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PRISONS ACT 1981

PRISONS REGULATIONS
1982

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WESTERN AUSTRALIA

PRISONS ACT 1981

PRISONS REGULATIONS 1982

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Reprinted under the *Reprints Act 1984* as at 20 May 1986.

WESTERN AUSTRALIA

PRISONS ACT 1981

PRISONS REGULATIONS 1982

MADE by His Excellency the Lieutenant Governor and Administrator in Executive Council.

PART I—PRELIMINARY

Citation and commencement

1. These regulations may be cited as the *Prisons Regulations 1982*¹ and shall come into operation on the day upon which the *Prisons Act 1981* comes into operation.²

Interpretation

2. In these regulations, unless the contrary intention appears—

“Act” means the *Prisons Act 1981*;

“form” means a form in the Schedule to these regulations;

“paragraph” means a paragraph of the regulation or subregulation in which the term is used;

“Schedule” means the Schedule to these regulations;

“subregulation” means a subregulation of the regulation in which the term is used.

PART II—ENGAGEMENT AND CONDITIONS OF PRISON OFFICERS

Qualifications for and engagement of prison officers

3. (1) A person is not eligible to be engaged as a prison officer unless he—

- (a) is in a good condition of physical and mental health;
- (b) satisfies the Director that he is an Australian citizen, or a British subject having permanent residence status in Australia;
- (c) is educated to a standard set down by the Director from time to time;
- (d) meets such other requirements as are laid down by the Director from time to time; and
- (e) has no conviction for an offence which, in the opinion of the Director, is an offence which is relevant to the performance of the duties of a prison officer or his fitness to hold office.

(2) Notwithstanding the provisions of subregulation (1) (but subject to paragraph (e) of that subregulation) in special circumstances or in a special case, the Minister may engage any person to be a prison officer.

(3) The engagement of a prison officer is to the prison service generally and not to any particular prison.

(4) Upon his engagement in the prison service, a prison officer shall serve a 9 month period of probation.

Ranks of prison officers

4. (1) The ranks of prison officers appointed under section 13 of the Act in the prison service shall be in ascending order—

(a) prison officer; and

(b) senior prison officer.

(2) A prison officer shall be eligible for promotion to the higher rank after he has met any criteria laid down from time to time by the Director and applicable to that higher rank.

(3) A prison officer may be promoted only by the Director.

Discharge of prison officers

5. (1) A prison officer who is, in the opinion of the Director, unable to perform his duties properly by reason of his physical or mental health may be required by the Director to submit himself to a medical examination by a board consisting of a medical practitioner nominated by the prison officer and 2 medical practitioners appointed by the Executive Director, Public Health and Scientific Support Services.

(1a) If, 7 days prior to the day of examination, the prison officer has not nominated a medical practitioner who has consented to attend the medical examination, the Executive Director, Public Health and Scientific Support Services may appoint a medical practitioner who shall, for the purposes of subregulation (1), be deemed to have been nominated by the prison officer.

(2) If a board constituted under subregulation (1), or the majority of the members of such a board, reports to the Director that a prison officer is unable to perform his duties properly by reason of his physical or mental health, the Director may, with the consent of the Minister discharge the prison officer upon the expiration of his entitlement to sick leave.

(3) A prison officer who provided false, incomplete or misleading information in or with respect to his application for engagement as a prison officer may, with the consent of the Minister, be discharged by the Director.

(4) Where the Director is of the opinion during or at the end of the period of probation of a prison officer that the prison officer is unsatisfactory in the performance of his duties or unsuitable to be a prison officer, the Director may discharge that prison officer.

(5) The Director may extend the period of a prison officer's probation.

[Regulation 5 amended in Gazettes 24 December 1982 p. 4906; 17 August 1984 p. 2449.]

Notice prior to termination of service of prison officers

6. (1) A prison officer who is discharged under regulation 5 (2) shall be entitled to one month's notice or to one month's pay in lieu of notice.

(2) A prison officer who leaves the prison service of his own accord shall give one month's notice in writing or forfeit one month's pay.

(3) A prison officer on probation shall give 2 weeks' notice of his intention to leave the prison service, or shall forfeit 2 weeks' pay.

(4) If a prison officer on probation is discharged for reasons other than misconduct, he shall be given 2 weeks' notice or 2 weeks' pay in lieu of notice.

(5) Where a period of notice is required to be given under this regulation, the Director may, without prejudice to the entitlement of the prison officer to pay, abridge or dispense with such notice.

Occupation of quarters

7. (1) The Director may make quarters available for occupation by officers on such terms and conditions as he deems fit.

(2) An officer occupying quarters shall—

- (a) keep the quarters in good order and condition and in a thorough state of cleanliness;
- (b) subject to fair wear and tear, keep the quarters, outbuildings and yards in a state of good repair; and
- (c) where the quarters are on a farming property, not keep any animal without the approval of the Superintendent.

(3) An officer who breaches any term or condition of his occupancy or who breaches an obligation under this regulation shall be liable to be deprived of his quarters and for the costs of replacement or repair of any Government property which has been neglected, damaged, destroyed or lost by reason of any act or default on his part.

(4) An officer shall on the date of his discharge or transfer to another prison give vacant possession of his quarters to the Superintendent.

(5) If an officer gives vacant possession of his quarters in a dirty condition or leaves rubbish in the quarters or the grounds of the quarters, the Director shall cause the quarters and grounds to be made fit for occupation and the outgoing officer shall be liable for the costs involved.

(6) The Superintendent may, having given reasonable notice to an officer occupying quarters, inspect those quarters at any time.

Medical benefits for prison officers

8. (1) A prison officer who receives from a medical practitioner other than the prison medical officer or medical officer any treatment of the kind normally provided by a general practitioner, for himself, his spouse, or his dependent children, may claim from the Director a sum equal to the amount which he is personally liable to pay and has paid, less the amount which is refundable as medicare benefits for that treatment and the Director may authorize payment of that sum to him.

(2) In this regulation "medicare benefits" has the meaning given to that expression in the *Health Insurance Act 1973* (as amended) of the Parliament of the Commonwealth.

(3) No payment may be authorized by the Director under subregulation (1) in respect of amounts for hospitalization, specialist treatment, x-rays, or any treatment or service not normally provided by a general practitioner.

