

South Australia

Correctional Services Regulations 2016

under the *Correctional Services Act 1982*

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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;
- (g) section 88 of the *Prisons Act 1981* of Western Australia and regulations relating to interstate absence permits made under that section.

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, 49A 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;
- (ca) tobacco and any product associated with smoking tobacco (including a cigarette paper, lighter or filter);
- (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*.
- (2a) For the purposes of sections 49A(b) and 51(3) of the Act, the following items are prescribed:
- (a) a prescription drug under the *Controlled Substances Act 1984*;
 - (b) the items specified in subregulation (1)(b) to (p).
- (3) For the purposes of paragraph (ab) 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.

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- (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 7A—Drug and alcohol testing

Division 1—Preliminary

38A—Interpretation

- (1) In this Part, unless the contrary intention appears—

approved blood test kit means a kit of a kind declared under the *Road Traffic Act 1961* to be an approved blood test kit;

approved forensic laboratory means a laboratory approved by the CE as a forensic laboratory for the purposes of this Part;

approved scientist means—

- (a) a person appointed by the CE as an approved scientist for the purposes of this Part; or
- (b) a person holding a position of a class approved by the CE for the purposes of this Part;

authorised officer means—

- (a) a person appointed by the CE as an authorised officer for the purposes of this Part; or
- (b) a person holding a position of a class approved by the CE for the purposes of this Part;

blood test information sheet means an information sheet in an approved form that sets out, for the benefit of sample collectors, the procedures prescribed under regulation 38L;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law* to practise in the medical profession (other than as a student);

prescribed concentration of alcohol means a concentration of 0.02 grams or more of alcohol in 100 millilitres of blood;

prescribed drug means—

- (a) cocaine;
- (b) delta-9-tetrahydrocannabinol;
- (c) diacetylmorphine;
- (d) methylamphetamine;
- (e) 3, 4-methylenedioxymethamphetamine (MDMA);

registered nurse means a person registered under the *Health Practitioner Regulation National Law*—

- (a) to practise in the nursing and midwifery profession as a nurse (other than as a student); and
- (b) in the registered nurses division of that profession;

responsible person, in relation to an approved forensic laboratory, means a person approved by the CE as a responsible person for the forensic laboratory for the purposes of this Part;

sample collector means—

- (a) in the case of a sample of blood—a medical practitioner or registered nurse; and
- (b) in the case of a sample of oral fluid or urine—an authorised officer;

test subject means a person required to undergo drug and alcohol testing under Part 7A of the Act;

urine screening test means a test of a kind approved by the CE under regulation 38C for the conduct of urine screening tests.

- (2) For the purposes of this Part, a reference to a document being in an **approved form** means in a form approved by the CE under regulation 38C.

38B—Apparatus for conduct of drug screening tests

For the purposes of the definition of **drug screening test** in section 81S(1) of the Act, an apparatus of a kind authorised by the CE is approved for the conduct of drug screening tests.

38C—CE may give approvals and authorisations for purposes of this Part

The CE may give such approvals or authorisations as are necessary or contemplated for the purposes of this Part, including (for example) approving or authorising certificates, other forms and tests for the conduct of urine screening.

Division 2—Testing for drugs

38D—General requirements

- (1) If a test subject (other than a person to whom section 81U(1) or 81V(1) of the Act applies) has been required to submit to testing for the presence of drugs under Part 7A of the Act—
 - (a) any drug screening test may not be commenced more than 8 hours following a critical incident; and
 - (b) any biological sample that is required to be taken from the test subject must not be taken more than 8 hours following a critical incident.
- (2) The performance of a drug screening test commences when a direction is first given to the test subject to provide a sample of oral fluid to be used for the drug screening test.
- (3) The following applies to the taking of a biological sample from a test subject by an authorised officer for the purposes of testing for drugs:
 - (a) if the authorised officer considers that a sample of oral fluid can be taken—the authorised officer must take a sample of oral fluid;
 - (b) if the authorised officer considers that a sample of oral fluid cannot be taken but that a sample of urine can—the authorised officer must take a sample of urine;
 - (c) if the authorised officer considers that neither a sample of oral fluid nor a sample of urine can be taken—the authorised officer must arrange for a medical practitioner or registered nurse to take a sample of blood.

