

South Australia

Correctional Services Regulations 2001

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 2001*.

4—Interpretation

In these regulations, unless the contrary intention appears—

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;

liquor means any beverage that, at 20 degrees Celsius, contains more than 1.15% alcohol by volume and includes any other substance that comprises, constitutes, contains or may be converted into that beverage;

prohibited activity—see regulation 10;

prohibited item—see regulation 9;

sexual intercourse includes any activity (whether of a heterosexual or homosexual nature) consisting of or involving—

- (a) penetration of the labia majora or anus of a person by any part of the body of another person or by any object; or
- (b) fellatio; or
- (c) cunnilingus.

4A—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) the *Prisoners Interstate Leave Act 1997* 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) Part XVII Division 2 (sections 65A to 65K) of the *Prisons (Correctional Services) Act* of the Northern Territory;
- (d) Chapter 2, Part 2, Division 10 (sections 67 to 74) of the *Corrective Services Act 2000* 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) On admission to a correctional institution, a prisoner must be permitted by the CE to retain at the institution such personal property—
 - (a) the total value of which does not exceed \$500; and
 - (b) that is capable of being stored in a receptacle of a total volume of 60 litres.
- (2) If, on admission, a prisoner is in possession of any personal property that is of a kind other than that referred to in 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 to store property as required by subregulation (2), the CE may make such arrangements as are necessary to have the property stored at a place other than the correctional institution and may deduct any costs incurred in making such arrangements from any money held to the credit of the prisoner.

Part 3—Prohibited items, activities and communications

9—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*;
 - (ab) a syringe or needle;
 - (ac) 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;
 - (b) any—
 - (i) flammable, corrosive or toxic substance that is a dangerous substance under the *Dangerous Substances Act 1979*; or
 - (ii) liquor; or
 - (iii) paint; or
 - (iv) oil; or
 - (v) acid or alkali; or
 - (vi) glue; or

- (vii) herbicide, fungicide or insecticide;
 - (c) any pressurised spray canister;
 - (d) 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;
 - (e) any pistol, revolver, rifle, machine gun, shot gun or any other kind of gun or weapon;
 - (f) 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;
 - (g) 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;
 - (h) 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*;
 - (i) any pornographic material;
 - (j) a camera or other device capable of capturing or recording images (whether digitally or on film or tape);
 - (k) 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;
 - (l) a 2-way radio (also known as a walkie talkie);
 - (m) any device that includes a modem or other device enabling it to transmit or receive data to or from a network of computers;
 - (n) any unauthorised data storage device.
- (2) For the purposes of paragraph (n) 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 (e) and (k) of subregulation (1) are prescribed.

10—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.

11—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.

12—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.

Part 4—Conduct of prisoners

Division 1—Prisoners on home detention

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

A prisoner serving a period of home detention under Part 4 of the Act 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

14—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.

Subdivision 2—Serious breaches

15—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.

16—Serious breaches—sexual offences

- (1) A prisoner must not—
 - (a) engage in sexual intercourse with any other prisoner or person; or
 - (b) masturbate any other prisoner or person.
- (1a) Subregulation (1) does not apply to a prisoner during any period of leave to be absent and unaccompanied from the place in which he or she is being detained granted to the prisoner by the CE under section 27 of the Act, subject to any condition to the contrary imposed by the CE on granting the leave of absence.
- (2) A prisoner must not sexually harass another person.
- (3) 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 one 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.

17—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

18—Application of section 42A to this Subdivision

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

19—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.

20—Minor breaches—liquor and drugs

- (1) A prisoner must not supply or administer to another person—
- (a) liquor; 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, liquor unless the liquor 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.

21—Defence to minor breaches relating to controlled substances

- (1) If a drug is found to be present in a sample of a prisoner's urine, the prisoner will be taken to be guilty of an offence against the relevant provision of regulation 20 unless—
- (a) the drug was lawfully supplied or administered to the prisoner; or
 - (b) the prisoner had not, on the day the urine 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 sample of urine 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

22—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

23—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 *ex parte*) 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.

24—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 *ex parte*) 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.

25—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;
 - (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;
 - (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.

26—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 23.
- (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.

27—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

28—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 the Schedule.
- (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 the Schedule.

