



**THE PENAL INSTITUTIONS REGULATIONS 1961,  
AMENDMENT NO. 3**

DAVID BEATTIE, Governor-General

**ORDER IN COUNCIL**

At the Government Buildings at Wellington this 16th day of March 1981

Present:

THE RIGHT HON. R. D. MULDOON PRESIDING IN COUNCIL

PURSUANT to the Penal Institutions Act 1954, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

**ANALYSIS**

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## REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Penal Institutions Regulations 1961, Amendment No. 3, and shall be read together with and deemed part of the Penal Institutions Regulations 1961\* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of April 1981.

**2. Interpretation**—Regulation 2 of the principal regulations is hereby amended by inserting, after the definition of the term “Secretary”, the following definition:

“Vicinity”, in relation to an institution, means within 2 kilometres of the institution:”.

**3. Inspection**—(1) Regulation 6 (1) of the principal regulations is hereby amended by omitting the words “all journals, records,”, and substituting the words “the Superintendent’s order book, and all records”.

(2) Regulation 6 of the principal regulations is hereby further amended by revoking subclause (2), and substituting the following subclause:

“(2) An Inspector shall record in writing all orders and instructions given by him during an inspection of any institution, and shall hand the record to the Superintendent, who shall retain it in the institution.”

**4. Visiting Committees**—Regulation 7 of the principal regulations is hereby revoked.

**5. Searching of visitors**—Regulation 9 of the principal regulations is hereby amended by revoking subclause (7), and substituting the following subclause:

“(7) A record with all particulars relating to the result of any search shall be made, and a report shall be sent immediately to the Secretary.”

**6. Control of institution**—(1) Regulation 12 (1) of the principal regulations is hereby amended by omitting the word “journals,”.

(2) Regulation 12 (2) of the principal regulations is hereby amended by omitting the words “journals, records, and documents”, and substituting the words “registers, books, warrants, and other documents”.

**7. Information to be given to inmates**—Regulation 13 (2) of the principal regulations is hereby amended by omitting the words “to the remission of sentences”, and substituting the words “to release after serving part only of a sentence”.

**8. Personal supervision and inspection**—Regulation 14 (2) of the principal regulations is hereby amended by omitting the words “or upon restricted diet No. 1”.

**9. Fire precautions**—Regulation 15 of the principal regulations is hereby amended by omitting from subsection (3), and also from subsection (5), the words “enter in his journal a note”, and substituting in each case the words “keep a record”.

**10. Absence of Superintendent**—(1) Regulation 20 (1) of the principal regulations is hereby amended by omitting the expression “twenty-four”, and substituting the expression “48”.

(2) Regulation 20 of the principal regulations is hereby further amended by revoking subclause (4), and substituting the following subclause:

“(4) He shall keep a record of any leave or unusual absence.”

**11. Books**—Regulation 21 of the principal regulations is hereby amended—

(a) By omitting the words “Inspectors’ order book”;

(b) By omitting the word “Journal”, and substituting the words “Superintendent’s order book”.

**12. Officer in charge of women’s quarters**—The principal regulations are hereby amended by revoking regulation 23, and substituting the following regulation:

“23. Where part of any institution for male inmates is set aside for female inmates, that part shall, subject to the general control of the Superintendent, be in the charge of a female officer, who shall have the care and superintendence of all female inmates.”

**13. Personal supervision and inspection by officer in charge of women’s quarters**—Regulation 24 (2) of the principal regulations is hereby amended by omitting the words “or upon restricted diet No. 1”.

**14. Absence of officer in charge of women’s quarters**—(1) Regulation 25 (1) of the principal regulations is hereby amended by omitting the expression “24”, and substituting the expression “48”.

(2) Regulation 25 of the principal regulations is hereby further amended by omitting from subclause (2), and also from subclause (3), the words “matron or assistant matron”, and substituting in each case the words “female officer”.

(3) Regulation 25 of the principal regulations is hereby further amended by adding the following subclause:

“(4) Regulation 27 of these regulations, with any necessary modifications, shall apply to any officer who is in charge of part of an institution under this regulation.”

**15. Records to be kept by officer in charge of women’s quarters**—The principal regulations are hereby amended by revoking regulation 26, and substituting the following regulation:

“(26) The said officer shall keep a record of all occurrences of importance within her division, and shall submit any such record to the Superintendent and any Inspector when required.”

**16. Selection of officers of opposite sex to inmates**—The principal regulations are hereby amended by inserting, before regulation 27 but under the heading “*General Rules as to Officers*”, the following regulation:

“26A. Special care shall be taken in the selection and deployment of male and female officers to work in institutions housing inmates of the opposite sex.”

