COPP 9.3 Prisoner Marriages

Prison

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| **Principles**  *As referenced in the Guiding Principles for Corrections in Australia, 2018:*  1.3.1 Effective systems provide prisoners / offenders with opportunities to make requests or complaints and access appropriate information.  1.5.1 Comprehensive and contemporary information is recorded to support appropriate assessment and continued management of prisoners / offenders. |

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# Scope

This Commissioner’s Operating Policy and Procedure (COPP) applies to all prisons administered by or on behalf of the Department of Justice (the Department).

# Policy

Imprisonment does not deny a prisoner from the opportunity of getting married in prison. However, careful consideration is required to determine if a prisoner is approved to be married.

The Department may allow a prisoner to use prison property for a marriage ceremony.

Marriage in a prison will not entitle the prisoner, the prisoner's spouse, or any approved visitors to any additional privileges not available to other prisoners.

Where approval is not given, prisoners will be encouraged to pursue other avenues to show commitment (eg marry after leaving prison).

# Application

### A prisoner seeking to marry in prison is responsible for complying with the requirements of the [*Marriage Act 1961*](https://www.legislation.gov.au/Details/C2018C00441) (Cth).This includes the production of all necessary documentation (eg passports, birth certificates, and divorce decrees) and the lodging of the relevant notices under the [*Marriage Act 1961*](http://www.austlii.edu.au/au/legis/cth/consol_act/ma196185/)(Cth) at the prisoner’s own expense.

### A prisoner seeking to marry in prison must make a written request to the Superintendent at least 6 months before the intended marriage date. The prisoner shall be required to describe the proposed format and duration of the ceremony in their request.

### The prison’s Assistant Superintendent Operations (ASO) shall complete Sections 1 and 2 of [Application for a Prisoner Marriage](http://justus/intranet/prison-operations/Pages/copp-forms.aspx), and attach the prisoner’s written request to the form. The ASO is to interview the prisoner to seek the information required to complete the application form.

### The ASO may also seek information from the person conducting the marriage or any other person in order to make a recommendation. The ASO’s recommendation may be supported by information received from the prison’s Chaplain or Psychological Health Services (PHS) or any other relevant sources.

### The ASO is to inform the prisoner that any costs incurred by the prison associated with the marriage (including for additional staff to supervise the ceremony, or for the provision of a cake or flowers, etc) shall be paid by the prisoner through completion of the [Request to Transfer Cash](http://justus/intranet/prison-operations/Pages/copp-forms.aspx) form.

# Considerations

### The recommending officer (and subsequent approving authority as per [Section 5](#_Approval_Process)) may decide not to recommend / approve a marriage taking place on prison property if in the opinion of the recommending officer or approving authority:

1. there is a possibility of an adverse effect on the security, management or good order of the prison
2. would be considered offensive by a victim of the prisoner’s crime or a significant sector of the community
3. there are insufficient officers available to supervise the wedding
4. for a remand prisoner, the marriage can be deferred until the remand prisoner’s case has been determined by the courts
5. for a sentenced prisoner, the marriage could be deferred until the prisoner is released
6. there is no suitable venue.

# Approval Process

### The Superintendent will consider the application and advice provided by the ASO and make a recommendation to the Assistant Commissioner Custodial Operations (ACCO).

### The ACCO will consider the application, outline whether the application is supported or otherwise, and forward the application to the relevant Deputy Commissioner (Adult Male Prisons or Women and Young People) for approval.

### The Deputy Commissioner’s decision will be returned to the ACCO for communication back to the Superintendent, who will arrange for the prisoner to be advised.

### The Commissioner shall be notified of any approved prison marriages where there is likelihood of high public interest due to:

1. the prisoner’s public profile
2. the impact the prison marriage may have for any victims
3. the significant community risk posed by the prisoner on release (eg serious violent or sex offences).

# Changing of Marital Status and Prisoner’s Name on TOMS

### Following registration of the marriage, the Superintendent shall ensure the Manager Information Release is informed in writing of the change in marital status of the prisoner and the prisoner’s surname, if applicable (refer to [COPP 9.4 – Change of Prisoner Name](http://justus/intranet/prison-operations/Pages/prison-copps.aspx)).

# Annexures

## Related COPPs

* [COPP 9.4 – Change of Prisoner Name](http://justus/intranet/prison-operations/Pages/prison-copps.aspx)

## Definitions and acronyms

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| Term | Definition |
| ACCO | Assistant Commissioner Custodial Operations |
| ASO | Assistant Superintendent Operations |
| Commissioner’s Operating Policy and Procedures (COPP) | COPPs are policy documents that provide instructions to staff as to how the relevant legislative requirements are implemented. |
| Guiding Principles for Corrections in Australia, 2018 | The guidelines and the accompanying principles constitute outcomes or goals to be achieved, rather than a set of absolute standards or laws to be enforced. They represent a statement of intent that each Australian State and Territory can use to develop their own range of relevant legislative policy and performance standards to reflect best practice and community demands. |
| PHS | Psychological Health Services |
| Superintendent | The Superintendent as defined in s. 36 [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html)and includes any reference to the position responsible for the management of a private prison under Part IIIA [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html). Does not extend to the Officer in Charge of a prison. |

## Related legislation

* *Marriage Act 1961* (Cth)
* *Prison Act 1981*

# Assurance

It is expected that:

1. Prisons will undertake local compliance in accordance with the [Compliance Manual](http://justus/intranet/department/standards/Pages/monitoring.aspx).
2. The relevant Deputy Commissioner within Head Office will undertake management oversight as required.
3. Operational Compliance will undertake checks in accordance with the Operational [Compliance Framework.](http://justus/intranet/department/standards/Pages/monitoring.aspx)

Independent oversight will be undertaken as required.

# Document Version History

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| Version no | Primary author(s) | Description of version | Date completed | Effective date |
| 1.0 | Operational Policy | Approved by the Director Operational Projects, Policy, Compliance and Contracts | 24 June 2021 | 19 July 2021 |
| 2.0 | Operational Policy | Scheduled Review, Approved by the Director Operational Projects, Policy, Compliance and Contracts | 11 August 2023 | 11 August 2023 |