

NORTHERN TERRITORY OF AUSTRALIA

CORRECTIONAL SERVICES REGULATIONS 2014

As in force at 3 May 2016

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 3 May 2016

CORRECTIONAL SERVICES REGULATIONS 2014

Regulations under the *Correctional Services Act 2014*

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Correctional Services Regulations 2014*.

2 Definitions

In these Regulations:

approved project, for Part 3A, see regulation 19A.

blood analysis, for Part 3, see regulation 10(e).

breath analysis, for Part 3, see regulation 10(d).

breath test, for Part 3, see regulation 10(a).

firearm, for Part 3A, see regulation 19A.

home detainee, for Part 3A, see regulation 19A.

pathologist, for Part 3, see regulation 9.

phlebotomist, for Part 3, see regulation 9.

prescribed breath analysis instrument, for Part 3, see regulation 9.

required treatment, for Part 3A, see regulation 19A.

restricted drug means any of the following:

- (a) a dangerous drug as defined in section 3(1) of the *Misuse of Drugs Act 1990*;

- (b) a Schedule 4, 8 or 9 substance as defined in section 7 of the *Medicines, Poisons and Therapeutic Goods Act 2012*;
- (c) any other drug specified in the offender's non-custodial order as one that the offender is not permitted to use.

saliva test, for Part 3, see regulation 10(b).

sexual harassment of a person includes the following:

- (a) an unwelcome act of physical intimacy with the person;
- (b) an unwelcome demand or request (whether explicit or implicit) for sexual favours from the person;
- (c) an unwelcome remark with sexual connotations made toward the person;
- (d) any other unwelcome conduct of a sexual nature toward, or in the presence of, the person.

supervisor, for Part 3A, see regulation 19A.

training program, for Part 3A, see regulation 19A.

urine test, for Part 3, see regulation 10(c).

Part 2 Misconduct

3 Misconduct

- (1) For section 69(2)(b) of the Act, the following constitutes misconduct:
 - (a) engaging in conduct mentioned in Schedule 1;
 - (b) attempting to engage in conduct mentioned in Schedule 1;
 - (c) doing, or not doing, something for the purpose of encouraging or facilitating another person to engage in conduct mentioned in Schedule 1.
- (2) However, engaging in conduct mentioned in subregulation (1) does not constitute misconduct if the prisoner was authorised by a correctional services officer to engage in the conduct.

4 Privileges that may be withdrawn

For section 78(2)(c) of the Act, the privileges listed in Schedule 2 are prescribed.

5 Reduction of rate of pay

For section 78(2)(d) of the Act, the prescribed percentage is 75% of the rate otherwise payable for carrying out the work.

6 Other penalties for misconduct

- (1) For section 78(2)(g) of the Act, ordering the prisoner to pay a fine of not more than \$200 is prescribed.
- (2) If a prisoner is ordered to pay a fine, it is payable to the Territory.
- (3) If a prisoner is ordered to pay a fine and has not done so within the time required by the order, the Commissioner may deduct the amount of the fine from the prisoner's trust account.

7 Misconduct charge and procedure to be explained

At the start of misconduct proceedings, the decision maker must explain the following to the prisoner, in language likely to be understood by the prisoner:

- (a) the basis on which the prisoner has been charged with engaging in misconduct;
- (b) the penalty that may be imposed if the prisoner is found to have engaged in misconduct;
- (c) the procedure to be followed in the proceedings;
- (d) the prisoner's rights under sections 71(6) and 72 of the Act;
- (e) that if the prisoner gives evidence, he or she may be cross-examined.

8 Interpreter

- (1) This regulation applies in relation to misconduct proceedings if:
 - (a) the prisoner requests the assistance of an interpreter; and
 - (b) the decision maker considers that the assistance is reasonably necessary for the prisoner to properly understand the proceedings.
- (2) The General Manager must ensure that an interpreter is made available to the prisoner during the proceedings.

Part 3 Alcohol and drug testing

Division 1 Preliminary matters

9 Definitions

In this Part:

blood analysis, see regulation 10(e).

breath analysis, see regulation 10(d).

breath test, see regulation 10(a).

pathologist means a medical practitioner who holds a specialist registration under the Health Practitioner Regulation National Law in the recognised speciality of pathology.

phlebotomist means person who has been trained to take samples of blood from persons by a registered training organisation (as defined in section 3 of the *National Vocational Education and Training Regulator Act 2011* (Cth)).

prescribed breath analysis instrument, see section 3(1) of the *Traffic Act 1987*.

saliva test, see regulation 10(b).

urine test, see regulation 10(c).