**17. Devolution of control**—Regulation 27 of the principal regulations is hereby amended by revoking subclauses (1) to (3), and substituting the following subclauses:

“(1) Unless the Secretary has directed otherwise, in the absence from an institution of the Superintendent and Deputy Superintendent (if any), the control of the institution shall devolve upon the next senior officer available according to grade and length of service in that grade.

“(2) Any officer who is in charge of an institution under this regulation shall immediately transfer charge to any officer who is senior to him and who subsequently becomes available, and shall also transfer charge to the next senior officer if he leaves the institution.”

**18. Permission to view institution**—Regulation 41 (2) of the principal regulations is hereby amended by omitting the words “Superintendent’s journal”, and substituting the words “Visitors’ book or the Official Visitors’ book”.

**19. Non-disclosure of information**—Regulation 43 (2) of the principal regulations (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended by omitting the expression “\$10”, and substituting the expression “\$50”.

**20. Admission register**—Regulation 46 (1) (c) of the principal regulations is hereby amended by inserting, after the word “day”, the words “and hour”.

**21. New heading and regulations (relating to release after serving part sentence) inserted in principal regulations**—The principal regulations are hereby amended by inserting, after regulation 55, the following heading and regulations:

*“Release After Serving Part Sentence*

“55A. **Information to be given on admission**—(1) Every inmate serving a finite term of imprisonment shall, upon admission, be informed in writing, in a form approved by the Secretary, of—

“(a) His eligibility for release after he has served not less than three-quarters of the term of his sentence, as provided in section 31 (1) of the Act; and

“(b) The circumstances in which he may become eligible for release after he has served not less than two-thirds of his sentence in accordance with conditions specified by the Minister, as provided in section 31 (2) of the Act; and

“(c) The circumstances in which any such eligibility for release under section 31 of the Act may be postponed, as provided in sections 33 (3) (a) and 34 (3) (a) of the Act; and

“(d) In the case of an inmate who is subject to an order made under section 47 of the Misuse of Drugs Amendment Act 1978, the effect of that order on the eligibility for release referred to in paragraph (b) of this subclause.

“(2) Every person who is serving a sentence of corrective training shall, upon admission, be informed in writing, in a form approved by the Secretary, of—

“(a) His eligibility for release after he has served not less than two-thirds of the term of his sentence, as provided in section 31 (2) of the Act; and

“(b) The circumstances in which any such eligibility for release may be postponed, as provided in sections 33 (3) (a) and 34 (3) (a) of the Act.

“(3) The officer responsible for handing the information to the inmate under subclause (1) or subclause (2) of this regulation shall satisfy himself that the inmate understands it.

“55B. **Calculation of expected release date**—(1) As soon as practicable after an inmate has been admitted to an institution, the Superintendent, or a responsible officer nominated by the Superintendent for the purpose, shall calculate the length of the inmate’s sentence in days (unless the sentence when passed was expressed in days).

“(2) The Superintendent or officer shall then determine the inmate’s expected release date, which shall be—

“(a) In the case of an inmate serving a finite term of imprisonment, the first day after the expiry of three-quarters of the number of days of his sentence as calculated under subclause (1) of this regulation (or as expressed by the Court in passing sentence); or

“(b) In the case of a person serving a sentence of corrective training, the first day after the expiry of two-thirds of the number of days of his sentence as calculated under subclause (1) of this regulation.

“(3) As soon as practicable after determining an inmate’s expected release date, the Superintendent or officer shall inform the inmate of the date.

“(4) Thereafter the inmate shall be informed of his expected release date, upon request,—

“(a) Once a month, in the case of an inmate serving a finite term of imprisonment; or

“(b) Once a week, in the case of a person serving a sentence of corrective training.

“(5) Without limiting subclause (4) of this regulation, whenever an inmate's expected release date is changed for any reason, he shall be informed as soon as practicable of the change and the reasons for it.

“(6) On the transfer of an inmate to another institution or a hostel, the Superintendent shall ensure that the inmate's expected release date is endorsed on the file relating to the inmate.

“55c. **Secretary to fix actual release date**—Not later than 24 hours before 7 o'clock in the morning of the day of an inmate's expected release date, the Secretary shall fix that day as the actual date for the release of the inmate.

“55d. **Release of inmate**—Except as provided in subsections (4A) and (5) of section 31 of the Act, and subject to section 29 (5) of the Act, an inmate who is eligible to be released under that section shall be released on the date fixed by the Secretary under regulation 55c of these regulations.

“55e. **Application to police jails**—Regulations 55A to 55D of these regulations, with any necessary modifications, shall apply to persons who are admitted to and detained in any police jail as if they were admitted to and detained in an institution.”

**22. Transitional provision**—Regulations 55A to 55E of the principal regulations (as inserted by regulation 21 of these regulations) shall apply to inmates who were admitted to an institution before the date of the commencement of these regulations as if they were admitted on that date.

