be imposed if the charge is proved; and
 - (iii) the procedure that will be followed in conducting the inquiry; and
 - (iv) that the prisoner need not choose to give evidence but that, if the prisoner does so, the prisoner will be liable to be cross-examined.
 - (4) At the conclusion of the inquiry, the CE must—
 - (a) make a written record of—
 - (i) the CE's decision in the matter; and
 - (ii) the reasons for the decision; and
 - (iii) the penalty (if any) imposed; and
 - (iv) the reasons for the penalty; and
 - (b) provide the prisoner with a copy of the record.

23—Procedure of Visiting Tribunal dealing with breach of regulations

- (1) The procedure to be followed by a Visiting Tribunal in proceedings under Division 2 of Part 5 of the Act (except where proceedings are to be heard and determined in the absence of the prisoner) is set out in the Act and in the following subregulations.
- (2) At the commencement of the hearing, the Visiting Tribunal must—
 - (a) read out the charge to the prisoner; and
 - (b) explain in simple language to the prisoner—
 - (i) the nature of the charge; and
 - (ii) the penalty that may be imposed if the charge is proved; and

- (iii) the procedure that will be followed; and
 - (iv) that the prisoner need not give evidence but that, if the prisoner does so, the prisoner will be liable to be cross-examined.
- (3) At the conclusion of the hearing, the Visiting Tribunal must—
- (a) make a written record of—
 - (i) its decision in the matter; and
 - (ii) the reasons for the decision; and
 - (iii) the penalty (if any) imposed; and
 - (iv) the reasons for the penalty; and
 - (b) provide the prisoner with a copy of the record.

24—Orders relating to possession of prohibited item etc

If the CE or a Visiting Tribunal has heard and determined a matter arising out of a breach of the regulations and the determination contains a finding that a prisoner was in possession of anything contrary to these regulations, the CE or Visiting Tribunal (as the case requires) may make any of the following orders:

- (a) in the case of a sum of money—
 - (i) if the prisoner is lawfully entitled to it—that the whole or part of it be credited to the prisoner; or
 - (ii) if the prisoner is not lawfully entitled to it—
 - (A) that it be returned to the person lawfully entitled to it; or
 - (B) where the identity or whereabouts of the person lawfully entitled to it cannot be ascertained—that it be paid to the Treasurer as unclaimed money for the purpose of the *Unclaimed Moneys Act 1891*;
- (b) in any other case—
 - (i) if the prisoner is lawfully entitled to it—that it be retained and handed to the prisoner on the prisoner's discharge from prison; or
 - (ii) if the prisoner is not lawfully entitled to it—
 - (A) that it be returned to the person lawfully entitled to it; or
 - (B) where the identity or whereabouts of the person lawfully entitled to it cannot be ascertained—that it be destroyed or disposed of in such manner as is considered to be expedient.

25—Appeal against penalty imposed by CE (section 46)

- (1) For the purposes of section 46(2) of the Act, the prescribed manner for instituting an appeal by a prisoner to a Visiting Tribunal against a penalty imposed by the CE is set out in the following subregulations.
- (2) The prisoner must, within 7 days of receiving a copy of the record of the penalty imposed and the reasons for the penalty, serve on the CE a notice in writing stating—
 - (a) that the prisoner intends to appeal; and

- (b) the grounds of the appeal.
- (3) After being served with a notice of appeal, the CE must—
 - (a) arrange for the Visiting Tribunal to hear the appeal; and
 - (b) provide the Visiting Tribunal with a copy of—
 - (i) the notice of appeal; and
 - (ii) the record made by the CE under regulation 22.
- (4) The prisoner must be notified in writing, at least 7 days before the date fixed for the hearing, of the time, date and place fixed for the hearing.