10 Prescribed tests

For section 195(1)(a) of the Act, the following tests are prescribed:

- (a) a test of a sample of a person's breath to detect whether alcohol may be present in the person's breath carried out using a device designed for that purpose (a **breath test**);
- (b) a test of a sample of a person's saliva to detect whether a drug may be present in the person's body carried out using a device designed for that purpose (a **saliva test**);
- (c) a test of a sample of a person's urine to detect whether a drug may be present in the person's body carried out using a device designed for that purpose (a **urine test**);
- (d) an analysis of a sample of a person's breath to ascertain the concentration of alcohol in the person's breath carried out using a prescribed breath analysis instrument (a **breath analysis**);

- (e) an analysis of a sample of a person's blood to do either or both of the following:
 - (i) detect whether alcohol or a drug may be present in the person's body;
 - (ii) ascertain the concentration of alcohol or a drug in the person's body (a **blood analysis**).

11 Prescribed samplers

For section 195(1)(b) of the Act, a person is a prescribed sampler for a prescribed test if the person is authorised under regulation 16, 17 or 18 to take a sample for the test.

Division 2 When certain tests may be required

12 When breath, saliva or urine test may be required

- (1) A correctional services officer who has authority to give a direction under section 37, 51, 145 or 172 of the Act must not direct a person to submit to a breath test, saliva test or urine test unless the officer considers it reasonable to do so.
- (2) For the direction to be reasonable, it is not necessary that the correctional services officer suspects that the person has alcohol or a drug in his or her body.

13 When breath analysis may be required

A correctional services officer who has authority to give a direction under section 37, 51, 145 or 172 of the Act must not direct a person to submit to a breath analysis unless:

- (a) the person:
 - (i) has been directed under that section to submit to a breath test; and
 - (ii) does not provide a sample as required under section 195(2)(a) of the Act; or
- (b) the officer reasonably believes that the person may have alcohol in his or her body.

14 When blood analysis may be required

A correctional services officer who has authority to give a direction under section 37, 51, 145 or 172 of the Act must not direct a person to submit to a blood analysis unless one of the following applies:

- (a) the person:
 - (i) has been directed under that section to submit to a breath test, breath analysis, saliva test or urine test; and
 - (ii) does not provide a sample as required under section 195(2)(a) of the Act;
- (b) as a result of a breath test the officer suspects that the person may have alcohol in his or her body and it is not practicable to conduct a breath analysis;
- (c) as a result of a breath test, breath analysis, saliva test or urine test the officer suspects that the person may have a drug in his or her body;
- (d) the person has a medical condition that hinders the person's ability to give a sample for a breath test, breath analysis, saliva test or urine test.

15 When non-custodial offenders may be tested

A probation and parole officer who has authority to give a direction under section 172 of the Act must not direct a non-custodial offender to submit to a prescribed alcohol/drug test unless one of the following applies:

- (a) if the test is to detect the presence, or ascertain the concentration of, alcohol in the offender's body – the offender is prohibited under his or her non-custodial order or the Act from consuming alcohol;
- (b) the test is to detect the presence, or ascertain the concentration of, a restricted drug in the offender's body.

Division 3 Carrying out of tests

16 Carrying out of breath test, saliva test or urine test

A breath test, saliva test or urine test (including the taking of the sample) must be carried out by one of the following:

- (a) a correctional officer;

- (b) a probation and parole officer;
- (c) a police officer;
- (d) a person approved, or in a class of persons approved, in writing by the Commissioner.

17 Carrying out of breath analysis

A breath analysis (including the taking of the sample) must be carried out by:

- (a) a person authorised under the *Traffic Act 1987* to use a prescribed breath analysis instrument; or
- (b) a person approved, or in a class of persons approved, in writing by the Commissioner.

18 Carrying out of blood analysis

- (1) The taking of a sample for a blood analysis must be carried out by:
 - (a) a health practitioner; or
 - (b) a phlebotomist.
- (2) The analysis of the sample must be carried out by a pathologist.