(4) Where a registered pharmaceutical chemist supplies any item on the prescription of the prison medical officer or medical officer or a general practitioner for a prison officer or his spouse or his dependent children, the prison officer may claim from the Director a sum equal to the amount which he is personally liable to pay and has paid in filling that prescription and the Director may authorize the payment of that sum to him.

(5) A claim submitted to the Director shall be accompanied by a receipt for the amount paid, a statement of any amount in relation thereto received from or covered by medicare benefits and the Director may require other information relating to the identity of the person treated, the prescription or the amount paid, before authorizing payment.

(6) In this regulation "prison officer" includes a person holding an office designated for the purposes of the definition of prison officer in section 3 of the Act.

(7) A prison officer living in a *de facto* marital relationship for a period of 12 months or longer shall be entitled to the benefits set out in this regulation, in relation to his *de facto* wife and dependent children.

(8) The Director may request a Superintendent or other senior ranking officer to confirm that a *de facto* marital relationship exists and where that officer is not able to confirm that the relationship does exist, the prison officer making the claim shall provide proof of the relationship by means of a statutory declaration which shall continue in force until rescinded by the declarant, and the declarant shall rescind the declaration when making a claim, if the relationship no longer exists.

[Regulation 8 amended in Gazette 11 May 1984 p. 1246]

Requirements as to uniforms

9. (1) The Director may designate the dress and insignia of office or rank to be worn by an officer as his uniform.

(2) A prison officer shall wear his uniform during his hours of duty and may wear his uniform whilst travelling to or from his residence to his place of duty, but shall not otherwise wear his uniform without the authority of the Superintendent.

(3) A prison officer may wear clothing other than his uniform during his hours of duty only with the authority of the Superintendent or when ordered to do so by the Superintendent.

(4) A prison officer—

(a) shall not permit or allow any other person to wear his uniform or any part thereof; and

(b) shall not leave any part of his uniform unattended in a prison except in an area designated for the purpose by the Superintendent.

(5) A uniform issued to a prison officer remains the property of the Department and upon the replacement of the uniform or part thereof, or where a prison officer leaves the prison service for any reason, the officer shall return all badges and buttons and that part of his uniform obtained by him within the preceding 6 months or shall satisfactorily account for its whereabouts and condition, and a prison officer who does not so return or account for his uniform shall be liable to have the value of his uniform deducted from any pay or entitlements due to him.

(6) A prison officer who is serving the first 3 months of his probationary service may be issued with a uniform which is not new issue.

Awards of medallions to prison officers

10. (1) The Minister may award a medallion to a prison officer who has—

(a) performed in the course of his duty an act of bravery which involved a risk to his life or health and such medallion shall be known as the "Western Australia Prisons Department Bravery Medallion";

(b) served a continuous period of 15 years service in the Western Australia Prisons Department and such medallion shall be known as the "Western Australia Prisons Department 15 years Long Service Medallion"; or

(c) served a continuous period of 25 years service in the Western Australia Prisons Department and such medallion shall be known as the "Western Australia Prisons Department 25 years Long Service Medallion";

(2) The Minister may award the Bravery Medallion posthumously to the prison officer's next of kin where the case requires.

(3) Where the Minister is of the opinion that in a special case a Western Australia Prisons Department 15 years Long Service Medallion or Western Australia Prisons Department 25 years Long Service Medallion ought to be awarded to a prison officer who has not served the prerequisite period in the prison service, he may make that award.

[Regulation 10 amended in Gazette 12 April 1985 p. 1283.]

Striking and form of medallion

11. (1) The Minister shall authorize the striking of any medallion to be awarded under these regulations.

(2) A medallion awarded under these regulations shall be in a form and with such attachments as are determined by the Minister.

PART III—FUNCTIONS OF OFFICERS AND PRISON OFFICERS

Duty on taking charge of prisoners

12. A prison officer on taking charge or supervision of any group of prisoners shall count the number of prisoners and shall remain responsible for the charge and supervision of each prisoner in the group until the prisoners are delivered into the charge and supervision of a relieving prison officer or other officer.

Duty on escape of prisoner

13. (1) A prison officer in charge or having the supervision of any prisoner shall in the event of an escape report the full particulars of the escape forthwith—

- (a) where the escape has occurred from within a prison, to the Superintendent; and
- (b) where the escape has occurred outside a prison, to the Superintendent or to the nearest police station.

(2) A prison officer who reports an escape to the nearest police station shall, as soon as practicable, make a further report upon the escape to his Superintendent.

(3) Where a prisoner in the charge or under the supervision of a prison officer escapes or prepares or attempts to escape from that charge or supervision, the prison officer (if every other prisoner for whom he is responsible is adequately secured) or any other prison officer, may arrest that prisoner and return him to prison.

Duty regarding prisoner absent from prison

14. A prison officer in charge of any prisoner absent from a prison shall ensure that the prisoner complies with the provisions, conditions and stipulations of his permit for absence, or his approved absence, and shall at all times keep the prisoner under his charge or supervision.

Duty to warn loiterers

15. A prison officer shall promptly request any person apparently loitering in the vicinity of a prison or in the vicinity of any prisoner to move away and shall warn such person of the consequences of the disobedience of his request before acting under section 52 (6) of the Act.

Duty to prevent interference with prisoners

16. A prison officer shall not allow any unauthorized person to interfere in any way with any prisoner in his charge or under his supervision, or to communicate with, or give or pass anything to, a prisoner.

Duties as to keys and security procedures

17. An officer who in the course of his duty is entrusted with any key or other locking or unlocking device or mechanism or who is familiar with any security process or procedure—

- (a) shall not remove any such item from the prison or make known any such process or procedure to any person without the prior authority of the Superintendent;
- (b) shall not part with the possession of or leave any such item unattended or lying about; and
- (c) shall, when leaving the prison or on the completion of his duty, unless security procedures require otherwise, deliver such item to the officer authorized to receive them and unless he has made such delivery, he shall not be permitted to leave the prison without the permission of the Superintendent.

Miscellaneous duties

18. (1) It is the responsibility of a prison officer when he is on duty—

- (a) to examine all locks, bolts, keys, and other locking or unlocking devices or mechanisms in his area of duty and to report thereon to his superior officer; and
- (b) to know the number of prisoners who are in his charge at any time.

