Prison Rule 10 Privileges

Prison

|  |
| --- |
|   |
|  | Rule made by the Chief Executive Officer of the Department of Justice pursuant to section 35 of the *Prisons Act 1981* |  |
| Shape  Description automatically generated |  | 24/12/2021 |
|  | Dr Adam Tomison**Director General** | Signature |  | Date |  |
|  |
|  | Rule approved by the Minister for Corrective Services pursuant to section 35 of the *Prisons Act 1981* |  |
| A picture containing text  Description automatically generated |  | 22/2/2022 |
|  | Hon. Bill Johnston MLA**Minister for Corrective Services** | Signature |  | Date |  |

|  |  |
| --- | --- |
| **Version 1.0 approved** |  |
| **Current version** | 1.0 |
| **Current version approved** | 22 February 2022 |
| **Current version effective** | 22 February 2022 |
| **Document reference** | D21939719 |

Contents

[1 Purpose 3](#_Toc97031917)

[2 Scope 3](#_Toc97031918)

[3 Prisoner Entitlements 3](#_Toc97031919)

[4 Granting Privileges 4](#_Toc97031920)

[5 Withdrawal of Privileges 4](#_Toc97031921)

[6 Recording of information 5](#_Toc97031922)

[7 Supervision Levels 5](#_Toc97031923)

[7.2 Approving authority 5](#_Toc97031924)

[8 Close Supervision 5](#_Toc97031925)

[8.1 Reason for placement 5](#_Toc97031926)

[8.2 Application and approval process 6](#_Toc97031927)

[8.3 Review process 6](#_Toc97031928)

[9 Basic Supervision 6](#_Toc97031929)

[9.1 Reason for placement 6](#_Toc97031930)

[9.2 Application and approval process 7](#_Toc97031931)

[9.3 Review process 7](#_Toc97031932)

[10 Standard Supervision 7](#_Toc97031933)

[10.1 Reason for placement 7](#_Toc97031934)

[11 Earned Supervision 7](#_Toc97031935)

[11.1 Application and approval process 7](#_Toc97031936)

[12 Definitions and Acronyms 8](#_Toc97031937)

[13 Relevant Instruments and other Documents 8](#_Toc97031938)

[**13.1** **Legislation** 8](#_Toc97031939)

[14 Document Version History 9](#_Toc97031940)

# Purpose

### This rule details the process by which privileges are specified, regulated and withdrawn for prisoners at within prisons in accordance with section 35(4) of the *Prisons Act 1981*.

# Scope

### This Rule applies to all prisons.

### This Rule applies to all persons employed by the Department of Justice (the Department), and to all contract workers authorised by the Commissioner in accordance with s 15I (1) *Prisons Act 1981* to perform a function.

# Prisoner Entitlements

### Prisoners have minimum entitlements which must be maintained except where the security and good order of a prison requires otherwise, as follows:

|  |  |
| --- | --- |
| Accommodation | Within a ventilated and well-lit cell or otherwise, with clean bedding and access to sanitation facilities. |
| Clothing and footwear | Prison issued, and in certain circumstances and subject to certain requirements in accordance with the *Prisons Regulations 1982*[[1]](#footnote-1) (eg court appearances), the prisoner's own clothes. |
| Consulate contact | Prisoners identified as foreign nationals are offered contact details of the relevant consulate office and the opportunity and means to make contact. |
| Exercise/Out of cell | Weather permitting, access to open air for a minimum of three hours each day.  |
| Food and water | Provided as per unit routine. |
| Gratuities | Rate in accordance with level of labour performed[[2]](#footnote-2)*.* |
| Health care | Provided with physical and mental health care that meets their essential physical and psychological needs. |
| Information | The following information[[3]](#footnote-3) shall be provided, when a prisoner requests:* contents of the warrant or other instrument instructing the prison to hold the prisoner in custody
* where the dates are available, the prisoner’s anticipated date of discharge or the date upon which they become eligible for release on parole
* information recorded on their gratuity account
* details contained in the records relating to the prisoner’s property
* employment information.
 |
| Legal documents | Access to legal documents relating to any matter the prisoner has currently before the courts. |
| Mail services | Receipt and dispatch of mail[[4]](#footnote-4).  |
| Personal hygiene | Daily access to showers and personal hygiene items. |
| Religious and spiritual observance[[5]](#footnote-5)  | Access to religious and spiritual observance, provided as practicable. |
| Socialisation  | Daily socialisation with other prisoners, Prison Officers and other staff.  |
| Telephone calls | Calls to legal advisor regarding current and pending charges, Ombudsman’s office and one welfare call per day to approved social contacts. |
| Visits | Subject to the requirements of the *Prisons Act 1981*, receipt of visitors[[6]](#footnote-6):* Remand prisoners - access to 1 contact social visit per day.
* Sentenced prisoners - access to 1 contact social visit per week.
* All prisoners - access to visits from official visitors in accordance with the *Prisons Act 1981*[[7]](#footnote-7)*.*
 |
| Writing materials | Paper and pen/pencil provided to allow prisoners to write to social and official recipients. |

# Granting Privileges

### A privilege is a concession or item available to a prisoner in addition to any entitlement provided under legislation or written instrument.

### The Superintendent of each prison can grant additional privileges, above the minimum privileges, as an incentive or reward for a prisoner’s good behaviour.

### The Superintendent of each prison must grant prisoners, the minimum privileges, specific to each supervision level.

### The Superintendent of each prison can extend additional privileges to a prisoner and must approve the range of additional privileges, specific to their prison.

# Withdrawal of Privileges

### The Superintendent can withdraw an additional privilege if, in their opinion:

1. the privilege is being misused;
2. the prisoner has engaged in poor behaviour, such as not following a lawful order issued to a prisoner;
3. the privilege constitutes a threat to, or breach of the good order and security of the prison; or
4. the removal of the privilege is warranted for some other reason.

### The Superintendent must ensure:

1. the withdrawal of the privilege is proportionate to the misconduct of the prisoner
2. the prisoner is informed of the reason/s for the withdrawal of an additional privilege.

# Recording of information

### The Superintendent must ensure the granting and withdrawal of additional privileges is recorded on the Supervision Log module on TOMS.

# Supervision Levels

### Supervision levels must operate at each Prison, where applicable, as follows:

1. close supervision
2. basic supervision
3. standard supervision
4. earned supervision.

## Approving authority

### The Superintendent of each prison must give discretionary authority to a person or class of persons[[8]](#footnote-8), to approve and remove a prisoner’s supervision level.

# Close Supervision

## Reason for placement

### Close supervision prisoners must be temporarily removed from the mainstream prison population to reduce threats to prisoners, staff and ensure the good order and security of the prison.

## Application and approval process

### The Unit Manager must make all applications to place a prisoner on close supervision via the Supervision Plan module on TOMS.

### The Superintendent or Officer in Charge (OIC) on approving the application, must inform the prisoner of the:

1. reason for the closed supervision placement;
2. length of time on the placement and behaviour required to progress to a lower supervision level; and
3. review process.

## Review process

### The Prison’s Senior Administration team must conduct:

1. daily visits of close supervision regime prisoners and monitor their behaviour; and
2. a review every 7 days to consider progression to a lower supervision level.

### The Superintendent must approve any request for an extension of placement beyond 14 days.

### The Superintendent must review and recommend an extension of placement on close supervision beyond 21 days and forward to the Assistant Commissioner Custodial Operations and Assistant Commissioner Women and Young People for their approval.

# Basic Supervision

## Reason for placement

### A prisoner will be placed on a basic supervision level:

1. where they demonstrate poor or inappropriate behaviour, to include:

refusing employment

continuous breach of expected standard of behaviours

on-going display of unacceptable behaviour, following a loss of privilege

1. as a progression from a close supervision placement.