26—Appeals against orders of Visiting Tribunals (section 47)

- (1) For the purposes of section 47(2) of the Act, the prescribed manner in which an appeal against an order of a Visiting Tribunal is to be instituted is set out in the following subregulations.
- (2) The prisoner must, within 14 days of receiving a copy of the record of the penalty imposed and the reasons for the penalty, serve on the CE a notice in writing that—
 - (a) identifies the proceedings that are the subject of the appeal; and
 - (b) sets out the reasons why the prisoner considers that the proceedings were not conducted in accordance with the Act and these regulations.
- (3) The CE must, within 14 days of receiving a notice under subregulation (2), lodge at the District Court or the Magistrates Court (as the case requires)—
 - (a) a copy of the notice; and
 - (b) a copy of the record that has been made under these regulations relating to the proceedings the subject of the appeal; and
 - (c) any other relevant material.

Part 6—Parole Board procedures

27—Summons by Board

- (1) A summons under section 63(1)(a) of the Act requiring a person to attend before the Board must be in the form set out in Form 1 of Schedule 1.
- (2) A summons under section 63(1)(b) of the Act requiring a person to produce a document relating to a matter before the Board must be in the form set out in Form 2 of Schedule 1.

28—Prisoners excluded from automatic release on parole (section 66)

- (1) For the purposes of section 66(2)(b) of the Act, a prisoner is excluded from the application of section 66(1) of the Act if any part of the imprisonment for which the prisoner was sentenced is in respect of an offence against section 99I of the *Summary Procedure Act 1921* arising out of a breach of a paedophile restraining order.
- (2) In this regulation—

paedophile restraining order means—

 - (a) an order under section 99AA of the *Summary Procedure Act 1921*; or

- (b) an order under section 19A of the *Criminal Law (Sentencing) Act 1988* that has effect as a restraining order under section 99AA of the *Summary Procedure Act 1921*.

29—Release on parole—application by prisoner

- (1) An application by a prisoner for release on parole made under section 67 of the Act must be made in the form set out in Form 3 of Schedule 1.
- (2) The prisoner must serve a copy of the application on the CE and the Board and may serve each copy by post.
- (3) On receiving the prisoner's application for parole, the CE must cause details of the prisoner specified in section 31 to be served personally on the prisoner and on the Board.

30—Release on parole—application by CE

The CE, or any officer or employee of the Department authorised by the CE—

- (a) may apply under section 67 of the Act for a prisoner's release on parole in the form set out in Form 4 of Schedule 1; and
- (b) must cause details of the prisoner specified in section 31 to be served personally on the prisoner and on the Board.

31—Release on parole—details to be included in application

- (1) For the purposes of regulations 29 and 30, the details specified are—
 - (a) the prisoner's—
 - (i) identification number; and
 - (ii) alias; and
 - (iii) date of birth; and
 - (iv) sex or gender identity; and
 - (v) criminal history; and
 - (vi) total period of imprisonment; and
 - (b) the date and details of the prisoner's conviction; and
 - (c) the date on which the prisoner's non-parole period expires; and
 - (d) any deportation or extradition order relating to the prisoner; and
 - (e) any details of home detention relating to the prisoner.
- (2) In providing details in accordance with this regulation, the CE or the officer or employee of the Department authorised by the CE (as the case may be) must certify that the details are accurate.

32—Order for release on parole

- (1) If the Board makes an order releasing a prisoner on parole under Part 6 Division 3 of the Act—
 - (a) the order must be in the form set out in Form 5 of Schedule 1; and

- (b) the Board must send a copy of the order to—
 - (i) the prisoner who is to be released on parole; and
 - (ii) the CE.
- (2) The manager of a correctional institution who receives a copy of an order referred to in subregulation (1) must return to the Board the copy of the order, signed by the prisoner, within a reasonable time of the prisoner being released on parole.

33—Community corrections officer may give directions to parolee

A community corrections officer may, subject to the conditions of parole, give a prisoner released on parole 1 or more of the following directions:

- (a) to report to the community corrections officer on a regular basis;
- (b) to reside at a place specified by the community corrections officer;
- (c) to follow a particular course of employment;
- (d) to notify the community corrections officer of any change in the person's place of residence or place of employment within 48 hours of any such change occurring;
- (e) to obtain the community corrections officer's written permission before the person leaves the State;
- (f) not to possess a firearm;
- (g) to avoid having contact with a specified person;
- (h) to obey any condition ordered by the Board as a condition of the prisoner's release on parole;
- (i) not to visit a specified place either generally or at a specified time;
- (j) not to have contact with any specified thing.

