

Western Australia

**Sentence Administration Regulations
1996**

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Sentence Administration Regulations 1996

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Western Australia

SENTENCE ADMINISTRATION ACT 1995

Sentence Administration Regulations 1996

Made by His Excellency the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Sentence Administration Regulations 1996*.

2. Commencement

These regulations come into operation on the day on which the *Sentence Administration Act 1995* comes into operation.

3. Interpretation

- (1) In these regulations, unless the contrary intention appears —
- “**centre**” means a community corrections centre;
 - “**community service**” means —
 - (a) community work as defined in section 4 of the *Sentencing Act 1995*; or
 - (b) community corrections activities;
 - “**supervisor**” means a supervisor of a centre under section 87 of the Act.
- (2) The abbreviations used in these regulations are the same as those used in the Act.

Part 2 — Parole

4. Board to be notified about prisoner on parole term

- (1) If a prisoner is sentenced to a parole term, the CEO must, within 28 days after the date when the sentence was imposed, notify the secretary of the Board in writing —
 - (a) of the details of the prisoner and the sentence; and
 - (b) of the date on which it is expected that the prisoner will be eligible to be released on parole under the *Sentencing Act 1995*.
- (2) If after notification has been given under subregulation (1) the date referred to in subregulation (1) (b) changes, the CEO must notify the secretary of the Board accordingly as soon as practicable in writing.
- (3) If practicable notice under subregulation (2) must be given at least 6 weeks before the expected release date.

Part 3 — Work release order

5. Prescribed hours of community corrections activities (s. 51)

- (1) For the purposes of section 51 (a) of the Act the prescribed number of hours of community corrections activities is —
 - (a) in the case of an offender engaged full-time in gainful employment, vocational training or gratuitous work — 6 hours; and
 - (b) in the case of an offender not so engaged —
 - (i) for each of the first 2 periods of 7 days when the offender is subject to the order — 6 hours; and
 - (ii) for each subsequent period of 7 days when the offender is subject to the order — the number of hours, being at least 12 and not more than 18, determined by the CEO having regard to the extent to which the offender is engaged in part-time gainful employment, vocational training or gratuitous work.
- (2) The CEO may determine any question in relation to the extent to which an offender is engaged full-time or otherwise.
- (3) A determination by the CEO under subregulation (2) is final.

Part 4 — Home detention order

- 6. Prescribed hours of community corrections activities (s. 61)**
- (1) For the purposes of section 61 (1) (b) the prescribed number of hours of community corrections activities is —
 - (a) in the case of an offender engaged full-time in gainful employment or vocational training — 6 hours; and
 - (b) in the case of an offender not so engaged — 12 hours.
 - (2) The CEO may determine any question in relation to the extent to which an offender is engaged full-time or otherwise.
 - (3) A determination by the CEO under subregulation (2) is final.

Part 5 — Provisions applicable to offenders on community orders, early release orders or work and development orders

7. Prescribed obligations of offenders (s. 76)

- (1) For the purpose of section 76 (2) (c) (vi) of the Act, the prescribed obligations are those in this regulation.
- (2) An offender doing community service or performing any requirement of a programme requirement under a community order —
 - (a) must conform to reasonable standards of dress (including footwear), cleanliness, and conduct, as required by a CCO;
 - (b) must wear safety clothing or equipment issued;
 - (c) must maintain in good order and condition, clothing, tools, and equipment issued to the offender and must return such articles when required to do so by a CCO;
 - (d) must not wilfully damage —
 - (i) any article issued for the purposes of doing the community service or performing the requirement;
 - (ii) any property on, or in relation to which, the offender is required to perform community service unless it is necessary for the community service;
 - (e) must not make or receive a telephone call except with the permission of a CCO;
 - (f) must not receive a visitor except with the permission of a CCO;
 - (g) must not take an unauthorized break;
 - (h) must not leave the place where the offender is required to be before completing the duties that have been

assigned to the offender at that place except with the permission of a CCO;

- (i) must use any transport to or from a place where the offender is directed to be for the purposes of performing community service that is provided by the department;
- (j) if unable to attend —
 - (i) must immediately notify a CCO supervising the community service or the performance of the requirement; and
 - (ii) if the inability to attend is due to sickness, within 72 hours after the time when the offender was required to attend or as otherwise directed by a CCO — must supply a CCO with a certificate signed by a medical practitioner (as defined in the *Medical Act 1894*) certifying the inability to attend.