(2) In addition to his ordinary duties a prison officer may be required to perform such duties as the exigencies of the Western Australia Prisons Department require.

Officer not to receive visitors

19. An officer shall not receive any visitor at the prison when on duty without the permission of the Superintendent.

Restriction on entering prison or leaving area of duty

20. (1) An officer who is not on duty shall not enter a prison without the permission of the Superintendent.

(2) A prison officer shall not leave his area of duty within a prison unless authorized to do so, or until relieved by another prison officer.

Certificates of good service

21. (1) A prison officer shall not accept any address, recommendation or testimonial in connection with his duties, without the prior permission of the Director.

(2) The Director may issue a certificate of good service to a prison officer upon his discharge.

Restrictions on conduct of prison officers

22. (1) Subject to subregulation (2) a prison officer shall not—

- (a) make any comment to any person, either orally or in writing concerning any officer, prison, or prisoner; or
- (b) use for any purpose information gained by or conveyed to him through his service in the prison service,

except in connection with the discharge of his duties or with the prior written approval of the Superintendent.

(2) Nothing in subregulation (1) prevents a prison officer from communicating with a union of which he is a member with respect to any matter which affects him and which is an industrial matter within the meaning of the *Industrial Relations Act 1979*.

(3) A prison officer shall not—

- (a) apart from his entitlement to pay as a prison officer accept from any prisoner or person any gratuity, fee or reward for or in connection with the performance of his duties; or
- (b) engage in any trade, profession, business or calling other than that of being a prison officer,

except with the prior written approval of the Director.

(4) Where a prison officer applies for the approval of the Director for the purposes of subregulation (3) (b) that approval shall not be withheld unless, in the opinion of the Director, engagement in the trade, profession, business or calling in respect of which that approval is sought would conflict with the performance of the applicant's duties.

(5) Where approval has been given to a prison officer for the purposes of subregulation (3) (b) and, in the opinion of the Director, engagement in the trade, profession, business or calling in respect of which that approval was given is conflicting with the performance of the prison officer's duties, the Director may by notice in writing served on the prison officer withdraw that approval.

(6) An officer shall not engage in or carry out any pecuniary or other transaction with or on behalf of any prisoner, except in connection with the discharge of his duties or with the prior approval of the Superintendent.

Grievances

23. (1) A prison officer having a grievance connected with his duties, office or rank shall state the grievance in writing and submit it to the Director or the Superintendent for his decision.

(2) Where pursuant to subregulation (1), a prison officer has submitted a grievance to the Superintendent the prison officer may, through the Superintendent, request the Director to reconsider the decision made by the Superintendent in respect of that grievance and the Superintendent shall forward any such request to the Director for his decision.

Responsibility when carrying firearms

24. (1) A prison officer may be required to undertake training in the use of firearms and ammunition and may thereafter, when on duty, be required to carry firearms and ammunition.

(2) Firearms and ammunition shall be issued only by an officer so authorized by the Superintendent.

(3) When on duty under arms, a prison officer shall—

- (a) be responsible for firearms and ammunition issued to him;
- (b) ensure that the firearms are properly loaded and that he is carrying the appropriate ammunition for those firearms;
- (c) handle those firearms and that ammunition so that no accident may occur;
- (d) report to his superior officer forthwith if he has any reason to doubt the serviceability of the firearms;
- (e) remain alert and vigilant at his post;
- (f) immediately he observes any irregularity in the routine of the prison which may jeopardise the security of the prison, report such irregularity to the Superintendent or his superior officer or make his report to the nearest officer with whom he can communicate and that officer shall forthwith inform the Superintendent of the report made to him; and

- (g) report to his superior officer forthwith any discharge of the firearms or loss or damage of ammunition.
- (4) When on duty under arms, a prison officer shall not—
 - (a) deface the firearms;
 - (b) make any alteration to the firearms without the authority of the Superintendent; or
 - (c) permit any prisoner to approach within 10 metres of him.

Procedure before the use of firearms

25. (1) Before using a firearm against a prisoner or other person, a prison officer shall, where it is practicable in the circumstances to do so—

- (a) order the prisoner or person to halt;
- (b) if the prisoner or person so ordered refuses or neglects to halt, the prison officer shall immediately call aloud "halt or I'll fire" or words to similar effect.

(2) Before using a firearm against a prisoner or other person, a prison officer may, where it is practicable in the circumstances to do so, fire a warning shot.

(3) In exercising his discretion whether to use or to continue to use a firearm, a prison officer shall have regard to the risk, in the immediate circumstances, of injury which the use of fire power would impose upon any person other than the prisoner or person against whom fire power may be used.

[Regulation 25 amended in Gazette 24 December 1982 p. 4907.]

Procedure when prisoner suspected under influence or in possession of alcohol or drugs

26. (1) Where a prison officer has reasonable grounds for suspecting that a prisoner is under the influence of—

- (a) any drug not lawfully issued to him or not taken as prescribed; or
- (b) alcohol not lawfully issued to him or any other intoxicating substance,

the prison officer may take that prisoner to the prison medical officer or medical officer and request that a sample of the prisoner's blood, saliva or urine be taken for the purpose of an analysis.

(2) Where the prison medical officer or medical officer is of the opinion that the prisoner is under the influence of a drug, alcohol or an intoxicating substance as mentioned in subregulation (1), he may take or authorize the taking of a sample of the prisoner's blood or arrange for a sample of the prisoner's saliva or urine to be obtained and the prisoner shall submit himself accordingly.

(3) A sample of blood taken from a prisoner shall be taken with a sterile syringe and discharged into a sterile container.

(3a) A prison officer may take, for the purpose of analysis, a sample of any drug, alcohol or other intoxicating substance found in the possession of a prisoner and not lawfully issued to him.

(4) Any sample taken or obtained from a prisoner under this regulation shall be sealed in a container marked or labelled in the presence of the prisoner and a prison officer with—

- (a) the name of the prisoner;
- (b) the type of the sample;
- (c) the name of the officer who took the sample; and
- (d) the time and date that the sample was taken.

(5) The Superintendent shall be informed of any sample taken or obtained under this regulation and shall authorize the delivery of the sample to the Government Chemical Laboratories.

[Regulation 26 amended in Gazette 17 August 1984 p. 2450.]