Division 4 Evidentiary matters

19 Evidentiary certificates

- (1) This regulation prescribes the prescribed certifiers and certifiable matters for section 201 of the Act.
- (2) The Commissioner may issue an evidentiary certificate in relation to the fact that on a specified date:
 - (a) a specified person was any of the following:
 - (i) the Commissioner;
 - (ii) the General Manager of a custodial correctional facility;
 - (iii) a correctional officer;
 - (iv) a probation and parole officer;
 - (v) a person approved by the Commissioner under regulation 16(d) or 17(b); or

- (b) a specified class of persons was approved by the Commissioner under regulation 16(d) or 17(b).
- (3) The Commissioner of Police may issue an evidentiary certificate in relation to the fact that on a specified date a specified person was any of the following:
 - (a) a police officer;
 - (b) a person authorised as mentioned in regulation 17(a).
- (4) A person mentioned in regulation 16 may issue an evidentiary certificate in relation to the following:
 - (a) that he or she carried out a breath test, saliva test or urine test on a sample given by, or taken from, a specified person;
 - (b) when and how the sample was given or taken and the test was carried out;
 - (c) the results of the test.
- (5) A person mentioned in regulation 17 may issue an evidentiary certificate in relation to the following:
 - (a) that he or she carried out a breath analysis on a sample of breath given by a specified person;
 - (b) when and how the sample was taken and the analysis was carried out;
 - (c) the results of the analysis.
- (6) A health practitioner or phlebotomist may issue an evidentiary certificate in relation to the following:
 - (a) that he or she took a sample of blood from a specified person;
 - (b) when and how the sample was taken;
 - (c) what he or she did with the sample.
- (7) A pathologist may issue an evidentiary certificate in relation to the following:
 - (a) that he or she carried out an analysis of a sample of blood identified as having been taken from a specified person at a specified date and time;
 - (b) when and how the analysis was carried out;

- (c) the results of the analysis.

Part 3A Non-custodial orders

Division 1 Preliminary matters

19A Definitions

In this Part:

approved project means a rehabilitation program or work, or both, approved under section 167 of the Act.

firearm, see section 3(1) of the *Firearms Act 1997*.

home detainee means:

- (a) a non-custodial offender who is subject to a home detention order; or
- (b) a prisoner for whom an administrative home detention permit is in force.

required treatment means:

- (a) assessment and treatment (including counselling):
 - (i) for misuse of alcohol or a drug; or
 - (ii) addressing other personal factors that contribute to the offender's criminal behaviour; or
- (b) medical, psychological or psychiatric assessment and treatment; or
- (c) counselling.

supervisor, in relation to a non-custodial offender who is required under a non-custodial work order to be at a place to participate in an approved project, means the person designated by the Commissioner as the supervisor of the place.

training program means:

- (a) a prescribed program (as defined in section 3 of the *Sentencing Act 1995*); or
- (b) any other course, training, education or similar activity.

19B Effect of breach of this Part

A failure by a non-custodial offender to comply with this Part constitutes a breach of the offender's non-custodial order.

Note for regulation 19B

See sections 39(1)(g), 39E(1)(f)(i), 48(1)(g) and 48E(1)(h)(i) of the Sentencing Act 1995 and regulation 4A of the Sentencing Regulations 1996.

Division 2 Non-custodial work orders

Subdivision 1 Conduct of non-custodial offender

19C Attendance to participate in approved project

- (1) This regulation applies if a non-custodial offender subject to a non-custodial work order is required to be at a place during a period to participate in an approved project.
- (2) The offender must:
 - (a) be at the required place at the start of the required period; and
 - (b) remain at the required place for the required period.
- (3) However, if an offender is not at the place as required, the offender does not breach subregulation (2) if:
 - (a) the offender's absence is approved by a probation and parole officer; or
 - (b) the offender's absence is due to illness and the offender complies with subregulations (5) and (6); or
 - (c) the offender is directed to leave the place under regulation 19H(2).
- (4) A probation and parole officer may grant approval under subregulation (3)(a) if satisfied that reasonable grounds exist for the offender's absence.
- (5) If the offender is absent due to illness, the offender must give the probation and parole officer a certificate, signed and dated by a health practitioner, stating:
 - (a) the period for which the offender was, or is, in the practitioner's opinion, unfit to attend as required; and
 - (b) the grounds for that opinion.

- (6) The certificate must be given to the probation and parole officer not more than 72 hours (or any longer period allowed by the officer) after the offender was required to attend at the place.

19D Satisfactory participation

- (1) This regulation applies if a non-custodial offender subject to a non-custodial work order (other than a community work order) is required to participate in an approved project.
- (2) The offender must participate in the project in a manner satisfactory to the supervisor or a probation and parole officer.

Note for regulation 19D

For an offender subject to a community work order, an equivalent obligation is imposed by section 37(1)(b) of the Sentencing Act 1995.

