



**THE PENAL INSTITUTIONS REGULATIONS 1961,
AMENDMENT NO. 7**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 2nd day of October 1995

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to section 45 of the Penal Institutions Act 1954, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Penal Institutions Regulations 1961, Amendment No. 7, 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 2nd day of November 1995.

2. New heading and regulations inserted—The principal regulations are hereby amended by inserting, after regulation 11, the following heading and regulations:

*S.R. 1961/161

Amendment No. 1: S.R. 1966/9
Amendment No. 2: S.R. 1979/281
Amendment No. 3: S.R. 1981/60
Amendment No. 4: S.R. 1984/66
Amendment No. 5: S.R. 1985/230
Amendment No. 6: S.R. 1989/344

“Unauthorised Items

“11A. **Interpretation**—In regulations 11B and 11C of these regulations, unless the context otherwise requires,—

“‘Unauthorised item’ means—

“(a) Any article which could, while in the possession of any inmate or prisoner, be harmful to that inmate or prisoner or to any other person:

“(b) Any intoxicating drug or substance:

“(c) Any controlled drug within the meaning of the Misuse of Drugs Act 1975:

“(d) Any prescription medicine or restricted medicine within the meaning of the Medicines Act 1981:

“(e) Any thing which could be used for the purpose of facilitating the escape from lawful custody of any person:

“(f) In relation to any person, any thing that may not lawfully be retained in that person’s possession:

“(g) Any article or thing that is in the possession of any person in contravention or intended contravention of section 44 of this Act:

“(h) Any offensive weapon within the meaning of section 202A of the Crimes Act 1961:

“(i) Any disabling substance within the meaning of that section:

“‘Visitor’ means any person who enters, or seeks to enter, an institution, other than any of the following persons:

“(a) An inmate:

“(b) A staff member within the meaning of section 2 of the Act (as substituted by section 2 of the Penal Institutions Amendment Act 1994):

“(c) Any Visiting Justice:

“(d) Any Ombudsman appointed under the Ombudsmen Act 1975:

“(e) Any member of Parliament exercising the right conferred by section 37 of the Act:

“(f) Any Justice exercising the right conferred by section 38 of the Act:

“(g) Any member of the Police acting in the exercise of his or her official duties.

“11B. **Visitors to declare items that are or may be unauthorised items**—(1) Every visitor shall, on being admitted to an institution, report to an officer any item—

(a) That the visitor has in his or her possession; and

(b) That is, or that the visitor believes may be, an unauthorised item.

“(2) Any such report shall, if practicable, be made to the officer who admits the visitor to the institution.

“(3) Without limiting sections 21L and 21M of the Act, where a visitor reports an item pursuant to subclause (1) of this regulation, any officer may, with the visitor’s consent, inspect that item for the purpose of determining whether or not it is an unauthorised item.

“11C. **Safekeeping of unauthorised items**—(1) This regulation applies to any unauthorised item that is found in the possession of a visitor, whether as the result of an inspection carried out pursuant to

regulation 11B of these regulations, or a search conducted pursuant to section 21L or section 21M of this Act, or otherwise.

“(2) Where—

“(a) Any unauthorised item to which this regulation applies is not seized pursuant to the Act or any other enactment; and

“(b) The visitor may lawfully retain possession of the item outside the institution,—

then, subject to subclause (3) of this regulation, the item may be retained in safe custody while the visitor is in the institution, and shall be returned to the visitor when he or she leaves the institution.

“(3) Any officer may refuse to accept an unauthorised item for retention in safe custody pursuant to subclause (2) of this regulation if the officer reasonably believes—

“(a) That the institution does not have suitable facilities for retaining the item in safe custody; or

“(b) That the retention of the item in safe custody would be likely—

“(i) To prejudice the security of the institution; or

“(ii) To unduly impair the ability of the officer, or any other officer, to perform his or her duties.

“(4) Where, pursuant to subclause (3) of this regulation, an officer refuses to accept an unauthorised item for retention in safe custody,—

“(a) The officer shall require the visitor to leave the institution; and

“(b) If the visitor refuses to comply with that requirement, the visitor may be removed from the institution pursuant to regulation 10 (2) of these regulations.”

3. Seizure of property of inmate on admission—(1) Regulation 47 of the principal regulations are hereby amended by revoking subclause (1), and substituting the following subclause:

“(1) Upon the admission of an inmate, all property (other than clothing, toilet requisites, other personal articles, and books, approved by the Superintendent) shall be taken from the inmate.”

(2) Regulation 47 (2) of the principal regulations is hereby revoked.

(3) Regulation 3 of the Penal Institutions Regulations 1961, Amendment No. 4 is hereby consequentially revoked.

4. Regulations relating to searches revoked—(1) The principal regulations are hereby amended by revoking regulations 9, 60, and 69 to 72, and the heading above regulation 69.

(2) Regulation 5 of the Penal Institutions Regulations 1961, Amendment No. 3 is hereby consequentially revoked.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

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

These regulations, which come into force on 2 November 1995, amend the Penal Institutions Regulations 1961.

These regulations are consequential on the bringing into force of sections 21D to 21M of the Penal Institutions Act 1954 (as inserted by section 13 of the Penal Institutions Amendment Act 1994). Those sections, which come into force for all purposes on 2 November 1995, confer powers to search inmates, cells in institutions, visitors to penal institutions, and vehicles brought into penal institutions.

Regulation 2 inserts *new regulations 11A to 11C* into the principal regulations.

New regulation 11A defines certain terms for the purposes of *new regulations 11B and 11C*.

New regulation 11B requires a visitor to a penal institution to report to a prison officer any item in the visitor's possession that is or may be an unauthorised item for the purposes of the principal Act. On receiving a report, a prison officer may, with the visitor's consent, inspect the item.

New regulation 11C sets out procedures that are to apply where an unauthorised item is found in the possession of a visitor to a penal institution.

Regulation 3 amends *regulation 47* of the principal regulations, which relates to the search of inmates on their admission to a penal institution, and the seizure of their property. The amendment removes the references to searches, which are now covered by section 21K of the Act.

Regulation 4 revokes regulations 9, 60, and 69 to 72 of the principal regulations. Those regulations, which relate to searches of visitors to penal institutions, vehicles brought into penal institutions, and inmates, are superseded by the powers conferred by sections 21D to 21M of the Act.

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These regulations are administered in the Ministry of Justice.