34—Variation or revocation of parole conditions (section 71)

- (1) An application by a person under section 71 of the Act for an order to vary or revoke any condition of parole must—
 - (a) be in writing; and
 - (b) be signed by the person making the application; and
 - (c) contain a concise statement setting out the facts on which the person intends to rely in support of the application.
- (2) The applicant must serve the application on the secretary to the Board by post or by leaving the application at the office of the secretary to the Board.

35—Application for discharge from parole (section 72)

An application by a person under section 72 of the Act for an order discharging the person from parole must—

- (a) be in writing; and
- (b) contain a concise statement setting out the facts on which the person intends to rely in support of the application.

Part 7—Drug testing of prisoners

36—Definitions (section 4 of Act)

- (1) In accordance with paragraph (b) of the definition of *drug* in section 4 of the Act, the following substances (generally only supplied on prescription) are declared to be a drug for the purposes of the Act:
 - (a) alprazolam
bromazepam
chlorazepate
chlordiazepoxide
clobazam
clonazepam
diazepam
flunitrazepam
flurazepam
lorazepam
midazolam
oxazepam
temazepam
triazolam;
 - (b) amitriptyline
clomipramine
dothiepin
doxepin
imipramine
nortriptyline
trimipramine.
- (2) For the purposes of the definition of *prescribed procedure* in section 4(1) of the Act, the taking of a biological sample in accordance with a procedure established under regulation 38(1) from a person for analysis is prescribed.

37—Authorised officers

The CE may, by instrument in writing, appoint an officer or employee of the Department with qualifications or experience considered by the CE to be appropriate to carry out drug testing of prisoners under section 37AA of the Act, to be an authorised officer for a term, and subject to the conditions or limitations, specified in the instrument.

38—CE may establish drug testing procedures

- (1) The CE may, from time to time, establish procedures (which should be consistent with appropriate medical standards or other relevant professional standards) to be followed for the purposes of drug testing prisoners under section 37AA of the Act.
- (2) A prisoner required to submit to an alcotest must not refuse or fail to comply with all reasonable directions of an authorised officer in relation to the requirement and, in particular, must not refuse or fail to exhale into the apparatus by which the alcotest is conducted in accordance with the directions of the authorised officer.

- (3) A prisoner required to submit to drug testing must not refuse or fail to comply with all reasonable directions of an authorised officer in relation to the drug test and, in particular, must not refuse or fail to supply a biological sample for testing in accordance with the directions of the authorised officer.
- (4) A prisoner who has not, within the period specified in the procedures of being directed to do so, provided a sample of his or her urine in accordance with the direction, will be taken to have failed to comply with the direction.
- (5) The maxima of the penalties that may be imposed under section 43 or 44 of the Act for a breach of this regulation are as follows:

Section 43(2):

- | | | |
|-----|---------------------------------------|---------|
| (a) | forfeiture of a sum of money | \$75 |
| (b) | forfeiture of amenities or privileges | 84 days |
| (c) | exclusion from work | 42 days |

Section 44(2):

- | | | |
|-----|---------------------------------------|----------|
| (a) | forfeiture of a sum of money | \$150 |
| (b) | forfeiture of amenities or privileges | 6 months |
| (c) | exclusion from work | 84 days |

Part 8—Miscellaneous

39—Prescribed number of visitors (section 34)

- (1) For the purposes of section 34(1) of the Act, the prescribed maximum number of persons is 3.
- (2) For the purposes of section 34(2) of the Act, the prescribed maximum number of persons is 3.