19E Alcohol and restricted drugs

- (1) This regulation applies if a non-custodial offender subject to a non-custodial work order is at a place to participate in an approved project.
- (2) The offender must not:
- (a) be under the influence of alcohol or a restricted drug; or
 - (b) be in possession of alcohol or a restricted drug; or
 - (c) consume alcohol or use a restricted drug.
- (3) Subregulation (2) does not apply in relation to a drug taken, or to be taken, as prescribed by a health practitioner.

19F Protective clothing

- (1) This regulation applies if a non-custodial offender subject to a non-custodial work order is required to participate in an approved project that involves the offender performing work.
- (2) While performing the work the offender must, when directed by the supervisor or a probation and parole officer to do so:
- (a) wear supplied protective clothing; and
 - (b) use supplied protective equipment.

- (3) If the supervisor or a probation and parole officer directs the offender to wear protective footwear while performing the work, the offender must:
 - (a) provide the protective footwear for himself or herself; and
 - (b) wear it while performing the work.
- (4) If the offender is given a direction mentioned in subregulation (2) or (3), the offender must, when wearing the supplied protective clothing, using the supplied protective equipment or wearing the protective footwear, comply with any directions of the supervisor or probation and parole officer in relation to that clothing, equipment or footwear.
- (5) In this regulation:
supplied means supplied to the offender for the purpose of the offender's participation in the approved project.

19G Conduct while participating in approved project

- (1) This regulation applies if a non-custodial offender subject to a non-custodial work order is at a place to participate in an approved project.
- (2) The offender must not damage, deface or misuse:
 - (a) anything at the place; or
 - (b) any equipment, materials or other thing provided to the offender for the purpose of the offender's participation in the approved project.
- (3) Subregulation (2) does not apply in relation to normal wear and tear arising from the use of equipment, materials or a thing.

19H Direction to leave if in breach of order

- (1) This regulation applies if:
 - (a) a non-custodial offender subject to a non-custodial work order is at a place to participate in an approved project; and
 - (b) the supervisor or a probation and parole officer reasonably believes that the offender:
 - (i) for a community work order – is in breach of the order under section 39(1) of the *Sentencing Act 1995*; or

- (ii) for a community based order or community custody order – has breached a condition of the order.
- (2) The supervisor or probation and parole officer may direct the offender to leave the place and not return for the remainder of that day.
- (3) The offender must comply with the direction.
- (4) The supervisor or probation and parole officer is not required to arrange for the transport of the offender away from the place.

19J Suspension of obligation to participate in approved project

- (1) This regulation applies if a probation and parole officer is satisfied that:
 - (a) a non-custodial offender subject to:
 - (i) a community work order – is in breach of the order under section 39(1) of the *Sentencing Act 1995*; or
 - (ii) a community based order or community custody order – has breached a condition of the order; and
 - (b) it is inappropriate for the offender to continue participating in the approved project that the offender is required under the order to participate in.
- (2) The probation and parole officer may, by notice given to the offender, suspend the offender's obligation under the order to participate in the project.
- (3) The notice may be given verbally or in writing.
- (4) The suspension remains in force until a court deals with the offender under the *Sentencing Act 1995* for the breach of the offender's non-custodial work order.
- (5) However, a suspension does not affect the offender's obligation to complete the required number of hours of community work under the offender's non-custodial work order.

Subdivision 2 Participation time

19K Failure of supervisor or probation and parole officer to attend

- (1) This regulation applies if:
 - (a) a non-custodial offender subject to a non-custodial work order is required to be at a place at a particular time to participate in an approved project; and
 - (b) the offender is at that place at that time; and
 - (c) neither the supervisor nor a probation and parole officer is present at the place within 1 hour after that time; and
 - (d) the offender satisfies a probation and parole officer that the offender remained at the place for that hour.
- (2) The offender is taken to have:
 - (a) been at the place at the required time; and
 - (b) remained at the place, participating in the approved project, for the number of hours for which the offender was required to participate on that day.
- (3) This regulation does not apply if the supervisor or probation and parole officer had made an arrangement with the offender as to what the offender was to do during the supervisor or officer's absence.

19L Travelling time

- (1) This regulation applies if:
 - (a) a non-custodial offender subject to a non-custodial work order is required to be at a place at a particular time to participate in an approved project; and
 - (b) the offender is at that place at that time; and
 - (c) the offender is taken to, or directed by the supervisor or a probation and parole officer to go to, another place to participate in the approved project.
- (2) The reasonable time spent by the offender in travelling to the other place is taken to be time spent participating in the approved project.

