
JUSTICE

JU301*

Prisons Act 1981

Prisons Amendment Regulations 2002

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Prisons Amendment Regulations 2002*.

2. The regulations amended

The amendments in these regulations are to the *Prisons Regulations 1982**.

[* Reprinted as at 9 March 2001.

For amendments to 17 October 2002 see 2001 Index to Legislation of Western Australia, Table 4, p. 267.]

3. Regulation 35 amended

Regulation 35(2) is amended by deleting “who shall endorse on the inventory a note of the refusal” and inserting instead —

“

, and endorse on the inventory a note of the refusal, the time and method of contact with the superintendent,

”.

4. Regulation 36 amended

- (1) Regulation 36(1) is amended by inserting after “practicability,” —

“

and in accordance with any directions issued by the chief executive officer,

”.

- (2) Regulation 36(2) is amended by deleting “and the superintendent may at any time refuse to continue to retain or to accept any other property belonging to the prisoner”.

- (3) Regulation 36(3) is amended by deleting “and the superintendent may issue all or part of the property to the prisoner or a person nominated in writing by the prisoner during

the period of his custody and any person receiving such property shall sign a receipt for it and a copy shall be retained by the superintendent”.

- (4) Regulation 36(4) is repealed.

5. Regulations 36A, 36B, 36C and 36D inserted

After regulation 36 the following regulations are inserted —

“

36A. Prisoner’s property brought by other people

- (1) A person who brings to a prison any property to be delivered to a prisoner, shall surrender the property to the superintendent upon arrival at the prison.
- (2) The superintendent to whom property is surrendered shall cause the property to be inspected, and shall then ensure that the property is dealt with in accordance with any directions issued by the chief executive officer.

36B. Refusing to store property

- (1) A superintendent may, at any time —
- (a) refuse to store, at a prison, any or all of a prisoner’s property; or
 - (b) decide to stop storing, at a prison, any or all of a prisoner’s property,
- in accordance with any directions issued by the chief executive officer.
- (2) A superintendent shall refuse to store property for a prisoner, or to allow a prisoner to have possession of property, of a type specified in a direction issued by the chief executive officer.
- (3) If, under subregulation (1) or (2), a superintendent refuses to store a prisoner’s property, or decides to stop storing a prisoner’s property, the superintendent is to —
- (a) inform the prisoner, in writing, that the property is not, or is no longer, going to be stored at the prison; and
 - (b) request the prisoner, in writing, to make arrangements to have the property removed within a time specified in that request.
- (4) If property has not been removed from a prison within a time specified under subregulation (3)(b), the superintendent shall impound that property and, subject to any directions of the chief executive officer and to subregulation (5), dispose of that property under regulation 37 as if it were abandoned property.

- (5) The superintendent shall ensure that —
 - (a) the disposal of a prisoner's property under subregulation (4) is recorded in the inventory of the prisoner's property; and
 - (b) if the disposal is by way of public auction, the net proceeds from the sale of that property are credited to the prisoner's account.

36C. Release of property

- (1) A superintendent may release to a prisoner, or to a person nominated in writing by that prisoner, all or any of the prisoner's property stored at the prison.
- (2) Property shall not be released to a prisoner's nominee, unless that nominee signs an acknowledgment of the receipt of the property at the time the property is released.

36D. Transfer of property between prisons

- (1) The chief executive officer may issue a direction specifying the maximum amount of a prisoner's property that can be transferred with the prisoner from one prison to another.
- (2) Upon the transfer of a prisoner with his or her property, the provisions of regulation 35 are to be applied at the prison to which he or she is transferred as if the prisoner had been admitted to that prison.
- (3) If a prisoner's property to be transferred exceeds the allowed maximum under subregulation (1), the superintendent of the prison where the property is held shall —
 - (a) inform the prisoner, in writing, that not all the property can be transferred with the prisoner because it exceeds the allowed maximum; and
 - (b) request the prisoner, in writing, —
 - (i) to nominate the items of property that are not to be transferred with the prisoner; and
 - (ii) to arrange for those items to be removed within a time specified in that request.
- (4) If the items nominated under subregulation (3)(b)(i) have not been removed within the time specified under subregulation (3)(b)(ii), the superintendent shall impound that property and, subject to any directions of the chief executive officer and to subregulation (5), dispose of that property under regulation 37 as if it were abandoned property.

- (5) The superintendent shall ensure that —
- (a) the disposal of a prisoner's property under subregulation (4) is recorded in the inventory of the prisoner's property; and
 - (b) if the disposal is by way of public auction, the net proceeds from the sale of that property are credited to the prisoner's account.

”.

6. Regulation 37 amended

Regulation 37(1) is amended by deleting “12 months” and inserting instead —

“ 3 months ”.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.