**23. Arming of escort abolished**—Regulation 59 of the principal regulations is hereby revoked.

**24. New regulations (relating to drug tests) inserted in principal regulations**—The principal regulations are hereby amended by inserting, after regulation 74, the following heading and regulations:

#### *“Drug Tests*

“74A. **Record of test to be kept**—(1) Whenever the Superintendent of an institution, or any other officer authorised for the purpose by the Secretary, gives a direction under section 36B of the Act to an inmate to submit to a sputum test or finger swab, or to supply a urine sample, the Superintendent or other officer shall cause a note of the direction to be entered in a record kept specially for the purpose.

“(2) Where any test or analysis has been concluded, the result shall be noted in the record established under subclause (1) of this regulation.

“(3) The record kept under this regulation shall be available to the medical officer whenever he visits the institution.

“(4) The Superintendent shall send a copy of or an extract from the record kept under this regulation to the Secretary whenever requested to do so.

“74B. **Sputum tests**—(1) Every sputum test shall be conducted in a suitably equipped room by a registered medical practitioner or a registered nurse.

“(2) The sputum shall be obtained by administering a mouthwash to the inmate, and collecting a sample of his sputum in a sterile container.

“74C. **Finger swabs**—(1) Every finger swab shall be taken in a suitably equipped room by a registered medical practitioner or a registered nurse.

“(2) The person taking the swab shall, in accordance with the procedure prescribed by the Secretary by General Order,—

“(a) Wipe the inmate’s thumbs and fingers with a cotton wool swab previously dipped in a suitable solvent; and

“(b) Test the swab for the presence of any drug, and note the result in the record established under regulation 74A of these regulations.

“(3) In a case where a sputum or urine sample has also been taken from the inmate, the person taking the finger swab shall inform the laboratory to which the sample has been sent for analysis of the result of the swab test.

“74D. **Urine samples**—(1) Every urine sample shall be obtained under the supervision of a registered nurse or a senior officer designated for the purpose by the Superintendent or medical officer.

“(2) The sample shall be obtained in as seemly a manner as is consistent with the necessity to ensure a proper sample that is suitable for analysis.

“(3) No sample shall be obtained from an inmate in the presence of any officer (other than the medical officer) of the opposite sex.

“(4) The sample shall be collected in a sterile container.

“74E. **Storage of samples**—(1) Every sputum sample and urine sample shall be stored, pending analysis, in accordance with normal medical practice.

“(2) A container in which a sputum sample or urine sample is collected shall, immediately thereafter, be labelled with the name of the inmate and the date, and the person who obtained the sample shall initial the label.

“74F. **Analysis of samples**—Where any sputum sample or urine specimen is obtained under regulation 74B or regulation 74D of these regulations, it shall be analysed in a laboratory operated or approved by the Department of Scientific and Industrial Research.

“74G. **Inmate to be informed of result of test**—Whenever an inmate is required to submit to a sputum test or finger swab, or to supply a urine specimen, he shall be informed promptly of the result of any ensuing test or analysis.”

**25. Abolition of restricted diets**—Regulations 79 to 83 of the principal regulations are hereby revoked.

**26. Abolition of penal grade**—Regulations 85 to 87 of the principal regulations, and the heading above regulation 85, are hereby revoked.

**27. Denomination of inmate**—Regulation 99 of the principal regulations is hereby amended by omitting the expression “21”, and substituting the expression “20”.

**28. Exemptions from work**—Regulation 100 (1) of the principal regulations is hereby amended by omitting the words “Good Friday, or Anzac Day”, and substituting the words “or Good Friday”.

**29. Letters**—Regulation 110 (1) of the principal regulations is hereby amended by omitting the words “Subject to the provisions of regulations 81 and 83 hereof,”.

**30. Visitors**—Regulation 112 of the principal regulations is hereby amended by omitting from subclause (1), and also from subclause (3), the expression “81, 83, 84,”, and substituting in each case the expression “84”.

**31. Legal advisers**—(1) Regulation 115 of the principal regulations is hereby amended by omitting the words “not pertaining to the discipline of the institution”.

(2) Regulation 115 of the principal regulations is hereby further amended by adding, as subclause (2), the following subclause:

“(2) Any such visit may be made with reference to an application to a Court for the review of any disciplinary hearing before a Visiting Justice under the Act, but no such visit shall be made with reference to any other disciplinary matter in the institution.”

**32. Supervision by medical officer**—Regulation 122 (2) of the principal regulations is hereby amended by omitting the words “confined in a punishment cell”, and substituting the words “undergoing confinement in a cell”.