19M Rest and meal breaks

- (1) This regulation applies if a non-custodial offender subject to a non-custodial work order is required to remain at a place participating in an approved project for 8 hours or longer on a particular day.
- (2) The offender must be allowed:
 - (a) a 10 minute rest break in the morning; and
 - (b) a meal break of 1 hour; and
 - (c) a 10 minute rest break in the afternoon.
- (3) The time allowed for breaks under subregulation (2) is taken to be time spent by the offender participating in the approved project.
- (4) If the offender leaves the place during a rest or meal break, regulation 19E continues to apply to the offender as if the offender were still at the place.

Division 3 Non-custodial offenders other than home detainees

19N Division does not apply to home detainees

This Division does not apply in relation to a home detainee.

19P Requirement to attend for training, treatment etc.

- (1) This regulation applies if a non-custodial offender is required to be at a place at a particular time to:
 - (a) undertake a training program or undergo required treatment; or
 - (b) comply with a reporting or supervision requirement under the order.
- (2) The offender must be at the required place at the required time.
- (3) However, if the offender is not at the place as required, the offender does not breach subregulation (2) if:
 - (a) the offender's failure to attend is approved by a probation and parole officer; or
 - (b) the offender's failure to attend is due to illness and the offender complies with subregulations (5) and (6).

- (4) A probation and parole officer may grant approval under subregulation (3)(a) if satisfied that reasonable grounds exist for the offender not attending.
- (5) If the offender is absent due to illness the offender must give a probation and parole officer a certificate, signed by a health practitioner, stating:
 - (a) that at the time of the failure to attend the offender was, in the practitioner's opinion, unfit to attend as required; and
 - (b) the grounds for that opinion.
- (6) The certificate must be given to the probation and parole officer not more than 72 hours (or any longer period allowed by the officer) after the offender's failure to attend at the place.

19Q Alcohol and restricted drugs

- (1) A non-custodial offender who is at a place for a purpose mentioned in regulation 19P(1) must not:
 - (a) be under the influence of alcohol or a restricted drug; or
 - (b) be in possession of alcohol or a restricted drug; or
 - (c) consume alcohol or use a restricted drug.
- (2) Subregulation (1) does not apply in relation to a drug taken, or to be taken, as prescribed by a health practitioner.

19R Participation in satisfactory manner

- (1) A non-custodial offender who is required to undertake a training program or undergo required treatment must participate in the program or treatment in a manner satisfactory to the person conducting the program or treatment.
- (2) A non-custodial offender who is required to report or be supervised must do so in a manner satisfactory to a probation and parole officer.

19S Requirement to remain at approved residence

- (1) This regulation applies if a non-custodial offender who is subject to a monitoring order is required by the order, or by a direction given by a probation and parole officer, to remain at the offender's approved residence during a specified period.

- (2) During the specified period the offender must remain at the offender's approved residence unless:
 - (a) the offender's absence is for the purpose of seeking urgent treatment from a health practitioner; and
 - (b) the offender gives a probation and parole officer a certificate, signed by a health practitioner, stating the grounds on which the treatment was sought; and
 - (c) the certificate is given to the probation and parole officer not more than 72 hours (or any longer period allowed by the officer) after the offender left the offender's approved residence.
- (3) If the offender is absent from the offender's approved residence for the purpose mentioned in subregulation (2)(a), the offender must:
 - (a) travel without delay and by the shortest practicable route from the approved residence to the place where the offender seeks treatment; and
 - (b) return to the approved residence by the shortest practicable route as soon as practicable after being treated.

19T Firearms

A non-custodial offender (other than an offender who is subject only to a community work order):

- (a) must not possess a firearm without the approval of the Commissioner; and
- (b) must immediately notify a probation and parole officer if another person at the offender's residence is in possession of a firearm.

19U Conduct generally

A non-custodial offender:

- (a) must accept telephone calls from a probation and parole officer at the offender's home or place of employment or business; and
- (b) must not obstruct a probation and parole officer in the exercise of the officer's functions, or anyone assisting the officer; and
- (c) must not assault, threaten, insult or use abusive language to a correctional services officer.