Analyst to give certificate

27. (1) Upon completion of an analysis at the Government Chemical Laboratories, the analyst shall make a certificate in the form of Form 1 of the Schedule and shall forward that certificate to the Superintendent of the prison in which the prisoner is in custody.

(2) The Superintendent shall cause a copy of the certificate referred to in subregulation (1) to be served upon the prisoner from whom the sample was taken or obtained.

(3) For the purposes of these regulations, an analyst is a person appointed as an analyst under the Health Act 1911 and employed at the Government Chemical Laboratories.

[Regulation 27 amended in Gazette 24 December 1982 p. 4907.]

Admissibility of analyst's certificate

28. The certificate referred to in regulation 27 shall be admissible in evidence against a prisoner charged with a prison offence and shall be *prima facie* evidence of the matters certified in the certificate.

Procedure for breath tests

29. (1) Without prejudice to regulation 26, where a prison officer has reasonable grounds for suspecting that a prisoner is under the influence of alcohol not lawfully issued to him, the prison officer may require that prisoner to provide a sample of his breath for a test in accordance with the directions of the prison officer.

(2) A test for the purposes of this regulation means a test for the purpose of providing an indication of or for ascertaining, the percentage of alcohol in the blood of a prisoner—

- (a) by means of apparatus of a type approved by the Director; and
- (b) administered by a prison officer who has been authorized by the Director to use that apparatus.

(3) The results of a test shall be admissible in evidence against a prisoner charged with a prison offence.

PART IV—DISCIPLINE OF PRISON OFFICERS

Determination of disciplinary offences

30. Where a prison officer is charged with a disciplinary offence and the prison officer denies the truth of the charge, the procedure, subject to sections 100 and 101 of the Act, to determine the charge shall be as follows—

- (a) the officer prosecuting shall state the case against the prison officer and call any witnesses in support of the charge;
- (b) the Director, Superintendent or other person appointed to conduct the inquiry may take evidence on oath, affirmation or otherwise at his discretion;
- (c) the officer prosecuting shall conduct the examination in chief of each witness and the prison officer or a person nominated to represent him under section 101 of the Act may cross-examine each witness;
- (d) the officer prosecuting shall be permitted to re-examine each witness on matters arising out of cross-examination;

- (e) the officer prosecuting shall then close his case; and
- (f) the prison officer charged may then give evidence on his own behalf or he or his nominated representative may call his witnesses and paragraphs (c), (d) and (e) shall apply subject to necessary modification.

Conduct of disciplinary proceedings

31. (1) The Director, Superintendent or other person appointed to hear a charge of a disciplinary offence—

- (a) shall conduct the inquiry expeditiously and without undue adjournment or delay;
- (b) shall keep or cause to be kept an adequate record of proceedings;
- (c) may question a witness called; and
- (d) may direct that a particular witness be called or call and question a witness.

(2) The officer prosecuting and the prison officer charged shall be permitted to question any witness called and questioned under subregulation (1) (d).

PART V—PRISONERS—MANAGEMENT PROVISIONS

Prison clothing

32. Upon his admission to prison, a prisoner may be required to bathe or take a shower and, subject to these regulations, shall be issued with and shall wear prison clothing.

Clothing during absence from prison

33. (1) The Superintendent may permit a prisoner to wear clothing other than prison clothing during a prisoner's authorized absence from prison.

(2) A prisoner whose appearance is required at court or at any place authorized under section 22 of the Act shall be permitted to wear his own clothing if he so elects.

Clothing on discharge

34. The Director shall ensure that a prisoner discharged from a prison is adequately clothed in other than prison clothing and may authorize expenditure either from the prisoner's own moneys held on his behalf at the prison, or from any moneys available to the Director for that purpose.

Prisoner's property

35. (1) As soon as practicable after the admission of a prisoner to prison, the Superintendent shall cause an inventory to be made of all property in that prisoner's possession and the prisoner shall be asked to sign the inventory as an acknowledgment that it is correct.

(2) If a prisoner refuses to sign an inventory when asked to do so by a prison officer under subregulation (1), the prison officer shall inform the Superintendent who shall endorse on the inventory a note of the refusal and any reason given by the prisoner for his refusal to sign.

(3) Any property which, in the opinion of the Superintendent, is of a perishable, dangerous or unhygienic nature may be destroyed or otherwise dealt with as ordered by the Superintendent and a record of such order and action shall be noted on the inventory.

(4) Where any property is dealt with under section 41 of the Act, the inventory shall be endorsed accordingly and signed by the authorized officer and the prisoner.

Safekeeping of prisoner's property

36. (1) The Superintendent may, subject to considerations of security and practicality, authorize the retention of a prisoner's property at the prison.

(2) Any property retained at the prison on behalf of a prisoner shall be kept in safe keeping and the Superintendent may at any time refuse to continue to retain or to accept any other property belonging to the prisoner.

(3) The property of the prisoner shall be made available to that prisoner on his release or as soon as practicable thereafter 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) The property of a prisoner who is removed from one prison to another under an order made pursuant to section 26 of the Act shall be forwarded to the prison to which he is removed and the provisions of regulation 35 shall apply as if the prisoner had been admitted to that prison.

(5) Any property issued to or retained by a prisoner, or retained at a prison on behalf of a prisoner, may be searched by a prison officer and, for that purpose, the prison officer may, using due care, dismantle the property.

Disposal of unclaimed property

37. (1) Property left at a prison and uncollected, abandoned, or unclaimed for a period of 12 months may by order of the Director be—

- (a) sold at a public auction;
- (b) given to an association incorporated under the *Associations Incorporation Act 1895*; or
- (c) destroyed or otherwise disposed of.

(2) The Director shall on at least one occasion before a public auction is conducted under subregulation (1) cause a notice to be published in the *Government Gazette* describing the property to be offered for sale and giving the time, date and place of the auction.

(3) The net proceeds of an auction sale conducted under this regulation shall be paid into the Prisoners' Industrial Trust Fund.

Recording of prisoners' particulars

38. (1) Upon his admission to prison and at any other time which the Superintendent considers necessary—

- (a) a record shall be made of a prisoner's name (according to the warrant or other instrument pursuant to which he is in custody), his date of birth and usual place of residence together with a description of his general appearance, features and distinguishing marks;
- (b) a prisoner shall be given the opportunity to state his religion or religious denomination and any such statement shall be recorded; and
- (c) a prisoner may be required to have his height and weight recorded, be photographed, have impressions of his fingers and palms taken, and to provide a sample of his blood and an impression of his teeth.