38E—Oral fluid sample processes

- (1) The following are the procedures in accordance with which a sample of a test subject's oral fluid must be taken and dealt with for the purposes of testing for drugs:
 - (a) the authorised officer must provide the test subject with the means by which the test subject can provide the sample of oral fluid;
 - (b) when the authorised officer is satisfied that the test subject has provided a satisfactory sample of the test subject's oral fluid, the officer must place the sample, in approximately equal proportions, in 2 containers suitable for the purpose;
 - (c) each container must contain a sufficient quantity of oral fluid to enable an analysis to be made of the presence of a prescribed drug in the oral fluid;
 - (d) the authorised officer must then mark each container in a manner approved by the CE and seal each container;
 - (e) it is the duty of the authorised officer to take such measures as are reasonably practicable in the circumstances to ensure that the sample is not adulterated and does not deteriorate so as to prevent a proper analysis of the presence of a prescribed drug in the oral fluid;
 - (f) the authorised officer must then complete a certificate in the approved form by inserting the particulars required by the form, which must then be signed by the officer and the test subject;

- (g) the original of the signed certificate must then be sent to or retained on behalf of the CE;
 - (h) a copy of the signed certificate must be delivered to the test subject together with a written notice advising that a container containing part of the oral fluid sample taken from the test subject and marked with the identification number specified in the notice will be available for collection by or on behalf of the test subject at a specified place.
- (2) A test subject must comply with all reasonable directions of an authorised officer in connection with the taking of an oral fluid sample and the signing of a certificate under this regulation.

38F—Urine sample processes

- (1) The following are the procedures in accordance with which a sample of a test subject's urine must be taken and dealt with for the purposes of testing for drugs:
- (a) the authorised officer must provide the test subject with a urine collection container and allow the test subject to provide the sample in private;
 - (b) the test subject must provide a sufficient sample of the test subject's urine in the container and then deliver the container to the authorised officer immediately;
 - (c) the authorised officer—
 - (i) must, within 4 minutes of receiving the sample, test the temperature, and conduct a visual examination, of the sample; and
 - (ii) may conduct any other test designed to determine whether or not the sample is a sample of the test subject's urine and is otherwise suitable for analysis;
 - (d) if the authorised officer has reasonable cause to suspect that the sample—
 - (i) is not a sample of the test subject's urine or has been diluted or tampered with in any way; or
 - (ii) is not suitable for analysis for some other reason,the officer must require another sample to be provided in accordance with this regulation;
 - (e) if the test subject provides 2 samples that, in the opinion of the authorised officer, are not samples of the test subject's urine or are otherwise unsuitable for analysis, the test subject will be taken to have failed to comply with section 81T, 81U or 81V of the Act (as the case requires);
 - (f) when the authorised officer is satisfied that the test subject has provided a satisfactory sample of the test subject's urine, the officer may subject the sample to a urine screening test to determine whether the sample should be submitted for analysis;
 - (g) if the authorised officer does not subject the sample to a urine screening test, or a urine screening test indicates that a prescribed drug may be present in the sample, the officer must, in the presence of the test subject place the sample, in approximately equal proportions, in 2 containers suitable for the purpose;

- (h) each container referred to in paragraph (g) must contain a sufficient quantity of urine to enable an analysis to be made of the presence of a prescribed drug in the urine;
 - (i) the authorised officer must then mark each container in a manner approved by the CE and seal each container;
 - (j) it is the duty of the authorised officer to take such measures as are reasonably practicable in the circumstances to ensure that the urine is not adulterated and does not deteriorate so as to prevent a proper assessment of the concentration of any prescribed drug present in the urine of the test subject;
 - (k) the authorised officer must then complete a certificate in the approved form by inserting the particulars required by the form, which must then be signed by the officer and the test subject;
 - (l) the original of the signed certificate must then be sent to or retained on behalf of the CE;
 - (m) a copy of the signed certificate must be delivered to the test subject together with 1 of the sealed containers containing part of the urine sample.
- (2) A test subject must comply with all reasonable directions of an authorised officer in connection with the taking of a urine sample and the signing of a certificate under this regulation.