Division 4 Home detainees

19V Requirement to reside in and remain at approved residence

- (1) A home detainee who is absent from the detainee's approved residence does not breach the detainee's home detention order or administrative home detention permit if any of the following apply:
 - (a) the detainee's absence is necessary in order to comply with a direction of a probation and parole officer;
 - (b) the detainee's absence is for one of the following and has been approved by a probation and parole officer:
 - (i) employment or carrying on a business;
 - (ii) education or training;
 - (iii) rehabilitation;
 - (iv) practices associated with the detainee's religion or belief system;
 - (c) the detainee's absence is for the purpose of seeking urgent treatment from a health practitioner and the detainee complies with subregulations (2) and (3).
- (2) If the detainee is absent for the purpose of seeking urgent treatment, the detainee must give a probation and parole officer a certificate, signed by a health practitioner, stating the grounds on which the treatment was sought.
- (3) The certificate must be given to the probation and parole officer not more than 72 hours (or any longer period allowed by the officer) after the detainee left the detainee's approved residence.
- (4) If the detainee is absent from the detainee's approved residence for a purpose mentioned in subregulation (1) the detainee must:
 - (a) travel without delay and by the shortest practicable route from the approved residence to the place where that purpose is to be carried out; and
 - (b) return to the approved residence by the shortest practicable route as soon as practicable after the purpose has been completed.

19W Alcohol and restricted drugs

A home detainee must not purchase or consume alcohol or purchase or use a restricted drug (other than as prescribed by a health practitioner).

19X Firearms

A home detainee:

- (a) must not possess a firearm without the approval of the Commissioner; and
- (b) must immediately notify a probation and parole officer if another person at the detainee's approved residence is in possession of a firearm.

19Y Conduct generally

A home detainee:

- (a) must be of good behaviour; and
- (b) must not contravene a law in force in the Territory; and
- (c) must accept visits from a probation and parole officer at a place where the detainee is permitted to be under regulation 19V; and
- (d) must accept telephone calls from a probation and parole officer at the detainee's approved residence or place of employment or business; and
- (e) must not assault, threaten, insult or use abusive language to a correctional services officer.

Part 4 Miscellaneous matters**20 Leave permit condition**

For section 111(c) of the Act, it is a condition of a leave permit that the prisoner must not purchase or consume alcohol, or purchase or use any drug (other than as prescribed by a health practitioner).

21 Monitoring devices

For section 165 of the Act, definition ***monitoring device***, paragraph (a)(iii), the purpose of monitoring a prisoner's compliance with a leave permit is prescribed.

22 Notification of seizure of mail

- (1) This regulation applies if the General Manager of a custodial correctional facility:
 - (a) is given:
 - (i) an item of mail under section 155(2) or (4) or 157(2) of the Act; or
 - (ii) a thing that has been removed from an item of mail under section 155(5)(a) of the Act; and
 - (b) seizes the mail or thing under section 157(3)(c) of the Act.
- (2) The General Manager must inform the prisoner by or to whom the mail was sent that the mail or thing has been seized and will be dealt with by the Commissioner under section 158 of the Act.

23 Prisoner welfare

The Commissioner must ensure that a prisoner is provided with:

- (a) food of sufficient quantity and quality to maintain the prisoner in good health; and
- (b) the opportunity for such exercise to maintain the prisoner in good health as it is reasonably practicable to provide; and
- (c) sufficient clothing of a kind that is:
 - (i) suitable for the climate; and
 - (ii) if the prisoner is required to carry out work – suitable for carrying out that work.

24 Oath of office

- (1) The Commissioner, the General Manager of a custodial correctional facility or a correctional officer must take an oath of office before performing any of the functions of the office.
- (2) The oath must be in the form set out in Schedule 4.

Part 5 Awards

25 Commissioner may confer awards

- (1) The Commissioner may confer an award mentioned in Schedule 3 on a person who is or was a correctional services officer or employee of the Agency if the Commissioner is satisfied that the person satisfies the criteria for that award mentioned in Schedule 3.
- (2) An award may be conferred posthumously.

26 Form of decorations

The decorations for an award are to be in a form determined by the Commissioner.

27 Wearing of decorations

- (1) The recipient of an award:
 - (a) may wear the decorations for the award:
 - (i) on a ceremonial occasion; or
 - (ii) on any other occasion approved by the Commissioner; and
 - (b) if the decorations for the award include a ribbon – may wear the ribbon on the recipient's uniform or clothing, in the manner specified in the Commissioner's Directions, while he or she is on duty or at work.
- (2) A person commits an offence if the person:
 - (a) wears any of the decorations for an award conferred under this Part; and
 - (b) is not the recipient of the award.

Maximum penalty: 50 penalty units.