(2) A blood sample or dental impression provided under subregulation (1) (c) shall be taken by or at the direction of the prison medical officer or the medical officer.

Confidentiality of records

39. (1) Subject to subregulation (2) the records referred to in regulation 38 with respect to a prisoner who is released without conviction by a court and of a prisoner who is acquitted of the charge in respect of which he was imprisoned shall be destroyed at the request of the prisoner.

(2) The Director may, for statistical purposes, retain a record of—

- (a) the name and date of birth;
- (b) the usual place of residence at the time of admission;
- (c) the date and reason for admission; and
- (d) the date and reason for discharge,

of a prisoner referred to in subregulation (1).

(3) Except with the permission of the Director, no copy of the records referred to in regulation 38 or subregulation (2) shall be shown or made available in any form to a person other than a person whose public duty it is to receive it or use it for purposes of identification.

Duty to obey orders

40. (1) A prisoner shall promptly obey an order given to him by a prison officer and shall obey the rules and standing orders of the prison and any other written order addressed generally to prisoners.

(2) A prisoner aggrieved by an order given to him shall obey that order before making any complaint in relation to the order.

Conduct in personal matters

41. (1) A prisoner shall keep himself, his bedding and his clothing and his cell or quarters in a thorough state of cleanliness and the furniture and any contents of his cell shall be neatly arranged as may be directed by the Superintendent.

(2) A prisoner shall not in any way alter or destroy bedding or clothing issued to him or the furniture or contents of his cell and shall be accountable for its condition and responsible for its proper care.

(3) A prisoner shall bathe or shower and put on clean clothing as directed by the Superintendent.

(4) The Superintendent may require a prisoner to have his hair cut and may require a male prisoner to cut or shave his beard or moustache.

Remaining in prison

42. (1) The Director may if so requested by a prisoner in writing permit the prisoner to remain in the prison overnight until the morning of the day following the due date of discharge.

(2) If a prisoner is seriously ill on his discharge date, the Director may permit the prisoner to remain in the prison until suitable arrangements are made for his discharge.

Work

43. (1) Subject to subregulation (2), a prisoner who is able to work may be employed as the Superintendent directs.

(2) A prisoner on remand shall not be required to work.

(3) A prisoner on remand may apply in writing to the Superintendent to work and, if such application is granted, the prisoner may be graded, employed in the prison in which he is confined, and be credited with gratuities accordingly.

Classification of prisoners for work purposes

44. (1) The Superintendent shall from time to time classify every prisoner to whom this regulation applies into one of 4 classes which shall be known respectively as the first class, second class, third class, and fourth class.

(2) A prisoner who works a 7 day week, or a 5 day week at such work which in the opinion of the Superintendent so merits, shall be classified into the first class.

(3) A prisoner who is working, but does not meet the requirements of subregulation (2) shall be classified in the second class.

(4) A prisoner who is willing to work, but for whom no work or no suitable work can be found and a prisoner who is permanently medically unfit to work shall be classified into the third class.

(5) Where—

- (a) the Superintendent in the interests of the preservation of prison security or prison property has directed that a prisoner is not to work;
- (b) a prisoner consistently refuses to work; or
- (c) a prisoner is undergoing a penalty of confinement in his sleeping quarters or separate confinement in a punishment cell,

then in addition to any other action which may be taken against the prisoner, he shall be classified into the fourth class.

(6) A prisoner who is temporarily medically unfit to work shall not be subject to reclassification by the Superintendent on account of such unfitness.

(7) This regulation applies to every prisoner other than a prisoner on remand who has not either applied successfully—

- (a) under regulation 58 to be treated as a sentenced prisoner; or
- (b) under regulation 43 for permission to work.

Crediting of gratuities to prisoners

45. (1) Every prisoner who has been classified by the Superintendent under regulation 44 may be credited with gratuities as follow—

- (a) a prisoner of the first class may be credited with \$1.87 for each day on which he works;
- (b) a prisoner of the second class may be credited with \$1.48 for each day on which he works; and
- (c) a prisoner of the third class may be credited with \$1.19 for each week day which is an ordinary working day in the prison in which he is confined.

(2) A prisoner of the first or second class may be credited with gratuities under subregulation (1) for each day on which he is temporarily medically unfit to work that is an ordinary working day in the prison in which he is confined.

(3) A prisoner of the first, second or third class may be credited with gratuities under subregulation (1) for each day that is a public holiday in the part of the State in which the prison where he is confined is situate which day would otherwise be an ordinary working day in that prison.

(4) A prisoner of the fourth class shall not be credited with any gratuities.

(5) The gratuity that may be credited to a prisoner under subregulation (1) shall be varied each year following the publication for the December quarter of the year immediately preceding the Consumer Price Index (all groups) Perth as issued by the Australian Bureau of Statistics under the authority of the *Census and Statistics Act 1905* of the Commonwealth, or any Act in substitution thereof, by reference to any percentage movement in that Index during the preceding 12 months and the amount as so varied shall be the amount of the gratuity that may be credited to a prisoner under subregulation (1).

Classification and gratuity records

46. The Superintendent shall cause to be kept for each prisoner—

- (a) a record showing the class into which the prisoner has been classified from time to time and the amount of gratuities which have been credited to him and the details of all transactions involving that prisoner's gratuities (such record to be known as the prisoner's "gratuity card"); and
- (b) a record showing the amount of all moneys held or received on behalf of a prisoner and the details of all transaction involving such moneys.

Expenditure of gratuities

47. (1) A prisoner may spend from gratuities to his credit such amounts and on such purchasess as may be approved by the Superintendent from time to time.

(2) A prisoner may apply to the Superintendent to expend or transfer moneys held on his behalf for a specified purpose and the Superintendent may authorize such expenditure or transfer.

(3) The transfer of any moneys from one prisoner to another shall not be authorized by the Supertintendent unless he is satisfied that the transfer is for a proper purpose.

Restriction on money held for prisoner

48. The Director may determine from time to time the amount of money (not including gratuities credited) which may be received and held on behalf of a prisoner

Deductions respecting damage to Government property

49. The Director may order a deduction from the gratuities or other moneys credited to a prisoner for the purposes of defraying the costs of replacement or repair of any Government property which has been damaged, destroyed or lost by reason of any default of that prisoner.