40—Dealing with surrendered items

- (1) For the purposes of section 68A(4) of the Act, the Commissioner of Police must deal with a surrendered item in accordance with this regulation.
- (2) A surrendered item that is a prohibited weapon (within the meaning of Part 3A of the *Summary Offences Act 1953*), or that is an item that cannot otherwise be lawfully possessed in this State, is, by force of this subregulation, forfeited to the Crown.
- (3) The Commissioner of Police must retain a surrendered item (other than a surrendered item forfeited under subregulation (2)) in a location determined by the Commissioner of Police until—
 - (a) the surrendered item is forfeited to the Crown under this or any other Act; or
 - (b) the surrendered item is returned in accordance with this regulation to the person who surrendered it; or
 - (c) the surrendered item is seized or surrendered under the provisions of another Act,

whichever occurs first.

-
- (4) If the condition imposed under section 68(1)(a)(ia) on the release on parole of the person who surrendered the surrendered item is varied or revoked, or the person is discharged from parole, the person may notify the Commissioner of Police of that fact.
- (5) Subject to this regulation, if the Commissioner of Police—
- (a) is notified in accordance with subregulation (4); or
 - (b) otherwise becomes aware that the release on parole of the person is no longer subject to the condition imposed under section 68(1)(a)(ia), or the person is discharged from parole,

the Commissioner of Police must cause the surrendered item to be returned to the person who surrendered the item.

- (6) If the Commissioner of Police is required to return a surrendered item under subregulation (5), the Commissioner of Police must give notice in writing to the person who surrendered the item setting out—
- (a) that the surrendered items specified in the notice are to be returned to the person; and
 - (b) the location at which the surrendered items may be collected; and
 - (c) that the surrendered items must be collected from the specified location within 3 months of the date specified in the notice (or such longer time as may be specified by the Commissioner of Police); and
 - (d) that the surrendered items will only be returned if the person holds any necessary authorisation under the *Firearms Act 1977* or any other Act to possess the surrendered item; and
 - (e) the effect of subregulations (7) and (8).
- (7) However, the Commissioner of Police may refuse to return a surrendered item to a person if—
- (a) the person is on conditional release that is subject to a condition prohibiting the person from possessing a firearm, ammunition or part of a firearm; or
 - (b) the person does not hold any necessary authorisation under the *Firearms Act 1977* or any other Act to possess the surrendered item, or is otherwise prohibited from possessing the surrendered item,

and, if the Commissioner of Police does so refuse, he or she must give notice in writing to the person who surrendered the surrendered item setting out—

- (c) the reasons for the refusal; and
 - (d) in the case of a refusal contemplated by subregulation (7)(a)—the effect of subregulation (9).
- (8) If—
- (a) a surrendered item is not collected within the period specified in subregulation (6)(c); or
 - (b) the person does not, at the end of the period specified in subregulation (6)(c), hold the necessary authorisation under the *Firearms Act 1977* or any other Act to possess the surrendered item, or is otherwise prohibited from possessing the surrendered item,

the surrendered item is, by force of this subregulation, forfeited to the Crown.

- (9) If the Commissioner of Police refuses to return a surrendered item to a person in accordance with subregulation (7)(a)—
- (a) the surrendered item will be taken to have been surrendered in accordance with a direction under the provision of the Act under which the conditional release was granted (corresponding to section 68A(1) of the Act); and
 - (b) the surrendered item must be dealt with in accordance with that Act.
- (10) The Commissioner of Police may recover from the person who surrendered the surrendered item the reasonable costs incurred in connection with the storage of the surrendered item.
- (11) This regulation is in addition to, and does not derogate from, the operation of any other Act or law.
- (12) No compensation is payable by the Crown in respect of the forfeiture of a surrendered item under this regulation.
- (13) A notice required to be given to a person under this regulation may—
- (a) be given to the person personally; or
 - (b) be posted in an envelope addressed to the person—
 - (i) at the person's last known address; or
 - (ii) at the person's address for service; or
 - (c) be left for the person at the person's last known address or address for service with someone apparently over the age of 16 years.
- (14) In this regulation—
- conditional release*** means—
- (a) a grant of bail under the *Bail Act 1985*; or
 - (b) a bond under the *Criminal Law (Sentencing) Act 1988* or the *Criminal Law Consolidation Act 1935*; or
 - (c) a prisoner on home detention subject to a home detention order under the *Criminal Law (Sentencing) Act 1988*; or
 - (d) release from prison on home detention or parole under the Act; or
 - (e) release on licence under the *Criminal Law (Sentencing) Act 1988* or the *Criminal Law Consolidation Act 1935*; or
 - (f) release on licence, or conditional release from detention, under the *Young Offenders Act 1993*;

surrendered item means a firearm, ammunition or any part of a firearm surrendered in accordance with a direction under section 68A(1) of the Act.