38G—Blood sample processes

- (1) The following are the procedures in accordance with which a sample of a test subject's blood must be taken and dealt with for the purposes of testing for drugs:
- (a) the sample must be taken by a medical practitioner or registered nurse;
 - (b) the sample collector must place the sample, in approximately equal proportions, in 2 containers suitable for the purpose;
 - (c) each container must contain a sufficient quantity of blood to enable an accurate evaluation to be made of any concentration of any prescribed drug present in the blood and the sample of blood taken by the sample collector must be such as to furnish 2 such quantities of blood;
 - (d) the sample collector must then mark each container in a manner approved by the CE and seal each container;
 - (e) it is the duty of the sample collector to take such measures as are reasonably practicable in the circumstances to ensure that the blood is not adulterated and does not deteriorate so as to prevent a proper assessment of the concentration of any prescribed drug present in the blood of the test subject;
 - (f) the sample collector must then complete a certificate in the approved form by inserting the particulars required by the form, which must then be signed by the sample collector and the test subject;
 - (g) the original of the signed certificate must then be sent to or retained on behalf of the CE;
 - (h) a copy of the signed certificate must be delivered to the test subject together with 1 of the sealed containers containing part of the blood sample;

- (i) a copy of the signed certificate must be delivered by the sample collector together with the other sealed container containing part of the blood sample to an authorised officer.
- (2) A test subject must comply with all reasonable directions of a sample collector in connection with the taking of a blood sample and the signing of a certificate under this regulation.

38H—Analysis of biological sample

- (1) If an authorised officer—
 - (a) takes a urine or oral fluid sample and completes a certificate in relation to the sample; or
 - (b) is given a blood sample and a certificate in relation to the sample,in accordance with this Division, the authorised officer must cause the sample and certificate to be delivered to an approved forensic laboratory as soon as is reasonably practicable after the relevant taking or giving of the sample or certificate.
- (2) A responsible person for the approved forensic laboratory must, as soon as possible following the delivery of a sample under subregulation (1), ensure that the sample is analysed by or under the supervision of an approved scientist to determine the presence of any prescribed drug in the sample.
- (3) The approved scientist must then complete and sign a certificate certifying as to the following matters:
 - (a) the date of receipt at the approved forensic laboratory of the sample container and the certificate accompanying the sample container;
 - (b) the details of the mark on the sample container and the manner in which it was sealed;
 - (c) the name and professional qualifications of the approved scientist;
 - (d) the presence of any prescribed drug found to be present in the sample;
 - (e) any factors relating to the sample or the analysis that might, in the opinion of the approved scientist, adversely affect the accuracy or validity of the analysis;
 - (f) any other information relating to the sample or analysis (or both) that the approved scientist thinks fit to include.
- (4) The approved scientist's certificate must be sent by post to the test subject at the address shown as the test subject's address on the certificate accompanying the sample container.
- (5) A copy of the approved scientist's certificate must be sent to the CE.
- (6) A biological sample delivered to an approved forensic laboratory under this regulation must be held by a responsible person for the approved forensic laboratory for a period of not less than 6 months following the delivery.

Division 3—Alcohol testing

38I—Breath analyses—general

- (1) An authorised officer may carry out breath testing of a test subject under this Division.
- (2) Breath analysis to which a test subject has been required to submit under Part 7A of the Act may not be commenced more than 8 hours following a critical incident.
- (3) The performance of breath analysis commences when a direction is first given to the test subject to exhale into the breath analysing instrument to be used for the test.
- (4) A test subject required under the Act to submit to breath analysis must not refuse or fail to comply with all reasonable directions of the person operating the breath analysing instrument in relation to the requirement and, in particular, must not refuse or fail to exhale into the instrument by which the breath analysis is conducted in accordance with the directions of the person operating the instrument.