Payment of gratuities on discharge

50. Subject to the making of any deductions authorized under these regulations the gratuities credited to a prisoner and other moneys held on his behalf shall be made available to the prisoner upon his discharge or as soon as practicable thereafter.

Provision of information to prisoners

51. (1) A prisoner who so requests shall at a time convenient to the Superintendent be informed of—

- (a) the contents of the warrant or other instrument by which he is held in custody;
- (b) where those dates are able to be reckoned his anticipated date of discharge or the date upon which he becomes eligible for release on parole;
- (c) the information recorded on his gratuity card; and
- (d) the details contained in the records referred to in regulations 35 and 46.

(2) The Superintendent need not agree to a request made under subregulation (1) if the request appears to him to be vexatious.

Visits to sentenced prisoners

52. Subject to section 66 of the Act, a prisoner under sentence of imprisonment or detention shall be permitted to receive visits from his friends and relations—

- (a) as soon as practicable after his admission to prison in accordance with the rules prescribed for the prison in which that prisoner is confined;
- (b) weekly thereafter in accordance with the rules prescribed for that prison; and
- (c) at such other times as may be authorized by the Superintendent.

[Regulation 52 amended in Gazette 22 April 1983 p. 1250.]

Visits—general

53. (1) Subject to section 62 of the Act, every visit to a prisoner shall take place in the presence of or under the general supervision of a prison officer.

(2) Subject to section 63 of the Act a prisoner may refuse to see or to speak to any visitor.

Form of visitor's declaration

54. For the purposes of section 60 of the Act, the form of the declaration to be made and signed by a visitor to a prisoner shall be in accordance with Form 2 in the Schedule.

Prescribed prisons for purposes of section 60

54A. For the purposes of section 60 of the Act, the following prisons are prescribed—

Albany Regional Prison
Bandyup Women's Prison
Canning Vale Prison
Fremantle Prison
The C. W. Campbell Remand Centre.

[Regulation 54A inserted in Gazette 24 December 1982. p. 4907.]

Prisoner under sentence of death

54B. A prisoner under sentence of death shall be subject to the regulations applying to a prisoner under sentence of imprisonment.

[Regulation 54B inserted in Gazette 22 April 1983, p. 1250.]

PART VI—REMAND PRISONERS**Remand prisoners**

55. A person (not otherwise a prisoner) who is—

- (a) on commitment for trial for an indictable offence and awaiting trial or during his trial or on remand;
 - (b) committed to prison pending or during proceedings or the hearing of information or complaint under the provisions of the *Justices Act 1902*;
- or
- (c) on commitment to await extradition or any other commitment,

is referred to in these regulations as a prisoner on remand and shall be treated accordingly.

Visits to remand prisoners

56. Subject to section 66 of the Act, a prisoner on remand shall be permitted to receive visits from friends and relations—

- (a) as soon as practicable after his admission to prison in accordance with the rules prescribed for the prison in which that prisoner is confined;
- (b) daily thereafter in accordance with the rules prescribed for that prison; and
- (c) at such other times as may be authorized by the Superintendent.

Separation of remand prisoners

57. A prisoner on remand shall as far as practicable and where the interests of security permit, be kept separate from sentenced prisoners.

Request for reclassification by remand prisoners

58. A prisoner on remand may apply in writing to the Director to be treated as a sentenced prisoner and if such application is granted may be treated accordingly.

Exercise by remand prisoners

59. Consistent with his detention in secure custody, a prisoner on remand shall be permitted to take such air and exercise as the Superintendent considers necessary.

Clothing of remand prisoners

60. (1) Subject to any direction to the contrary made by the Superintendent in the interests of prison security, a prisoner on remand may wear his own clothing unless that clothing is inadequate, unfit to be worn, or required to be preserved for the purposes of justice, in any of which cases the prisoner may be required to wear prison clothing.

(2) A prisoner who wears his own clothing shall—

- (a) clean and maintain that clothing himself;
- (b) not part with the possession of or destroy any item of his clothing without the approval of the Superintendent; and
- (c) have his clothing in his possession entirely at his own risk.

Remand prisoner to clean cell

61. A prisoner on remand shall keep his cell and any other areas used by remand prisoners in a thorough state of cleanliness.

Haircuts etc., of remand prisoners

62. A prisoner on remand shall not be required to have his hair cut or to cut or shave his beard or moustache unless the prison medical officer or the medical officer otherwise directs in the interests of the health or cleanliness of the prisoner or the prison.

[Part VII repealed in Gazette 22 April 1983, p. 1250.]

PART VIII—PRISON OFFENCES

Determination of prison offences

66. Where a prison offence is dealt with before the Superintendent or a visiting justice and the prisoner charged denies the truth of the charge, the procedure subject to section 76 of the Act shall be as follows—

- (a) the prosecuting prison officer shall state the case against the prisoner and call any witnesses in support of the charge;
- (b) the Superintendent or visiting justice may take evidence on oath, affirmation or otherwise at his discretion;
- (c) the prosecuting prison officer shall conduct the examination in chief of each witness and the prisoner may cross-examine each witness;
- (d) the prosecuting prison officer shall be permitted to re-examine each witness on matters arising out of cross-examination;
- (e) the prosecuting prison officer shall then close his case; and
- (f) the prisoner shall then give evidence on his own behalf or call his witnesses and paragraphs (c), (d) and (e) shall apply subject to necessary modification.

Conduct of proceedings

67. (1) The Superintendent or the visiting justice—

- (a) shall conduct proceedings expeditiously and without undue adjournment or delay;
- (b) shall keep or cause to be kept an adequate record of proceedings;
- (c) may question a witness called; and
- (d) may direct that a particular witness be called or call and question a witness.

(2) The prosecuting prison officer and the prisoner charged shall be permitted to question any witness called and questioned under subregulation (1) (d).

Separate confinement in punishment cell

68. A penalty of separate confinement in a punishment cell imposed upon a prisoner shall be served in a cell which has been certified by the Director in writing as fit for that purpose.

Calculation of separate confinement in punishment cell

69. (1) A penalty of separate confinement in a punishment cell for a specified number of days (or the total number of days imposed under section 78 (2) of the Act) shall be deemed to have commenced to run from 1 p.m. on the day that the penalty was imposed and shall determine at 1 p.m. on the day that the penalty determines.