41—Medical examinations

For the purposes of assessing prisoners under section 23 of the Act, or for preventing or containing the spread of disease within correctional institutions, the CE may direct a prisoner to undergo specified medical examinations or tests.

42—Prohibition on supply and administration of certain drugs

The following must not be supplied or administered to a prisoner without the approval of the CE:

- (a) a drug for the treatment of erectile dysfunction;
- (b) a drug that is an anorectic and weight reducing agent;
- (c) a substance containing Pseudoephedrine;
- (d) drugs containing—
 - (i) Methylphenidate Hydrochloride; or
 - (ii) Dexamphetamine Sulphate.

Maximum penalty: \$2 500.

43—Unauthorised dealings with prisoners prohibited (section 82 of Act)

- (1) Section 82 of the Act applies to a person of any of the following classes:
 - (a) a Visiting Tribunal;
 - (b) an inspector appointed under section 20 of the Act;
 - (c) a member of a committee established under section 23 of the Act to carry out assessments of prisoners;
 - (d) a person used as a volunteer in the administration of the Act;

Examples—

A prison chaplain, an education provider, a counsellor, a member of a prisoner support group etc.

 - (e) a contractor engaged to undertake work in a correctional institution;
 - (f) a person employed or engaged to provide medical services in a correctional institution;
 - (g) a person who provides medical or other services to a prisoner in a hospital or other health service.
- (2) For the purposes of section 82 of the Act, a dealing in which an officer or employee of the Department directly or indirectly—
 - (a) except as required in the course of the employee's duties—gives goods, services, money or any other benefit or advantage to a prisoner; or
 - (b) receives goods, services, money or any other benefit or advantage from a prisoner,

is a dealing of a prescribed class.

Examples—

The following dealings are examples that would constitute dealings of a prescribed class:

- (a) an arrangement between a prisoner and an employee for the employee to receive a free tattoo from a tattooist who is an associate of the prisoner;
- (b) an arrangement between a prisoner and an employee for the employee to receive motor vehicle parts from the prisoner or an associate of the prisoner;

- (c) an arrangement between a prisoner and an employee for the prisoner to perform work for the employee.

44—Prescribed weapons (section 86A)

For the purposes of section 86A of the Act, the following weapons are prescribed:

- (a) a Glock 9mm hand gun;
- (b) a 12 gauge shotgun;
- (c) a Monadnock PR24 Defensive Police Baton;
- (d) a baton designed or adapted for use as a weapon that can be extended in length by gravity or centrifugal force or by a release button or other device (known as an extendable baton);
- (e) Oleoresin Capsicum (known as OC) in all its forms;
- (f) Orthochlorobenzalmalononitrile (known as CS) in all its forms;
- (g) a Taser;
- (h) a 40mm single or multi shot launcher;
- (i) a Pepperball launcher.

Schedule 1—Forms

Form 1—Summons to attend before Parole Board (section 63)

Correctional Services Act 1982

To *[insert name and address]*

The Parole Board of South Australia requires you to attend before the Board

At *[insert place, date and time]*

Signature of Presiding Member or Member of Board (*Delete whichever is inapplicable*)

Date

Note—

Section 63 of the Act provides that a person who fails to attend in accordance with a summons is guilty of an offence.

Maximum penalty: \$5 000 or imprisonment for 3 months.

Form 2—Summons to produce document(s) to Parole Board (section 63)

Correctional Services Act 1982

To *[insert name and address]*

The Parole Board of South Australia requires you to attend before the Board

At *[insert place, date and time]*

To produce then and there the document(s) particulars of which are *[insert particulars of document(s) to be produced]*

Every document particularised that is in your possession and power must be produced in accordance with this summons

Signature of Presiding Member or Member of Board (*Delete whichever is inapplicable*)

Date

Note—

Section 63 of the Act provides that a person who fails to comply with a summons is guilty of an offence.