38J—Concentration of alcohol in breath taken to indicate concentration of alcohol in blood

If a test subject submits to a breath analysis and the breath analysing instrument produces a reading in terms of a number of grams of alcohol in 210 litres of the person's breath, the reading will, for the purposes of this Part, be taken to be that number of grams of alcohol in 100 millilitres of the person's blood.

38K—Conduct of breath analysis

- (1) If a test subject submits to a breath analysis, the initial breath analysis must be conducted as follows:
 - (a) the test subject must provide an initial sample of breath for analysis;
 - (b) the sample must be provided in accordance with the directions of the authorised officer conducting the analysis and must consist of not less than 1 litre of breath;
 - (c) if the sample provided under paragraph (a) indicates that at least the prescribed concentration of alcohol may be present in the blood of the test subject, the test subject may be required to submit to further breath analysis under this regulation.
- (2) Despite subregulation (1)—
 - (a) if, on analysing the sample of breath, the breath analysing instrument indicates an error in the analysis of the sample—
 - (i) that sample must be disregarded; and
 - (ii) the test subject may be required to provide a further sample of breath for analysis using a different instrument (and that sample must be provided in accordance with subregulation (1)(b)); or
 - (b) if, on analysing a sample of breath, the breath analysing instrument indicates the presence of alcohol in the mouth of the test subject—
 - (i) that sample must be disregarded; and

- (ii) the test subject may be required to provide a further sample of breath for analysis (and that sample must be provided in accordance with subregulation (1)(b)).
- (3) If a test subject is required to submit to further breath analysis under this regulation, the breath analysis must be conducted in the following manner:
 - (a) the test subject must provide 2 separate samples of breath for analysis;
 - (b) each sample must be provided in accordance with the directions of the authorised officer conducting the analysis and must consist of not less than 1 litre of breath;
 - (c) there must be an interval of not less than 2 minutes and not more than 10 minutes between the provision of the samples.
- (4) Despite subregulation (3)—
 - (a) if, on analysing a sample of breath, the breath analysing instrument indicates an error in the analysis of the sample—
 - (i) that sample, or, if that sample was the second sample provided, both samples, must be disregarded; and
 - (ii) the test subject may be required to provide 2 further samples of breath for analysis using a different instrument (and such samples must be provided in accordance with subregulation (3)(b) and (c)); or
 - (b) if, on analysing a sample of breath, the breath analysing instrument indicates the presence of alcohol in the mouth of the test subject—
 - (i) that sample, or, if that sample was the second sample provided, both samples, must be disregarded; and
 - (ii) the test subject may be required to provide 2 further samples of breath for analysis (and such samples must be provided in accordance with subregulation (3)(b) and (c)); or
 - (c) if, on analysing 2 samples of breath, the breath analysing instrument indicates that the reading obtained on analysis of the second sample was more than 15% higher or lower than the reading obtained on analysis of the first sample—
 - (i) those samples must be disregarded; and
 - (ii) the test subject may be required to provide 2 further samples of breath for analysis (and such samples must be provided in accordance with subregulation (3)(b) and (c)); or
 - (d) if, for any reason, a second sample of breath is not provided within 10 minutes of the provision of the first sample—
 - (i) the first sample is to be disregarded; and
 - (ii) the test subject may be required to provide 2 further samples of breath for analysis (and such samples must be provided in accordance with subregulation (3)(b) and (c)).

- (5) If a test subject submits to a breath analysis, the result of the breath analysis will, for the purposes of Part 7A of the Act, be taken to be the reading produced by the breath analysing instrument, on analysis of the samples of breath provided by the test subject in accordance with this regulation, that indicates the lowest concentration of alcohol in the test subject's breath (not taking into account any samples that, in accordance with this regulation, are to be disregarded).