8. Authorized absences from community service etc.

If a CCO supervising an offender doing community service or performing any requirement of a programme requirement under a community order is satisfied that —

- (a) the offender has been injured or has become sick while doing community service or performing the requirement;
or
- (b) there is good reason for doing so,

the CCO may authorize the offender to be absent from doing the community service or performing the requirement on any day or part of any day.

9. Offender may be directed to cease doing community service etc.

- (1) If a CCO supervising an offender doing community service or performing any requirement of a programme requirement under a community order is satisfied that the offender has contravened

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section 76 of the Act, the CCO may direct the offender to immediately cease doing the community service or performing the requirement.

- (2) An offender given such a direction must not resume doing the community service or performing the requirement unless and until authorized to do so by a CCO.

10. Calculations of time

- (1) These periods count as periods of community service done by an offender:
- (a) the period of any break authorized by a CCO;
 - (b) the period of any absence authorized under regulation (a);
 - (c) if the offender attends to do community service in accordance with directions to do so and a CCO does not attend within one hour of the time when the offender was directed to attend and no alternative arrangements are made — the period of community service that the offender was to have done on that day;
 - (d) any period of over one hour a day reasonably spent by an offender in travelling to or from a place where the offender is required to attend to do community service.
- (2) Any period not worked because of sickness, other than any period authorized under regulation 8 (a), does not count as a period of community service done by an offender.
- (3) The period of any absence directed under regulation 9 does not count as a period of community service done by an offender unless a supervisor, having considered the reason for the direction, orders otherwise.

11. Samples of breath etc. from offenders

- (1) A supervisor acting under section 76 (2) (c) (ii) of the Act may direct an offender to give a sample of the offender's breath, blood, saliva, or urine.
- (2) The supervisor may direct the offender —
 - (a) to attend at a specified place for the purpose of giving the sample;
 - (b) to give the sample to a specified person.
- (3) A breath test must be conducted by means of an apparatus of a kind approved by the CEO.
- (4) A sample of blood, saliva or urine must be labelled with —
 - (a) the name of the offender;
 - (b) the type of the sample;
 - (c) the name of the person who obtained the sample; and
 - (d) the date and time that the sample was obtained,and must be analysed by such person as the supervisor directs.
- (5) The person who analyses the sample must make a certificate of the results and forward it to the supervisor.
- (6) The certificate is admissible in any proceedings as *prima facie* evidence of the matters certified in it.

Part 6 — Community Corrections Centres

Division 1 — Searches and seizure

12. Application

This division applies to searches and seizures under sections 90 and 91 of the Act.

13. Prescribed persons

For the purposes of sections 90 and 91 of the Act these persons are prescribed persons:

- (a) a supervisor;
- (b) a CCO;
- (c) a prison officer as defined in the *Prisons Act 1981*;
- (d) a person licensed under the *Security Agents Act 1976*.

14. Obligations of a supervisor before a person is searched

Before ordering a person to be searched under section 90 of the Act, a supervisor must —

- (a) inform the person of the provisions of section 90;
- (b) ask the person whether there is anything in the person's possession or under the person's control that may jeopardize the security or good order of the centre or the safety of persons in it and to produce any such thing;
- (c) give the person an opportunity to respond; and
- (d) make a record of any response by the person.

15. Witness may be present

- (1) A person who is about to be searched may request that any person of the same sex, other than a person who is known to have a criminal record, who is then at the centre be present during the search.

- (2) If the search of a person will involve the removal of the person's clothing the searcher may arrange for another person of the same sex as the person to be present during the search.

16. Attendance of medical practitioner

The supervisor may arrange for a registered medical practitioner to be present during the search of a person.