28 Revocation of conferral of award

- (1) The Commissioner may revoke the conferral of an award.
- (2) A person commits an offence if:
 - (a) the conferral of an award on the person is revoked; and
 - (b) the person knows that the award has been revoked; and

- (c) the person fails to return the decorations for the award to the Commissioner within 28 days after the revocation.

Maximum penalty: 50 penalty units.

29 Awards register

The Commissioner must keep a register of awards conferred under this Part.

Part 6 Transitional provisions for Correctional Services Regulations 2014

30 Awards

For Schedule 3, items 5 and 6:

- (a) the reference to a period of service includes a reference to service before the commencement of these Regulations; and
- (b) a reference to the Agency includes, in relation to a period before that commencement, a reference to the Agency from time to time administering the repealed *Prisons (Correctional Services) Act 1980*.

31 Oath of office

Regulation 24 does not apply to a person to whom section 211 of the Act applies.

Part 7 Transitional matters for Correctional Services Amendment Regulations 2016

32 Continuation of directions, approvals etc.

- (1) Any direction, requirement, approval, exemption or suspension in force immediately before the commencement in relation to an offender under the repealed Regulations continues in force in relation to the offender for the purposes of Part 3A, as inserted by the amending Regulations.
- (2) In this regulation:

amending Regulations means the *Correctional Services Amendment Regulations 2016*.

commencement means the commencement of the amending Regulations.

repealed Regulations means the *Correctional Services (Non-custodial Orders) Regulations*, as in force immediately before the commencement.

Schedule 1 Misconduct

regulation 3

- 1 Failing to comply with a provision of the Act that requires a prisoner to do or not do something.

Examples for item 1

Provisions of the Act that require a prisoner to do or not do something include the following:

- (a) section 42(1) – compliance with general routine of custodial correctional facility;
- (b) section 42(2) – compliance with directions;
- (c) section 51(1) – alcohol/drug testing;
- (d) section 52(1) – buccal swabs;
- (e) section 53(1) – identity confirmation.

- 2 Conduct that constitutes an offence against the Act.

Examples for item 2

Offences against the Act include the following:

- (a) section 176(2) – giving something to another person;
- (b) section 183 – removing something from custodial correctional facility;
- (c) section 187 – obstructing a correctional services officer;
- (d) section 188 – giving misleading information to a correctional services officer;
- (e) section 191 – tampering with a sample given or taken for an alcohol/drug test.

- 3 Conduct that is riotous, disorderly or otherwise threatens the security and good order of a custodial correctional facility.

- 4 Being unlawfully absent from a custodial correctional facility.

- 5 Being in part of a custodial correctional facility in which the prisoner is not authorised to be.

- 6 Failing to attend a muster, or avoiding a count, of prisoners.

- 7 Sexually harassing a person.

- 8 Conduct (including using language) that is insulting or threatening.

- 9 Abusing the prisoner's rights to receive visits, send and receive mail and make and receive telephone calls.

Examples for item 9

Conduct that might constitute such abuse includes the following:

- (a) sending mail that purports to be a protected/legal item but is not;
- (b) making a telephone call to a person who the prisoner is prohibited by a court order from contacting;
- (c) arranging to have another person send a prohibited thing to the prisoner by disguising it as a protected/legal item;

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- (d) *sending mail to a person whom the prisoner is prohibited by a court order from contacting.*

10 Abusing the prisoner's privilege to use a computer or other electronic device.

Examples for item 10

Conduct that might constitute such abuse includes the following:

- (a) *using a computer to create threatening letters;*
(b) *using audio equipment to create a disturbance.*

11 Feigning or exaggerating illness or an injury.

12 Consuming, using, taking, administering, smoking or otherwise ingesting any of the following:

- (a) alcohol;
(b) tobacco;
(c) medication (other than medication prescribed for the prisoner by a health practitioner);
(d) a drug;
(e) anything else likely to induce an intoxicated state.

13 Giving or administering anything mentioned in item 12 to another prisoner.

14 Manufacturing anything mentioned in item 12.

15 Tattooing or body piercing any person.

16 Altering the prisoner's appearance in a way that could reasonably affect the ability of correctional officers to identify the prisoner.

