

PRISONS ACT 1981**PRISONS AMENDMENT REGULATIONS 1990**

Made by His Excellency the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Prisons Amendment Regulations 1990*.

Commencement

2. These regulations shall come into operation on 18 May 1990.

Principal Regulations

3. In these regulations the *Prisons Regulations 1982** are referred to as the principal regulations.

[*Published in the Government Gazette of 23 July 1982 pp. 2905-29. For amendments to 30 April 1990 see p. 342 of 1988 Index to Legislation of Western Australia.]

Regulation 43 amended

4. Regulation 43 of the principal regulations is amended in subregulation (3) by deleting "may be graded," and substituting the following—

" may, be ".

Regulations 44 and 45 repealed and regulations substituted

5. Regulations 44 and 45 of the principal regulations are repealed and the following regulations are substituted—

Classification of labour performed by prisoners

- " 44. (1) Labour performed by prisoners shall be classified by the chief executive officer according to the following levels.

Level 1—work that requires exceptional skill and requires a special aptitude and diligence.

Level 2—work that requires above average skill and requires above average diligence.

Level 3—work that requires average skill or average diligence.

Level 4—work that requires a minimum of skill and ordinary diligence.

Level 5—work that does not come within the other levels of this classification and in which the duties are only of a general nature.

- (2) The level at which work is classified shall be at the discretion of the chief executive officer.

Gratuities that may be credited to prisoners

45. (1) The rates of gratuities prescribed in relation to the levels of labour performed by prisoners are as follows—

Level 1—\$35 per week

Level 2—\$27 per week

Level 3—\$21 per week

Level 4—\$15 per week

Level 5—\$11 per week.

- (2) The rates of gratuities to be credited under subregulation (1) shall be varied each year according to the variation in the previous year of 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 and the date from which any such variation shall be credited shall be determined by the chief executive officer.

Chief executive officer to determine level of labour

45A. A prisoner shall be allocated such level of labour as is determined by the chief executive officer.

No gratuity for non allocated prisoners or prisoners confined as punishment

45B. 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 the prisoner shall not be allocated any work and shall not be credited with any gratuity.

Medically unfit prisoner

45C. (1) A prisoner shall not be transferred from a particular level of work to a lower level of work by reason only that the prisoner is temporarily medically unfit.

(2) Notwithstanding any thing in regulation 45B a prisoner who is temporarily medically unfit may during that period be credited with the gratuity that applies to the level of labour to which the prisoner is normally allocated.

Proportionate payment and public holiday

45D. (1) Subject to these regulations where a prisoner is not allocated a particular level of work for a whole week the gratuity that may be credited to the prisoner in that week shall be in proportion to the time in that week spent by the prisoner on the duties of the level or levels in question.

(2) Where a prisoner is normally allocated any level of work the prisoner may be credited with the gratuity applicable in relation to that level for every day that is a public holiday in the part of the State in which the prison where he or she is confined is situate notwithstanding that the prisoner does not perform any work on such a day.

Extra or lower gratuities

45E. Notwithstanding anything in regulations 44 to 45D the chief executive officer may at the absolute discretion of the chief executive officer determine that the gratuity to be credited to a prisoner—

- (a) shall be higher than the rate prescribed under these regulations in relation to the level of work performed by the prisoner; or
- (b) if the chief executive officer is of the opinion that a prisoner is not carrying out the duties of a particular level of work in a satisfactory manner, shall be at a lower rate than the level prescribed in relation to the level of work normally performed by the prisoners. ”.

Regulation 46 amended

6. Regulation 46 of the principal regulations is amended in paragraph (a) by deleting “class into which the prisoner has been classified” and substituting the following—

“ level of labour allocated to the prisoner ”.

Regulation 48 amended

7. Regulation 48 of the principal regulations is amended—

(a) by inserting after the regulation designation 48. the following—

“ (1) ”; and

(b) by inserting the following subregulations—

“ (2) Notwithstanding any thing in regulation 47, the chief executive officer may determine that, subject to any further direction given by the chief executive officer in relation to any specified circumstances, gratuities credited to prisoners shall be retained in the account of the prisoner to such extent as is specified by the chief executive officer.

(3) Nothing in this regulation affects the provisions of regulations 49 and 73. ”.

By His Excellency's Command,

M. C. WAUCHOPE, Clerk of the Council.