17. Search of a person to be by a person of the same sex

A search of a person must be conducted by a searcher of the same sex as the person.

18. Requirements for conduct of search

A searcher conducting a search of a person —

- (a) must inform the person of the person's right under regulation 15 (1) and comply with the request made where that right is exercised;
- (b) must conduct the search expeditiously and with regard to the person's decency and self-respect;
- (c) must not remove any of the person's clothing unless ordered to do so by the supervisor and, in such a case, the searcher must forward a written report of the search to the supervisor; and
- (d) must not, subject to regulations 15 to 17, remove any of the person's clothing in the presence or sight of a person of the opposite sex or, unless unavoidable, of a person of the same sex.

19. Examination of things

A searcher conducting a search of anything in a person's possession or under a person's control must do so expeditiously and in the presence of the person.

20. Procedure where a thing is seized

If anything is seized under section 91 of the Act the supervisor of the centre must examine it and notify the CEO who must direct as to how the thing is to be dealt with.

Division 2 — Miscellaneous

21. Disposal of abandoned property

- (1) Property left at a centre and uncollected, abandoned, or unclaimed for 6 months may by order of the CEO be —
 - (a) sold at a public auction;
 - (b) given to an association incorporated under the *Associations Incorporation Act 1987*; or
 - (c) destroyed or otherwise disposed of.
- (2) The CEO must 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 must be credited to the Consolidated Fund.

Part 7 — Staff

22. Officers etc. not to benefit from work

- (1) A member of the departmental staff must not arrange or supervise the doing of any community service by an offender from which the officer would benefit personally, other than generally as a member of the community or as a member of a group within the community.
- (2) A member of the departmental staff must declare to the supervisor of a centre any conflict of interest that may arise from the member supervising the doing of community service by an offender.
- (3) If a member of the departmental staff declares a conflict of interest to a supervisor, the supervisor may appoint another person to supervise the community service.

Part 8 — Miscellaneous

23. Form of warrant (s 72)

- (1) For the purpose of section 72 of the Act a warrant to have a prisoner arrested is to be in the form of, or substantially in the form of, Form 1 in Schedule 1.
- (2) The person issuing the warrant is to ensure that there is attached to the warrant a list showing the charge or indictment number and a description of each offence to which the early release order referred to in the warrant relates.

Schedule 1 — Forms

[reg 23]

1. Warrant to have prisoner arrested

WESTERN AUSTRALIA Sentence Administration Act 1995, s 72		
ARREST WARRANT		CWI Warrant No.
Command	To: All police officers. This warrant authorizes and commands you to arrest this prisoner and to take the prisoner to the nearest prison in Western Australia. And to all persons authorised to exercise a power set out in clause 2 of Schedule 2 to the Court Security and Custodial Services Act 1999. This warrant authorises and commands you to take the prisoner to the nearest prison in Western Australia.	
Prisoner's details	Name: Address:	Date of birth:
Reason for issue of warrant	<input type="checkbox"/> Parole order suspended <input type="checkbox"/> Parole order cancelled <input type="checkbox"/> Work release order suspended <input type="checkbox"/> Work release order cancelled <input type="checkbox"/> Home detention order suspended <input type="checkbox"/> Home detention order cancelled	
Details of early release order	Date of order:	Date of release:
Warrant issued by	Signature(s):	
	Name(s):	
	Official title(s):	
	Date:	
Execution details	Prisoner arrested on / / at hours at: by: Regimental No: of: police station/division Signature: Date:	

[Schedule 1 amended in Gazette 28 July 2000 p.4011.]

Notes

- ^{1.} This is a compilation of the *Sentence Administration Regulations 1996* and includes the amendments referred to in the following Table.

Compilation table

Citation	Gazettal	Commencement
<i>Sentence Administration Regulations 1996</i>	4 Oct 1996 pp.5263-5277	4 Nov 1996 (see regulation 2 and <i>Gazette</i> 25 Oct 1996 p.5632)
<i>Sentence Administration Amendment Regulations 2000</i>	28 Jul 2000 p.4011	28 Jul 2000