

**PRISONS ACT 1952—REGULATION**

(Replacing compulsory testing of prisoners for HIV/AIDS with voluntary testing,  
and changing the persons to whom test results may be disclosed)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council,  
and in pursuance of the Prisons Act 1952, has been pleased to make the  
Regulation set forth hereunder.

JOHN HANNAFORD, MLC  
Minister for Justice.

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**Amendment of Prisons (General) Regulation 1989**

1. The Prisons (General) Regulation 1989 is amended:
  - (a) by omitting clause 10 (1) (a) and (b) and by inserting instead the following paragraph:
    - (a) one of the following:
      - (i) the Director, Inmate Classification and Placement;
      - (ii) the Manager, Inmate Classification and Placement;
      - (iii) the Deputy-Manager, Inmate Classification and Placement; and
  - (b) by omitting from clause 10 (1) (f) the words “probation and”;
  - (c) by omitting from clause 10 (1) the matter “paragraphs (b)” and by inserting instead the matter “paragraphs (c)”;
  - (d) by omitting clause 10 (2) and (3) and by inserting instead the following subclauses:
    - (2) The quorum for a meeting of the Committee is 3 members who must include a member referred to in subclause (1) (a).
    - (3) At a meeting of the Committee, the member referred to in subclause (1) (a) is to preside.

- (e) by omitting clause 34A;
- (f) by omitting from clause 53 (1) the words “Director of the Prison Medical Service” and by inserting instead the words “Chief Executive Officer, Corrections Health Service”;
- (g) by omitting from clause 147 the matter “34A (2),” wherever occurring.

### **Amendment of Prisons (Administration) Regulation 1989**

2. The Prisons (Administration) Regulation 1989 is amended:

- (a) by inserting at the end of clause 11 (1) (b) the following word and paragraph:
  - ; and
  - (c) is required, if requested by a prisoner and if the medical officer considers that the request is reasonable, to cause the prisoner to be tested, for evidence of exposure to or infection by Human Immunodeficiency Virus, at any time during the prisoner’s period of imprisonment.
- (b) by omitting from clause 11 (3) the words “(otherwise than for the purpose of an examination or test carried out under clause 34A of the Prisons (General) Regulation 1989)”;
- (c) by omitting clause 14A (1) and by inserting instead the following subclause
  - (1) A person who, in the course of the administration of the Act or the Sentencing Act 1989 or any regulations under those Acts (including this clause), learns of the results of a test under clause 11 (1) (c) for evidence of exposure to or infection by Human Immunodeficiency Virus must not disclose the results to any person other than the following persons:
    - (a) the Commissioner;
    - (b) the Deputy Commissioner;
    - (c) the Assistant Commissioner, Operations;
    - (d) the Assistant Commissioner, Personnel and Education;
    - (e) the Chief Executive Officer, Corrections Health Service;
    - (f) the Director, Legal Services, and any person representing the Department of Corrective Services in legal proceedings involving the prisoner;
    - (g) the Regional Commander of the Region in which the prisoner is being held from time to time;
    - (h) the governor of the prison in which the prisoner is being held from time to time;

- (i) the medical officer of that prison;
  - (j) the Director, Inmate Classification and Placement;
  - (k) the Manager, Inmate Classification and Placement;
  - (l) the Manager, Prison AIDS Project;
  - (m) if the Serious Offenders Review Council exercises functions in relation to the prisoner, the Chairperson of the Council;
  - (n) if the Offenders Review Board exercises functions in relation to the prisoner, the Chairperson of the Board.
- (d) by omitting from clause 14A (2) the words “an examination or” and by inserting instead the word “a”;
- (e) by omitting clause 14A (3) and by inserting instead the following subclause:
- (3) The Assistant Commissioner, Operations or the Chief Executive Officer, Corrections Health Service may disclose the results of such a test to a person who the Assistant Commissioner or Chief Executive Officer considers requires the information to provide for the welfare of the prisoner concerned or the good management of the prison in which the prisoner is being held.
- (f) by omitting from clause 50 the following words:  
 Executive Director, Prison Operations  
 Assistant Director of Custodial Services  
 and by inserting instead the words “Assistant Commissioner, Operations”.

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#### EXPLANATORY NOTE

The object of this Regulation is to remove the requirement in the Prisons (General) Regulation 1989 of compulsory medical testing of prisoners for evidence of Human Immunodeficiency Virus (HIV) upon entry into and release from prison. Such medical testing will in future take place only on a voluntary basis, at the request of prisoners at any time during their imprisonment. When prisoners voluntarily undertake HIV/AIDS testing, the test results can only be disclosed to persons holding certain specified positions. This Regulation also amends the Prisons (Administration) Regulation 1989 to reflect changes in the nomenclature of some of these positions, and provides for some additional persons to be notified of test results. This Regulation also makes consequential amendments to the Prisons (General) Regulation 1989 and the Prisons (Administration) Regulation 1989.

This Regulation is made under the Prisons Act 1952, including the general regulation-making power, in particular section 50 (1) (k).

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