28A—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 the Schedule.
- (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 in the form set out in Form 5 of the Schedule 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 the Schedule; and
- (b) must cause details of the prisoner in the form set out in Form 5 of the Schedule to be served personally on the prisoner and on the Board.

31—Order for release on parole

- (1) If the Board or the Governor 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 6 of the Schedule; 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 under 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.

32—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 one 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.

33—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.

34—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 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

Part 7—Miscellaneous

35—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.

36—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 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 pursuant to 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 pursuant to subregulation (7)(a)—
- (a) the surrendered item will be taken to have been surrendered pursuant to 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) release from prison on home detention or parole, under the Act; or

- (d) release on licence under the *Criminal Law (Sentencing) Act 1988* or the *Criminal Law Consolidation Act 1935*; or
- (e) 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 pursuant to a direction under section 68A(1) of the Act.

38—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.

39—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.

40—Persons prohibited from entering into unauthorised contracts with prisoners (section 82)

- (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 member of the Correctional Services Advisory Council;
 - (e) 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.

- (f) a contractor engaged to undertake work in a correctional institution;
- (g) a person employed or engaged to provide medical services in a correctional institution;
- (h) 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.

41—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 Monadnock PR24 Defensive Police Baton;
- (c) 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);
- (d) Oleoresin Capsicum (known as OC) in all its forms;
- (e) Orthochlorobenzalmalonitrile (known as CS) in all its forms.

Schedule—Forms

Form 1:	Summons to attend before Parole Board of South Australia
Form 2:	Summons to produce document(s) to Parole Board of South Australia
Form 3:	Application for release on parole by prisoner
Form 4:	Application for release of prisoner on parole by, or on behalf of, Chief Executive Officer
Form 5:	Details of prisoner in relation to application for parole
Form 6:	Order for release on parole

Form 1

Correctional Services Act 1982

Summons to attend before Parole Board of South Australia

To(*insert name in full*)
of
..... (*insert address*)

The Parole Board of South Australia requires you to attend before the Board
at (*insert place*),
South Australia on (*insert day and date*)
at (*insert time*).

FAILURE TO ATTEND IN OBEDIENCE TO THIS SUMMONS MAY RENDER YOU
LIABLE TO A PENALTY NOT EXCEEDING \$5 000 OR IMPRISONMENT FOR A TERM
NOT EXCEEDING 3 MONTHS (SECTION 63 OF THE CORRECTIONAL SERVICES
ACT).

Dated the

Signed:

Presiding member/Member of the Board*

**Strike out whichever does not apply.*

Form 2

Correctional Services Act 1982

Summons to produce document(s) to Parole Board of South Australia

To (*insert name in full*)

of

..... (*insert address*)

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

at (*insert place*),

South Australia on (*insert day and date*)

at (*insert time*)

to produce then and there the document(s) particulars of which are set out below.

Particulars of document(s) to be produced:

.....
.....
.....

Every document that is in your possession and power, and that is particularised above, must be produced in obedience to this summons.

IF YOU FAIL TO OBEY THIS SUMMONS, YOU MAY RENDER YOURSELF LIABLE TO A PENALTY NOT EXCEEDING \$5 000 OR IMPRISONMENT FOR A TERM NOT EXCEEDING 3 MONTHS (SECTION 63 OF THE CORRECTIONAL SERVICES ACT).

Dated the

Signed:

Presiding member/Member of the Board*

**Strike out whichever does not apply.*

Form 3

Correctional Services Act 1982

Application for release on parole by prisoner

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

1 I (*insert full name of applicant*)
of
..... (*insert address*)

apply, under section 67 of the *Correctional Services Act 1982*, for release on parole.

2 Attached to this application is a statement signed by me to assist the Parole Board in making a decision regarding my request for release.

(*Statement to be signed and dated by applicant and attached to this application*).