38L—Procedures for voluntary blood test

The following are the procedures in accordance with which a sample of a test subject's blood must be taken and dealt with for the purposes of testing for the presence of alcohol:

- (a) the test subject must cause the sample to be taken by a medical practitioner or registered nurse of the test subject's choice and must deliver to the sample collector—
 - (i) the blood test kit supplied to the test subject under regulation 38N(4)(b) for use for that purpose; and
 - (ii) the blood test information sheet supplied to the test subject under regulation 38M;
- (b) the sample must be taken by the sample collector as soon as is reasonably practicable but, in any event, within 4 hours of the test subject having submitted to the breath analysis indicating, for the purposes of the Act, the presence of alcohol in the test subject's blood;
- (c) the sample collector must place the sample, in approximately equal proportions, in 2 containers (being the containers provided as part of the blood test kit);
- (d) each container must contain a sufficient quantity of blood to enable an accurate evaluation to be made of any concentration of alcohol present in the blood and the sample of blood taken by the sample collector must be such as to furnish 2 such quantities of blood;
- (e) the sample collector must seal each container by application of the adhesive seal bearing an identifying number provided as part of the blood test kit;
- (f) it is the duty of the sample collector to take such measures as are reasonably practicable in the circumstances to ensure that the blood is not adulterated and does not deteriorate so as to prevent a proper assessment of the concentration of alcohol present in the blood of the test subject;
- (g) the sample collector must then complete a certificate in the approved form by inserting the particulars required by the form;
- (h) the certificate must be signed by the sample collector certifying as to the matters set out in the form;
- (i) the certificate must also bear the signature of the test subject, attested to by the signature of the sample collector;
- (j) the original of the signed certificate must then be delivered to the test subject together with 1 of the sealed containers containing part of the blood sample;

- (k) a copy of the signed certificate must be delivered by the sample collector together with the other sealed container containing part of the blood sample to an authorised officer who must, in turn, deliver that copy of the certificate and the blood sample container to a responsible person for the approved forensic laboratory;
- (l) the blood sample container and copy of the certificate referred to in paragraph (k) must not be delivered into the possession of the test subject;
- (m) on receipt of the blood sample container and certificate at an approved forensic laboratory, the blood in the container must be analysed as soon as is reasonably practicable by or under the supervision of an approved scientist to determine the concentration of alcohol present in the blood expressed in grams in 100 millilitres of blood;
- (n) the approved scientist must then complete and sign a certificate certifying as to the following matters:
 - (i) the date of receipt at the approved forensic laboratory of the blood sample container and the certificate accompanying the blood sample container;
 - (ii) the identifying number appearing on the adhesive seal used to seal the blood sample container;
 - (iii) the name and professional qualifications of the approved scientist;
 - (iv) the concentration of alcohol found to be present in the blood expressed in grams in 100 millilitres of blood;
 - (v) any factors relating to the blood sample or the analysis that might, in the opinion of the approved scientist, adversely affect the accuracy or validity of the analysis;
 - (vi) any other information relating to the blood sample or analysis or both that the approved scientist thinks fit to include;
- (o) the approved scientist's certificate must be sent by post to the test subject at the address shown as the test subject's address on the certificate accompanying the blood sample container;
- (p) a copy of the approved scientist's certificate must be sent to or retained on behalf of the CE.

38M—Request for approved blood test kit

- (1) For the purposes of regulation 38N(4)(b), a request for an approved blood test kit must be made in accordance with the following provisions:
 - (a) the request may, in the first instance, be made orally to the authorised officer conducting the breath analysis;
 - (b) on such a request having been made by the test subject, the authorised officer or any other officer or employee of the Department present must complete a written request in an approved form by inserting the particulars required by the form;

- (c) the test subject making the request must then sign the request form in the presence of the authorised officer or other officer or employee of the Department and the test subject's signature must be attested to by the signature of the authorised officer or other officer or employee;
 - (d) the original of the signed request form may be retained by the test subject making the request;
 - (e) a copy of the signed request form must be delivered to the authorised officer or other officer or employee of the Department.
- (2) The copy of the request form delivered to the authorised officer or other officer or employee of the Department must be delivered to the CE or retained on the CE's behalf for 12 months from the day on which the request form was signed by the test subject making the request.
- (3) If a test subject requests an approved blood test kit, the authorised officer or any other officer or employee of the Department must provide the test subject with a blood test information sheet.