## Application and approval process

### The Unit Manager must make an application via the Supervision Plan module on TOMS requesting a prisoner be placed on basic supervision.

### The Superintendent must ensure the prisoner is informed of the:

1. reason and length of time for their placement on basic supervision and
2. standards required for progression to a lower supervision level.

## Review process

### The Superintendent of each prison must ensure:

1. the review of prisoners on basic supervision within 7 days of their placement, for a maximum period of 21 days;
2. prisoners are advised of the review outcome; and
3. the outcome is recorded on the Supervision Log module on TOMS.

###  The Superintendent must approve the review recommendation.

# Standard Supervision

## Reason for placement

### Superintendents must place all newly received remand and sentenced prisoners on Standards Supervision on the presumption of good behaviour, unless the Superintendent is of the opinion that there are circumstances specific to that prisoner that warrants a different supervision level.

### The Superintendent must ensure all prisoners transferred from other facilities and not on standard supervision have their supervision level prior to determining a supervision level placement.

# Earned Supervision

## Application and approval process

### Prisoners that display high standards of behaviour can make an application requesting to progress to earned supervision.

### The Superintendent must approve or deny the earned supervision application.

# Definitions and Acronyms

|  |  |
| --- | --- |
| Term | Definition  |
| Commissioner’s Operating Policy and Procedure (COPP) | Operational Instruments that provide instructions to staff on how the relevant legislative requirements are implemented. |
| Delegated Authority | An officer authorised and delegated by the Superintendent to conduct a function or activity from this Prison Rule. This authorisation will be made in writing and recorded.  |
| Privilege | A concession or item available to a prisoner in addition to any entitlement provided under legislation or written instrument. |
| Senior Prison Administration team | The Senior Prison Administration team is defined as any person or class of persons with discretionary authority to approve and remove a prisoner’s supervision level and privileges, in accordance with s 35 (3) of the *Prisons Act 1981,* and may include the following staff:* Superintendents
* Deputy Superintendents
* Assistant Superintendents
* Principal Officers.
 |
| Superintendent | The Superintendent as defined in s. 36 *Prisons Act 1981* includes any reference to the position responsible for the management of a private prison under Part IIIA *Prisons Act 1981*. This does not extend to the OIC of the prison. |
| Supervision Level | A supervision level is a set of privileges which varies depending on the behaviour of the prisoner. The 5 supervision levels the Department uses are earned, standard, basic and close. Disruptive Prisoner Supervision levels form part of the prisoner behaviour management system. |
| Total Offender Management Solution (TOMS) | The computer application used by the Department of Justice for the management of prisoners in custody. |

# Relevant Instruments and other Documents

## Legislation

* *Prisons Act 1981*
* *Prisons Regulations 1982*

# Document Version History

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Version no | Primary author(s) | Description of version | Date completed | Effective date |
| 0.1 | Operational Policy | Initial Draft | 25 October 2021 | N/A |
| 0.2 | Operational Policy | Updated following consultation | 19 December 2021 | N/A |
| 1.0 | Operational Policy | Approved by the Minister for Corrective Services.  | 22 February 2022 | 22 February 2022 |

1. r. 60(1) *Prisons Regulations 1982* [↑](#footnote-ref-1)
2. r. 45(1) *Prisons Regulations 1982* [↑](#footnote-ref-2)
3. r. 51(1) *Prisons Regulations 1982* [↑](#footnote-ref-3)
4. s. 67, 67A and 68 *Prisons Act 1981* [↑](#footnote-ref-4)
5. s. 95E *Prisons Act 1981* [↑](#footnote-ref-5)
6. Part VI *Prisons Act 1981* and Part V Division 7 *Prisons Regulations 1982* [↑](#footnote-ref-6)
7. Part V1 *Prisons Act 1981* [↑](#footnote-ref-7)
8. s. 35 *Prisons Act 1981* [↑](#footnote-ref-8)