3 I require/do not require* an interpreter in the language.

Dated

Signed
(*Applicant's signature*)

**Strike out whichever does not apply.*

Form 4

Correctional Services Act 1982

Application for release of prisoner on parole by, or on behalf of, Chief Executive Officer

To: The Parole Board of South Australia

1 Pursuant to section 67 of the *Correctional Services Act 1982*, I, the Chief Executive Officer/an officer/employee* of the Department authorised by the Chief Executive Officer*, apply for the release of—

..... (*insert full name of prisoner*)

of

..... (*insert name of correctional institution*)

2 Attached to this application is a statement signed by me supporting this application.

Dated

Signature of Applicant:

**Strike out whichever does not apply.*

Form 5

Correctional Services Act 1982

Details of prisoner in relation to application for parole

To: The Parole Board of South Australia

The following details relate to (*insert full name of prisoner*)
who is applying for parole/in relation to whom an application for parole is being made by*/by
an officer/employee* of the Department authorised by*, the Chief Executive Officer.

ID No:

Alias:

Date of birth:

Male/Female*

Total period of imprisonment:(*insert head sentence/s*)

#Date and details of conviction:

.....

.....

Non-parole period expiry date:

Deportation or extradition orders (if any):

Details of home detention (if any):

#Details of previous parole (if any):

.....

#Criminal history:

.....

The details of this application are certified to be correct.

Signed:

Chief Executive Officer/Authorised Officer/Employee*

#Attach separate sheet(s) if space is insufficient.

**Strike out whichever does not apply.*

Form 6—Order for release on parole

Correctional Services Act 1982

To [*insert full name of prisoner*] of [*insert address*].

You were, on [*insert conviction date*] convicted of [*insert convictions*] and sentenced to
[*insert sentence details*] with a non-parole period of [*insert non-parole period*].

The Board orders/I, the Governor, order* that you be released on parole on [*insert date of
release on parole*].

That release is subject to the following conditions:

- (a) that you not commit any offence; and
- (b) that you not possess a firearm or ammunition or any part of a firearm; and
- (c) that you not possess an offensive weapon unless you have first obtained the permission of the Board to do so and comply with the terms of that permission; and

- (d) that you are under the supervision of a community corrections officer and that you obey the reasonable directions of the community corrections officer; and
- (e) that you submit to such tests (including testing without notice) for gunshot residue as the community corrections officer may reasonably require; and
- (f) other conditions (if any) *[insert conditions]*—

* If the prisoner is serving a life sentence, period recommended by the Board and approved by the Governor that the prisoner is to remain on parole *[insert detail]*.

Dated:

For and on behalf of the Board:

Presiding Member:*

Member of the Board:*

Governor:*

**Strike out whichever does not apply.*

I *[insert full name of prisoner]* confirm that I fully understand the conditions on which I am to be released on parole and I am prepared to accept those conditions.

Date:

Signature of prisoner:

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 2001* revoked the following:

Correctional Services Act Regulations 1985

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2001	198	<i>Gazette 23.8.2001 p3302</i>	31.8.2001 : r 2
2005	239	<i>Gazette 17.11.2005 p3974</i>	17.11.2005: r 2
2007	259	<i>Gazette 22.11.2007 p4296</i>	23.11.2007: r 2
2007	267	<i>Gazette 22.11.2007 p4331</i>	3.12.2007: r 2
2009	17	<i>Gazette 26.2.2009 p780</i>	26.2.2009: r 2
2010	253	<i>Gazette 9.12.2010 p5586</i>	16.12.2010: r 2
2012	29	<i>Gazette 26.4.2012 p1499</i>	26.4.2012: r 2
2012	193	<i>Gazette 23.8.2012 p3904</i>	31.8.2012: r 2
2013	19	<i>Gazette 21.2.2013 p520</i>	4.3.2013: r 2

Provisions varied since 3 February 1976

New entries appear in bold.

Provision	How varied	Commencement
Pt 1		
rr 2 & 3	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>17.11.2005</i>
r 4		
authorised telephone call	inserted by 239/2005 r 4	17.11.2005
	substituted by 193/2012 r 4	31.8.2012
r 4A	inserted by 239/2005 r 5	17.11.2005
r 5		
r 5(2)	varied by 193/2012 r 5(1)—(3)	31.8.2012

Correctional Services Regulations 2001—4.3.2013 to 7.10.2015

Legislative history

Pt 2

r 7

r 7(1)	varied by 253/2010 r 4(1), (2)	16.12.2010
	varied by 193/2012 r 6	31.8.2012
r 7(3)	varied by 193/2012 r 6	31.8.2012