17 Gambling.

18 Being in possession of something that is not an allowable item.

19 Lending or selling something to another prisoner for gain.

20 Damaging property (other than the prisoner's own property).

Examples for item 20

Property that might be damaged includes the following:

- (a) *a thing at a correctional services establishment that is owned or used by the Territory;*
(b) *possessions of another prisoner or a visitor;*
(c) *clothing or personal items issued to the prisoner or another prisoner;*
(d) *plants growing at the custodial correctional facility;*
(e) *property at a place where the prisoner is working outside the custodial correctional facility.*

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- 21 Interfering with fixtures and fitting, security equipment or other property at the custodial correctional facility.

Examples for item 21

Conduct that might constitute interfering with property includes the following:

- (a) picking locks;*
 - (b) disabling cameras or security sensors;*
 - (c) tampering with lighting.*
- 22 Removing the prisoner's identification document or device.
- 23 Altering a document or device used to identify the prisoner, or creating a false document or device.
- 24 Failing to comply with a condition of a leave permit.
- 25 Making a malicious or frivolous complaint about a correctional services officer or another prisoner to a General Manager, the Commissioner or a protected correspondent.

Schedule 2 Privileges that may be withdrawn

regulation 4

- 1 Attendance at or participation in any of the following:
 - (a) the showing of a film or video;
 - (b) a concert or other performance;
 - (c) any other organised leisure time activity.
- 2 Use of, or access to, (whether individually or as a member of a group) any of the following:
 - (a) audio or audiovisual equipment or content;
 - (b) a musical instrument.
- 3 Use of library facilities, except to the extent that the use is reasonably necessary for the purposes of a course of study or training in which the prisoner is enrolled.
- 4 Possession of allowable items, other than essential toiletries.
- 5 Purchasing of allowable items, other than essential toiletries.
- 6 Receiving visits, other than priority/legal visits.
- 7 Making or receiving telephone calls, other than priority/legal calls.
- 8 Purchasing of telephone credits.
- 9 Participation in hobbies.
- 10 Associating with a particular prisoner or group of prisoners.
- 11 Leave permits granted at prisoner's request.

Schedule 3 Awards

regulation 25

	Award	Criteria
1	Bravery medal	Conduct of conspicuous merit involving an act of exceptional bravery
2	Commendation for brave conduct	An act of bravery
3	Exemplary Conduct Cross	Conduct or service characterised by initiative, leadership or distinctive devotion to duty
4	Unit Citation	Performance of outstanding service as part of a unit
5	Service Medal	Completion of 10 years of satisfactory service to the Agency
6	Service Medal – clasp	Completion of a second or subsequent 10 years of satisfactory service to the Agency

Schedule 4 Oath of office

regulation 31

I, _____ *[promise/ swear etc. as required by Oaths, Affidavits and Declarations Act 2010]* that I:

- (a) will perform the functions of the office of *[name of office]* lawfully, impartially and in good faith; and
- (b) will uphold the Northern Territory Department of Correctional Services Code of Conduct; and
- (c) will not bring the Department of Correctional Services into disrepute.

[So help me God! or as appropriate]

ENDNOTES

1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION

Correctional Services Regulations (SL No. 28, 2014)

Notified	9 September 2014
Commenced	9 September 2014

Correctional Services Amendment Regulations (SL No. 9, 2016)

Notified	3 May 2016
Commenced	3 May 2016

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22 of 2018) to: rr 1, 2, 9, 17, 19A, 19B, 19D, 19H, 19J and 30 and sch 4.

4 LIST OF AMENDMENTS

r 2	amd No. 9, 2016, r 3
r 15	amd No. 9, 2016, r 4
r 16	amd No. 9, 2016, r 5
pt 3A hdg	ins No. 9, 2016, r 6
pt 3A	
div 1 hdg	ins No. 9, 2016, r 6
rr 19A – 19B	ins No. 9, 2016, r 6
pt 3A	
div 2	
sdiv 1 hdg	ins No. 9, 2016, r 6
rr 19C – 19J	ins No. 9, 2016, r 6
pt 3A	
div 2	
sdiv 2 hdg	ins No. 9, 2016, r 6
rr 19K – 19M	ins No. 9, 2016, r 6

ENDNOTES

pt 3A	
div 3 hdg	ins No. 9, 2016, r 6
rr 19N – 19U	ins No. 9, 2016, r 6
pt 3A	
div 4	ins No. 9, 2016, r 6
rr 19V – 19Y	ins No. 9, 2016, r 6
r 20	amd No. 9, 2016, r 7
r 27	amd No. 9, 2016, r 8
pt 7 hdg	ins No. 9, 2016, r 9
r 32	ins No. 9, 2016, r 9
sch 1	amd No. 9, 2016, r 10