(2) A penalty of separate confinement in a punishment cell for a specified number of hours during a weekend shall be served during the hours specified in the order.

Confinement in sleeping quarters

70. A penalty of confinement in sleeping quarters imposed upon a prisoner shall be served in the cell or quarters allocated to that prisoner prior to the commission of the offence.

Calculation of confinement in sleeping quarters

71. A penalty of confinement in sleeping quarters for a specified number of hours or days shall be reckoned from the time of pronouncement of that penalty.

Separate confinement under section 43

72. Where the Director orders the separate confinement of a prisoner under section 43 of the Act, the separate confinement shall (subject to that provision) be undergone in the cell and for the period specified in the order and shall be subject to the regimen set down in the order.

Penalties of restitution and cancellation of gratuities

73. (1) Where the penalty of restitution is imposed upon a prisoner in respect of a prison offence, the Director shall give effect to the penalty and shall authorize the deduction to be made from the gratuities credited or to be credited to the prisoner or from other moneys held on his behalf.

(2) Where a prisoner has his gratuities cancelled for a period not exceeding 14 days in respect of a prison offence that prisoner shall for that period be classified into the fourth class but shall continue to work.

PART IX—DEATH OF PRISONER**Procedure on death of prisoner**

74. (1) Except in the case of the execution of the punishment of death, the prison medical officer or the medical officer shall upon the death of a prisoner record—

- (a) the time of death and the time of certification of death;
- (b) the nature of illness or other apparent cause of death;
- (c) the progression of any illness suffered by the prisoner; and
- (d) any other remarks which he considers necessary.

(2) As soon as practicable after the requirements of subregulation (1) have been met, the prison medical officer or medical officer shall submit his remarks and record of the death to the Director.

Notice of death of prisoner

75. (1) Upon the death of a prisoner, the Superintendent shall forthwith give notice of the death to the Director and to the officer in charge of the nearest police station.

(2) Upon the death of a prisoner who is serving all or part of his sentence in a lock-up, the officer in charge of that lock-up shall forthwith give notice of the death to the Superintendent of the nearest prison.

PART X—PRISON VISITORS**Visits by prison visitor**

76. Where a prison visitor has given notice of his intention to visit a prison the Superintendent shall cause a notice of the intended visit to be published within the prison.

Interviews by prison visitor

77. (1) The Superintendent shall bring to the attention of the prison visitor the names of any prisoner or officer who has requested to see the prison visitor and shall make the necessary arrangements to enable the prison visitor to interview such prisoner or officer at the prison.

(2) The prison visitor may interview an officer in private.

(3) Subject to any direction to the contrary made by the Superintendent in the interests of security, the prison visitor may interview a prisoner within the view but not the hearing of an officer.

PART XI—SEARCHES AND EXAMINATIONS

Duties as to search of prisoners

78. (1) Each prisoner shall be searched on his admission to prison and immediately before his discharge from prison and may be searched on such other occasions and in such manner as may be considered necessary by the Superintendent.

(2) A prison officer may search any prisoner in his charge or under his supervision and where prisoners have left or returned to a prison or have been transferred between prisons, a prison officer shall search each prisoner.

(3) A prisoner shall not be stripped of his clothing and searched unless the Superintendent (or where the Superintendent is unable to be contacted an officer of or above the rank of senior officer) has so ordered and any prison officer involved in such a search shall make a written report of the search and forward it to the Superintendent.

(4) A search of a prisoner shall be conducted with regard to decency and self-respect and, subject to subregulation (5), the prisoner shall not be stripped of his clothing and searched in the sight or the presence of a person of the opposite sex and, where practicable, no prisoner shall be stripped in the presence of another prisoner.

(5) The Superintendent may request the presence of the prison medical officer or medical officer during the search of a prisoner.

Examination of articles under section 49

79. (1) Where the Superintendent requires an examination of any article in the possession or under the control of a person pursuant to section 49 of the Act, he shall before directing any examination—

- (a) inform the person of his authority to require and direct an examination; and
- (b) ask the person whether he has in his possession or under his control any article which may jeopardise the good order of security of the prison and if so to produce such article.

(2) An examination of an article under subregulation (1) shall be conducted expeditiously and in the presence of the person referred to in that subregulation.

(3) Where any article is seized after an examination, the Superintendent shall as soon as practicable notify the Director who shall make a direction under section 49 (5) of the Act.

Searching persons under section 49

80. (1) Where the Superintendent requires a search of a person pursuant to section 49 of the Act, he shall before directing any search—

- (a) inform the person of his authority to require and direct the search;
- (b) inform the person of the requirement in the particular case and the reason therefor;
- (c) ask the person whether he has in his possession any article which may jeopardise the good order or security of the prison and if so to produce such article; and
- (d) provide the person with the opportunity to respond and record the response to the request.

(2) Where in the opinion of the Superintendent a search of the person is necessary, he may then direct that a search of the person take place.

(3) A person who is about to be searched—

- (a) may request that someone of the same sex who has accompanied that person to the prison or some other person of the same sex (not being a prisoner) who is then at the prison be present during the search; and
- (b) shall be informed of the provisions of paragraph (a).

(4) A search of a person shall be conducted expeditiously and with regard to decency and self-respect and subject to section 49 (4) of the Act shall be conducted by a person of the same sex as the person searched.

(5) Where any article is seized after a search, the Superintendent shall as soon as practicable notify the Director who shall make a direction under section 49 (5) of the Act.

(6) This regulation applies in the case of a search consisting of a search of the hair of the head, clothing and footwear of a person by hand or by means of apparatus approved by the Director.

Regulation of strip searches under section 49

81. (1) Where the Superintendent requires a search of a person pursuant to section 49 of the Act and that person is required to remove any clothing for the purposes of the search then, in addition to the requirements set down in regulation 80 (1) and (3)—

- (a) the Superintendent may request the presence of the prison medical officer or medical officer during the search;
- (b) the search shall be conducted in the presence of not more than 2 officers unless the Superintendent orders otherwise in the interests of security of the prison or to overcome actual resistance offered to the search.

(2) Subject to section 49 (4) of the Act and to subregulation (1) (a), a search under this regulation shall not be conducted by or in the presence or within the sight of any person who is not of the same sex as the person being searched.