Pt 3

r 8 *deleted by 193/2012 r 7* 31.8.2012

r 9

r 9(1)	r 9 varied by 239/2005 r 6(1)—(3)	17.11.2005
	r 9(a)(iii) deleted 267/2007 r 4(1)	3.12.2007
	r 9 varied by 267/2007 r 4(1), (2)	3.12.2007
	r 9 redesignated as r 9(1) by 193/2012 r 8(2)	31.8.2012

unauthorised data storage device deleted by 193/2012 r 8(1) 31.8.2012

r 9(2) and (3) inserted by 193/2012 r 8(2) 31.8.2012

r 10 varied by 239/2005 r 7 17.11.2005

r 11

r 11(1) varied by 239/2005 r 8(1) 17.11.2005

r 11(2) varied by 239/2005 r 8(2) 17.11.2005

r 12

r 12(2) *deleted by 239/2005 r 9* 17.11.2005

Pt 4

r 15

r 15(3) substituted by 239/2005 r 10(1) 17.11.2005
varied by 193/2012 r 9(1) 31.8.2012

r 15(4) varied by 239/2005 r 10(2) 17.11.2005
varied by 193/2012 r 9(2) 31.8.2012

r 15(7) inserted by 239/2005 r 10(3) 17.11.2005

r 16

r 16(1) varied by 239/2005 r 11(1), (2) 17.11.2005

r 16(1a) inserted by 239/2005 r 11(3) 17.11.2005
varied by 193/2012 r 10 31.8.2012

r 19

r 19(1) varied by 193/2012 r 11(1) 31.8.2012

r 19(12) varied by 193/2012 r 11(2) 31.8.2012

r 20

r 20(1) varied by 267/2007 r 5(1) 3.12.2007

r 20(3) varied by 267/2007 r 5(2) 3.12.2007

Pt 5

r 23

r 23(1) varied by 193/2012 r 12(1) 31.8.2012

r 23(2) varied by 193/2012 r 12(2) 31.8.2012

r 23(3) varied by 193/2012 r 12(3) 31.8.2012

r 23(4)	varied by 193/2012 r 12(4), (5)	31.8.2012
r 25	varied by 193/2012 r 13(1), (2)	31.8.2012
r 26		
r 26(1)	varied by 193/2012 r 14(1)	31.8.2012
r 26(2)	varied by 193/2012 r 14(2)	31.8.2012
r 26(3)	varied by 193/2012 r 14(3)	31.8.2012
r 27		
r 27(2)	varied by 193/2012 r 15(1)	31.8.2012
r 27(3)	varied by 193/2012 r 15(2)	31.8.2012
Pt 6		
r 28A	inserted by 17/2009 r 4	26.2.2009
r 29		
r 29(2)	varied by 193/2012 r 16	31.8.2012
r 29(3)	varied by 193/2012 r 16	31.8.2012
r 30	varied by 193/2012 r 17	31.8.2012
r 31		
r 31(1)	varied by 193/2012 r 18	31.8.2012
Pt 6A	inserted by 29/2012 r 4	26.4.2012
Pt 7		
r 36	deleted by 29/2012 r 5	26.4.2012
	inserted by 19/2013 r 4	4.3.2013
<i>r 37 before deletion by 29/2012</i>		
<i>r 37(a1)</i>	<i>inserted by 239/2005 r 12(1)</i>	<i>17.11.2005</i>
<i>r 37(1)</i>	<i>varied by 239/2005 r 12(2)</i>	<i>17.11.2005</i>
<i>r 37</i>	<i>deleted by 29/2012 r 5</i>	<i>26.4.2012</i>
r 38	varied by 193/2012 r 19	31.8.2012
r 39	inserted by 259/2007 r 4	23.11.2007
	varied by 193/2012 r 20	31.8.2012
r 40	inserted by 259/2007 r 4	23.11.2007
r 40(1)	r 40 redesignated as r 40(1) by 253/2010 r 5	16.12.2010
r 40(2)	inserted by 253/2010 r 5	16.12.2010
r 41	inserted by 193/2012 r 21	31.8.2012
Sch		
Form 6	substituted by 19/2013 r 5	4.3.2013

Historical versions

17.11.2005

23.11.2007 (electronic only)

3.12.2007

26.2.2009

16.12.2010

26.4.2012

31.8.2012