

South Australia

Correctional Services Variation Regulations 2012

under the *Correctional Services Act 1982*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Correctional Services Variation Regulations 2012*.

2—Commencement

These regulations come into operation on the date on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Correctional Services Regulations 2001*

4—Insertion of Part 6A

After regulation 34 insert:

Part 6A—Drug testing of prisoners

34A—Definitions (section 4 of Act)

- (1) Pursuant to 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
clobazam
clonazepam
chlorazepate
chlordiazepoxide
diazepam
flurazepam
flunitrazepam
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 sample of urine from a person for analysis is prescribed.

34B—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.

34C—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) Without limiting the generality of subregulation (1), the procedures must include—
 - (a) the directions that can be given to a prisoner for the purpose of conducting an alcotest on the prisoner to detect the presence of alcohol in his or her blood, including (for example)—
 - (i) a direction to accompany an authorised officer; and
 - (ii) a direction to exhale into the alcotest apparatus; and
 - (iii) a direction as to the manner and duration of the exhalation; and
 - (b) the directions that can be given to a prisoner for the purpose of collecting and authenticating a specimen of his or her urine for analysis to detect the presence of a drug, including (for example)—
 - (i) a direction to accompany an authorised officer; and
 - (ii) a direction as to how to select a urine sample container and how to deal with the container; and
 - (iii) a direction as to the manner of urinating for the purpose of collecting the sample; and
 - (iv) a direction as to how, and how not, to deal with the sample; and
 - (v) a direction to clean up (with cleaning materials provided) any urine that may have been spilt during the collection process; and
 - (c) the procedures to be followed by authorised officers when conducting drug testing, including (for example)—
 - (i) the advice to be given to a prisoner undergoing drug testing; and
 - (ii) processes to ensure the proper standard of hygiene is maintained during testing; and
 - (iii) how to select a suitable site for carrying out testing; and
 - (iv) how to avoid inflicting unnecessary humiliation or embarrassment to prisoners during testing; and
 - (v) the number and gender of authorised officers to be present during the testing; and

- (vi) how to deal with a urine sample once it has been collected; and
 - (vii) the documents and information to be completed by an authorised officer relating to the conduct and results of a drug test; and
 - (viii) any other procedures as may, in the opinion of the CE, be necessary.
- (3) 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.
- (4) A prisoner required to submit to urine testing 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 supply a sample of urine for testing in accordance with the directions of the authorised officer.
- (5) 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.
- (6) 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 |

5—Revocation of regulations 36 and 37

Regulations 36 and 37—delete the regulations

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 26 April 2012

No 29 of 2012

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