Division 4—Evidence etc

38N—Evidence etc

- (1) If the requirements and procedures in relation to breath analysing instruments and breath analysis under this Part, including subregulations (3) and (4), have been complied with, it must be presumed, in the absence of proof to the contrary, that the concentration of alcohol so indicated was present in the blood of the test subject at the time of the analysis.
- (2) No evidence can be adduced in rebuttal of the presumption created by subregulation (1) except—
- (a) evidence of the concentration of alcohol in the blood of the test subject as indicated by analysis of a sample of blood taken and dealt with in accordance with the procedures set out in this Part; and
 - (b) evidence as to whether the results of analysis of the sample of blood demonstrate that the breath analysing instrument gave a false reading of the concentration of alcohol present in the blood of the test subject.
- (3) As soon as is practicable after a test subject has submitted to an analysis of breath by means of a breath analysing instrument, the authorised officer who conducted the analysis must deliver to the test subject a statement in writing specifying—
- (a) the reading produced by the breath analysing instrument; and
 - (b) the date and time of the analysis.

- (4) If a test subject has submitted to an analysis of breath by means of a breath analysing instrument and any concentration of alcohol is indicated as being present in the blood of that test subject by the breath analysing instrument, the authorised officer who conducted the analysis must immediately—
- (a) give the person the oral advice determined by the CE and deliver to the person the written notice determined by the CE as to the operation of this Act in relation to the results of the breath analysis and as to the procedures set out in this Part for the taking and analysis of a sample of the person's blood; and
 - (b) at the request of the person made in accordance with regulation 38M, deliver an approved blood test kit to the person.
- (5) A certificate purporting to be signed by an authorised officer in relation to a breath analysing instrument and to certify that—
- (a) the apparatus used by the authorised officer was a breath analysing instrument within the meaning of Part 7A of the Act; and
 - (b) the breath analysing instrument was in proper order and was properly operated; and
 - (c) the provisions of Part 7A of the Act and this Part with respect to breath analysing instruments and the manner in which an analysis of breath by means of a breath analysing instrument is to be conducted were complied with is, in the absence of proof to the contrary, proof of the matters so certified.
- (6) A certificate purporting to be signed by an approved scientist, certifying as to the concentration of alcohol, or any prescribed drug, found in a specimen of blood identified in the certificate expressed in grams in 100 millilitres of blood is, in the absence of proof to the contrary, proof of the matters so certified.
- (7) A certificate purporting to be signed by an authorised officer and to certify that—
- (a) a person named in the certificate submitted to an analysis of breath by means of a breath analysing instrument on a day and at a time specified in the certificate; and
 - (b) the breath analysing instrument produced a reading specified in the certificate; and
 - (c) a statement in writing required by subregulation (3) was delivered in accordance with that subregulation,
- is, in the absence of proof to the contrary, proof of the matters so certified.
- (8) A certificate purporting to be signed by an authorised officer and to certify—
- (a) that, on a date and at a time specified in the certificate, a person named in the certificate submitted to an analysis of breath by means of a breath analysing instrument; and
 - (b) that the relevant oral advice and the relevant written notice were given and delivered to the person in accordance with subregulation (4)(a); and
 - (c) that—
 - (i) the person did not make a request for an approved blood test kit in accordance with this Part; or

- (ii) at the request of the person, a kit that, from an examination of its markings, appeared to the person signing the certificate to be an approved blood test kit was delivered to the person in accordance with subregulation (4)(b),

is, in the absence of proof to the contrary, proof that the requirements of subregulation (4) were complied with in relation to the person.