(3) A search of a person shall be conducted expeditiously and with regard to decency and self-respect.

(4) The Superintendent shall notify the Director forthwith of a search where any person is required to remove any clothing and shall submit a full written report of such search.

(5) Where any article is seized after a search under this regulation, the Superintendent shall as soon as practicable notify the Director who shall make a direction under section 49 (5) of the Act.

(6) This regulation applies in the case of a search where a person is required to undress and be searched visually and by hand and in the case of an examination of body orifices.

PART XII—INQUIRIES UNDER SECTION 9 OF ACT

Appearance before section 9 inquiry

82. A person appointed by the Director to conduct an inquiry under section 9 of the Act may—

- (a) issue a notice in Form 3 of the Schedule, requiring the appearance of any officer or prisoner before the inquiry;
- (b) charge any officer with the execution of the service of that notice upon the officer or prisoner to whom it is addressed; and
- (c) appoint an officer to assist the inquiry.

Conduct of section 9 inquiry

83. A person appointed by the Director to conduct an inquiry under section 9 of the Act shall—

- (a) ensure that an officer or person appearing before the inquiry is aware of the subject of the inquiry and understands his obligations under the Act;
- (b) conduct the inquiry in a full and objective manner and without undue adjournment or delay;
- (c) keep or cause to be kept an adequate record of proceedings;
- (d) provide the opportunity for persons other than those whose appearance has been required to attend before the inquiry; and
- (e) report in writing to the Director at the conclusion of the inquiry or at any such other time or times as the Director may require.

Duty of reporting officer

84. Where before an inquiry set up under section 9 of the Act an officer or prisoner fails to give information or answer a question required by a person appointed to conduct the inquiry or gives any information or answer that in the opinion of the person conducting the inquiry is false in any particular, he shall forthwith report the full details of such failure or falsehood to the Director.

PART XIII—MISCELLANEOUS

Provisions as to certain prisoners

85. The Commissioner of Police shall be responsible for the management and routine of prisoners confined in police lock-ups.

Repeal

[Regulation 86 omitted under the Reprints Act 1984 s. 7 (4) (f).]

SCHEDULE.

Form 1.

Regs. 27, 28.

PRISONS ACT 1981.
PRISONS REGULATIONS 1984.

Superintendent,

.....Prison.

I,(full name)

Analyst of the Government Chemical Laboratories

CERTIFY THAT:

(1) On the.....day of.....19.....
I received a sample of.....
from.....
in a sealed container and bearing, *inter alia*,

.....Prisoner's name
.....Officer who took sample
.....Time and date sample taken

(2) I certify that I have analysed the said sample and the result of such analysis is as follows—

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

DATED this.....day of.....19.....

.....
Analyst

.....
Laboratory Number

Form 2.

Reg. 54.

PRISONS ACT 1981.
PRISONS REGULATIONS 1982.
DECLARATION UNDER SECTION 60 OF THE PRISONS ACT 1981.

1. I, the undersigned, wish to visit the prisoner
.....
(print full name of prisoner)

2. I hereby declare my full name and address to be:.....
.....of
(print full name)
.....
(print full address)

3. I further declare that—

* I am a friend of the prisoner and that—

- (a) I have known the prisoner for a period ofyears
.....months;
- (b) I have maintained regular contact with the prisoner for a period of
.....yearsmonths;
- (c) My most recent personal meeting with the prisoner was on
19.....; and
- (d) I am known to the prisoner as a friend

OR

* I am a relation of the prisoner (.....)
(state relationship)

OR

* I
(state status by which visit is sought)

[* Tick (✓) the appropriate box and complete the required information.]

4. I further declare that the purpose of my visit is
.....
.....

5. I have been informed that I am required to make this declaration under section 60 of the *Prisons Act 1981* and that a person who makes a declaration which is false in a material particular commits an offence.

.....
(declarant's signature)

Made theday of19.....
In the presence of:
Officer:

WARNING: A person who makes a declaration under section 60 of the *Prisons Act 1981* that is false in a material particular commits an offence and is liable to a fine of \$1 500 or 18 months' imprisonment, or both.

Form 3.

Reg. 82.

PRISONS ACT 1981.
PRISONS REGULATIONS 1982.
INQUIRY BY REPORTING OFFICER.

To:.....
(person required to attend inquiry)

WHEREAS onand pursuant to section 9 of the Prisons Act 1981, I (A.B.) was appointed by the Director of the Prisons Department to INQUIRE into:

.....
.....
(here state concisely the matter, incident or occurrence concerning the security or good order of the prison or concerning the prisoner or prisoners).

AND TO REPORT upon the subject of this inquiry to the Director.

TAKE NOTICE that you are required to appear before the inquiry at..... onday, theday ofand there and then give such information as may be required and to answer such questions as may be put in relation to the subject of this inquiry.

By section 10 of the *Prisons Act 1981* an officer required to give any information or to answer any question and who without reasonable excuse fails to give that information or gives any information or answer that is false in any particular, commits an offence and is liable on conviction to a penalty not exceeding \$300.

A prisoner who commits that offence is guilty of an aggravated prison offence and liable to be punished accordingly.

GIVEN under my hand thisday of19..... (A.B.).

[Schedule amended in *Gazettes* 24 December 1982, p. 4907; 17 August 1984, p. 2450.]

NOTES

¹This reprint is a compilation as at 20 May 1986 of the *Prisons Regulations 1982* and includes all amendments effected by the other regulations referred to in the following table.

Table of Regulations.

Regulations	Gazettal	Commencement	Miscellaneous
<i>Prisons Regulations 1982</i>	23 July 1982 pp. 2905-29	1 August 1982	
<i>Prisons Amendment Regulations 1982</i>	24 December 1982 pp. 4906-07	24 December 1982	
<i>Prisons Amendment Regulations 1983</i>	22 April 1983 p. 1250	22 April 1983	
<i>Prisons Amendment Regulations (No. 2) 1984</i>	11 May 1984 p. 1246	11 May 1984	
<i>Prisons Amendment Regulations 1984</i>	17 August 1984 pp. 2449-50	17 August 1984	
<i>Prisons Amendment Regulations 1985</i>	12 April 1985 p. 1283	12 April 1985	

²The *Prisons Act 1981* came into operation on 1 August 1982; see *Gazette* 23 July 1982 p. 2841.