**33. Inmate requiring medical attention**—Regulation 143 (1) of the principal regulations is hereby amended by revoking paragraphs (d) and (e), and substituting the following paragraph:

“(d) Are undergoing confinement in a cell.”

**34. Dealing with recommendations of medical officer**—Regulation 146 (a) of the principal regulations is hereby amended by omitting the words “on the link sheet or specialist’s recommendation”, and substituting the words “in the medical record”.

**35. Laundering of bedding**—The principal regulations are hereby amended by revoking regulation 150, and substituting the following regulation:



"150. Every blanket and every mattress cover shall be laundered at least twice a year, and whenever it is to be reissued to another inmate."

**36. Diet**—Regulation 151 of the principal regulations is hereby amended by omitting the words " , except as provided in regulation 79 hereof,".

**37. Bathing**—Regulation 152 of the principal regulations is hereby amended by omitting the word "once", and substituting the word "twice".

**38. Visitors for inmates awaiting trial**—Regulation 158 of the principal regulations is hereby amended—

- (a) By inserting, after the words "New Year's Day", the words "Waitangi Day,";
- (b) By omitting the words "Queen's Birthday," and substituting the words "the Sovereign's Birthday".

**39. Separation of youthful and adult offenders**—(1) Regulation 167 of the principal regulations is hereby amended—

- (a) By inserting, after the word "practicable", the words "but subject to any direction given by the Secretary under section 8A (1) of the Act":
- (b) By omitting the expression "21", and substituting the expression "20".

(2) The heading above regulation 167 of the principal regulations is hereby amended by omitting the word "*Twenty-one*", and substituting the word "*Twenty*".

**40. System of marks abolished**—Regulation 176 of the principal regulations, and the heading above that regulation, are hereby revoked.

P. G. MILLEN,  
Clerk of the Executive Council.

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#### EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations are made pursuant to the Penal Institutions Act 1954 and amend the Penal Institutions Regulations 1961.

*Regulation 1* relates to the Title and commencement of the regulations, and regulation 2 is an interpretative provision.

*Regulations 3, 5, 6, 9, 10 (2), 11, 15, 18, and 34* are consequential upon changes in the forms of records used in institutions.

*Regulation 4* is consequential upon the abolition of borstal training.

*Regulations 7 and 40* are consequential upon the abolition of earned remission, and the introduction of a new system of early release.

*Regulations 8, 13, 29, 30, and 36* are consequential upon regulation 25 which abolishes the punishment of restricted diet.

*Regulation 10 (1)* extends from 24 hours to 48 hours the maximum time during which a Superintendent may be absent from his institution without previously notifying the Secretary.

*Regulation 12* removes the requirement for the female officer in charge of the female quarters in a male institution to reside in the institution.

*Regulation 14* extends from 24 hours to 48 hours the maximum time during which such a female officer may be absent from the institution without the permission of the Superintendent, and makes provision for the devolution of her duties upon the next senior female officer in her absence.

*Regulation 16* requires special care to be taken where male staff are to be employed in female institutions, and female staff in male institutions.

*Regulation 17* clarifies the present provisions for the devolution of an officer's powers during that officer's absence.

*Regulation 19* increases from \$10 to \$50 the maximum fine that may be imposed on a person who visits an institution and subsequently discloses any information relating to the identity of any inmate who is detained there.

*Regulation 20* requires the hour as well as the date of an inmate's admission and discharge to be recorded in the admission register.

*Regulation 21* gives administrative effect to the new concept of release after serving part only of a sentence, provided for by the Penal Institutions Amendment Act 1975.

In essence, the inmate is to be informed and kept informed of his eligibility for early release and his expected release date.

*Regulation 23* abolishes armed escorts (by prison officers) of inmates.

*Regulation 24* prescribes the procedures to be followed where an inmate is suspected to be under the influence of a drug, and is required to supply a sputum or urine sample or submit to a finger swab.

*Regulation 26* abolishes the punishment of transfer to the penal grade.

*Regulation 27* reduces from 21 years to 20 years the minimum age at which an inmate may change his professed religion without the consent of his parent.

*Regulation 28* removes Anzac Day from the list of days on which an inmate may be excused from work.

*Regulation 31* allows an inmate to be visited by his legal adviser in connection with an application to a Court for review of a disciplinary hearing before a Visiting Justice.

*Regulations 32 and 33* are consequential upon the abolition of punishment cells.

*Regulation 35* modernises the present provisions relating to the laundering of bedding.

*Regulation 37* requires each inmate to have at least 2 baths or showers a week (the present requirement is 1).

*Regulation 38* modernises certain references to public holidays.

*Regulation 39* is consequential upon changes made by the Penal Institutions Amendment Act 1980 relating to the segregation of adult and youthful offenders.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 March 1981.

These regulations are administered in the Department of Justice.