- (9) A certificate purporting to be signed by an authorised officer and to certify that an apparatus referred to in the certificate is or was of a kind approved by regulation 38B for the conduct of drug screening tests is, in the absence of proof to the contrary, proof of the matter so certified.
- (10) A certificate purporting to be signed by an authorised officer and to certify that a person named in the certificate submitted to a drug screening test on a specified day and at a specified time and that the drug screening test indicated that a prescribed drug may then have been present in the oral fluid of the person is, in the absence of proof to the contrary, proof of the matters so certified.
- (11) A certificate purporting to be signed by an authorised officer and to certify that an apparatus used to conduct a drug screening test was in proper order and that the drug screening test was properly conducted is, in the absence of proof to the contrary, proof of the matters so certified.
- (12) A certificate purporting to be signed by an authorised officer and to certify that a person named in the certificate was required under Part 7A of the Act and this Part to submit to breath analysis and refused or failed to comply with all reasonable directions of an authorised officer in relation to the requirement is, in the absence of proof to the contrary, proof of the matter so certified.
- (13) A certificate purporting to be signed by the CE and to certify that—
 - (a) a person named in the certificate is an authorised officer; or
 - (b) a person named in the certificate is an approved scientist; or
 - (c) a person named in the certificate is a responsible person for an approved forensic laboratory,is, in the absence of proof to the contrary, proof of the matter so certified.
- (14) In disciplinary proceedings referred to in section 81X of the Act, and in the absence of proof to the contrary, any of the following certificates is evidence of the matters certified in the certificate:
 - (a) a certificate purporting to be signed by a sample collector certifying that an identified urine or oral fluid sample was taken or collected—
 - (i) from a named person; and
 - (ii) at a specified date and time; and
 - (iii) in accordance with this Part;
 - (b) a certificate purporting to be signed by a medical practitioner or registered nurse certifying that an identified blood sample was taken or collected—
 - (i) from a named person; and
 - (ii) at a specified date and time; and

- (iii) in accordance with this Part;
 - (c) a certificate purporting to be signed by an authorised officer certifying—
 - (i) that the apparatus used to conduct an oral fluid analysis was in proper order; and
 - (ii) that the oral fluid analysis was properly conducted;
 - (d) a certificate purporting to be signed by an approved scientist certifying—
 - (i) that an identified blood, urine or oral fluid sample taken from a named person was analysed for alcohol or prescribed drugs in accordance with this Part; and
 - (ii) the results obtained from that analysis.
- (15) If a certificate of an approved scientist relating to a blood, urine or oral fluid sample taken in accordance with this Part is received as evidence in disciplinary proceedings and states that a prescribed drug has been found to be present in the blood, urine or oral fluid sample to which the certificate relates, it will be presumed, in the absence of proof to the contrary, that the prescribed drug stated in the certificate was present in the sample when the sample was taken.

Division 5—Other matters

38O—Test subject may arrange for analysis of biological sample

- (1) A test subject from whom a biological sample was taken for the purposes of Part 7A of the Act may cause the sample as contained in the sample container delivered to that test subject to be analysed to determine the presence of any alcohol or prescribed drug present in the sample.
- (2) The cost of analysis under subregulation (1) will be borne by the test subject.

38P—Destruction of biological samples

The CE must ensure that a biological sample taken for the purposes of Part 7A of the Act (and any other forensic material taken incidentally in the course of drug and alcohol testing) is destroyed—

- (a) if disciplinary proceedings based on evidence of the results of analysis of the biological sample are not commenced—as soon as is reasonably practicable after the decision has been made not to commence proceedings; or
- (b) if disciplinary proceedings are commenced—as soon as is reasonably practicable after the proceedings (including any proceedings on review or appeal) are finally determined or discontinued.

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.

39A—Prescribed period (section 57(4))

For the purposes of section 57(4) of the Act, the prescribed period is 2 years.

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
2020	21	<i>Gazette 5.3.2020 p480</i>	5.3.2020: r 2
2020	40	<i>Gazette 9.4.2020 p706</i>	9.4.2020: r 2
2021	71	<i>Gazette 3.6.2021 p1855</i>	3.6.2021: 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		
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	26.2.2018
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
r 4	varied by 21/2020 r 4	5.3.2020
Pt 3		
r 8		

r 8(1)	varied by 71/2021 r 4(1)	3.6.2021
r 8(2a)	inserted by 71/2021 r 4(2)	3.6.2021
r 8(3)	varied by 71/2021 r 4(3)	3.6.2021
Pt 7A	inserted by 40/2020 r 4	9.4.2020
Pt 8		
r 39A	inserted by 71/2021 r 5	3.6.2021
<i>Sch 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>26.2.2018</i>

Historical versions

26.2.2018

26.9.2019

5.3.2020

9.4.2020