Maximum penalty: \$5 000 or imprisonment for 3 months.

Form 3—Application for release on parole by prisoner (section 67)

Correctional Services Act 1982

To the Parole Board of South Australia and the Chief Executive of the Department for Correctional Services

Application for release on parole made by *[insert applicant's name]* of *[insert applicant's address]*

Statement supporting application to assist Board in making decision *[statement in the form of an attachment to be signed by applicant]*

An interpreter is required/is not required (*Delete whichever is inapplicable*)

Language in which interpreter is required (if relevant)

Signature of applicant

Date

Form 4—Application for release of prisoner on parole by or on behalf of CE (section 67)

Correctional Services Act 1982

To the Parole Board of South Australia

Application by Chief Executive of the Department for Correctional Services/authorised officer or employee of the Department (*Delete whichever is inapplicable*)

For release on parole of *[insert prisoner's name]* of *[insert prisoner's address]*

Statement supporting application to assist Board in making decision *[statement in the form of an attachment to be signed by CE]*

Signature of applicant

Date

Form 5—Order for release on parole (sections 67 and 68)

Correctional Services Act 1982

To *[insert prisoner's name]* of *[insert prisoner's address]*

You were convicted of *[insert conviction(s)]* on *[insert conviction date(s)]* and sentenced to *[insert sentence details]* with a non-parole period of *[insert non-parole period]*

The Board orders that you be released on parole on *[insert date of release on parole]*

The release is subject to the following conditions *[insert conditions]*

Signature of Presiding Member or Member of Board (*Delete whichever is inapplicable*)

Date

I [*insert prisoner's name*] confirm that I fully understand the conditions on which I am to be released on parole and I accept those conditions

Signature of prisoner

Date

Note—

In the case of a prisoner serving a sentence of life imprisonment—

- (a) the day of release on parole specified must be a day that falls after the period within which an application for review of the order under Part 6 Division 4 of the Act may be made; and
- (b) the order of the Board for release on parole must be provided to the persons specified in section 67(7a)(a).

Section 68 of the Act specifies certain conditions to which release on parole must be subject.

Form 6—Summons to attend before Parole Administrative Review Commissioner (section 77K)

Correctional Services Act 1982

To [*insert name and address*]

The Parole Administrative Review Commissioner requires you to attend before the Commissioner

At [*insert place, date and time*]

Signature of Commissioner

Date

Note—

Section 77K of the Act provides that a person who fails to attend in accordance with a summons is guilty of an offence.
Maximum penalty: \$10 000.

Form 7—Summons to produce document(s) to Parole Administrative Review Commissioner (section 77K)

Correctional Services Act 1982

To [*insert name and address*]

The Parole Administrative Review Commissioner requires you to attend before the Commissioner

At [*insert place, date and time*]

To produce then and there the document(s) particulars of which are [*insert particulars of document(s) to be produced*]

Every document particularised that is in your possession and power must be produced in accordance with this summons

Signature of Commissioner

Date

Note—

Section 77K of the Act provides that a person who fails to comply with a summons is guilty of an offence.

Maximum penalty: \$10 000.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Correctional Services Regulations 2016* revoked the following:

Correctional Services Regulations 2001

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2016	212	<i>Gazette 25.8.2016 p3506</i>	1.9.2016: r 2
2018	38	<i>Gazette 13.2.2018 p772</i>	26.2.2018: r 2
2019	212	<i>Gazette 26.9.2019 p3364</i>	26.9.2019: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>26.2.2018</i>
r 3A		
r 3A(1)	r 3A inserted by 38/2018 r 4	26.2.2018
	r 3A varied and redesignated as r 3A(1) by 212/2019 r 4(1), (2)	26.9.2019
r 3A(2) and (3)	inserted by 212/2019 r 4(2)	26.9.2019
<i>Sch 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>26.2.2018</i>

Historical versions

26.2.2018