

CORRECTIONAL SERVICE

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Correctional Service Act 2009

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Correctional Service Act 2009

TABLE OF AMENDMENTS

The Correctional Service Act 2009 No 8 was certified and commenced on 28 August 2009 (GN No 341/2009; Gaz 88/2009).

Amending Legislation	Certified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to make provision for the establishment and administration of the Correctional Service.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title and commencement

This Act may be cited as the *Correctional Service Act 2009* and shall come into force on the date that it receives the certificate of the Speaker in accordance with Article 47 of the *Constitution* and which came into effect on 28 August 2009.

2 Repeal

The *Nauru Gaol and Prison Ordinance 1921*, *Goal and Prison Rules 1921* and *Suspension of Sentences Ordinance 1921* are hereby repealed.

3 Interpretation

In this Act:

‘convicted prisoner’ means a person who is serving a term of imprisonment in a correctional centre, whether on appeal or otherwise;

‘correctional centre’ means any land, building, property, vessel or vehicle declared to be a correctional centre or a temporary correctional centre under Part 2;

‘effective sentence’ means the term of imprisonment that a prisoner is to serve, after taking into account remission granted and forfeited under the Act;

‘instruments of restraint’ means handcuffs, ankle cuffs, batons, strait jackets, chemical substances and any other item or device prescribed by regulation;

‘Minister’ means the Minister for Justice;

‘officer’ means a correctional officer, other than the Chief Correctional Officer;

‘Parole Board’ means the parole board established under the *Criminal Justice Act 1999*;

‘prisoner’ means any person in lawful custody under this Act whether or not they are detained in a correctional centre;

‘prohibited article’ means any illegal drugs, equipment for the administration of illegal drugs, weapons, metal articles, mobile phones or other portable communication devices or any other property prescribed by regulation to be prohibited under Section 40;

‘protective equipment’ means shields, helmets, batons, handcuffs, body armour, instruments of chemical restraint, or other item or device used for the protection of officers from physical injury;

‘regulated privileges’ means privileges that may be granted to or withdrawn from prisoners in accordance with regulations made under Section 56(2)(r);

'remand prisoner' means any prisoner who has not been convicted and sentenced to a term of imprisonment by a court;

'Resident Magistrate' means the Resident Magistrate of the District Court, qualified and appointed under the *District Court Act 2018*;

'Secretary for Justice' means the person for the time being holding or acting in the position of head of the department responsible for justice; and

'young prisoner' means any prisoner under the age of 18 years, and includes any prisoner under the age of 21 years, who, in the opinion of the Chief Correctional Officer or court, may be at risk of harm in a correctional centre.

4 Objectives

The objectives of this Act are to:

- (a) provide for the establishment, maintenance and operation of the Correctional Service based on internationally accepted standards for the fair and humane treatment of prisoners consistent with the law and cultural values of the Republic;
- (b) ensure that terms of imprisonment are administered in a fair and effective manner;
- (c) maintain the safety of the community, prisoners and officers and promote public confidence in the Correctional Service; and
- (d) assist, as far as is reasonably practicable, the rehabilitation of prisoners and their integration back into the community.

PART 2 — CORRECTIONAL SERVICE

5 Establishment of the Correctional Service

The Correctional Service is hereby established.

6 Establishment of correctional centres

- (1) The Minister may, by regulations, declare any land, building, property, vessel or vehicle, or part of it to be a correctional centre.
- (2) Any place currently used as a prison becomes a correctional centre when this Act commences.
- (3) The Minister shall determine by notice in the Gazette the nominal holding capacity of each correctional centre.
- (4) The Chief Correctional Officer may, after consulting the Minister and Secretary for Justice, make arrangements for keeping prisoners in a temporary correctional centre if:
 - (a) the number of prisoners in any correctional centre is greater than the nominal holding capacity for that correctional centre;
 - (b) there is a situation at any correctional centre which constitutes a health or safety risk to officers, prisoners, visitors or the community; or
 - (c) there are special circumstances which, in the opinion of the Chief Correctional Officer, make it necessary to establish a temporary correctional centre for the security or good governance of any other correctional centre.

7 Chief Correctional Officer

- (1) The Chief Secretary shall, in consultation with the Minister, appoint a Chief Correctional Officer as the head of the Correctional Service.
- (2) The Chief Correctional Officer shall:
 - (a) have the administrative command and direction of all correctional service officers in accordance with the provisions of this Act and the *Public Service Act 2016*;
 - (b) ensure the safety, security and good governance of the Correctional Service;
 - (c) maintain control of all prisoners and allocate them to appropriate correctional centres;
 - (d) designate the classification, purpose and function of any correctional centre or part of a correctional centre;
 - (e) require any person purporting to exercise any lawful power of inspection or entry in a correctional centre to comply with any direction relating to correctional centre safety, security and management; and
 - (f) be accountable to the Secretary for Justice and the Chief Secretary for the performance of his or her duties.
- (3) The Chief Correctional Officer may delegate, in writing, the exercise of any of his or her functions or responsibilities under this Act to any officer or other employee of the Correctional Service.
- (4) The Chief Correctional Officer may resign after giving 1 month's notice in writing to the Chief Secretary.

8 Chief Correctional Officer's responsibilities

The Chief Correctional Officer, in addition to any other functions conferred under this or any other Act, has the following responsibilities:

- (a) to ensure that information systems and records are uniform and accurate in each correctional centre and in the office of the Chief Correctional Officer;
- (b) to maintain a system for the recording, storage and return of the property of prisoners;
- (c) to ensure requests and complaints from prisoners are dealt with in a prompt and effective manner;
- (d) to manage emergencies and disasters in an effective manner;
- (e) to monitor, record and report upon all significant incidents;
- (f) to maintain discipline and order through supervision in a fair and equitable manner;
- (g) to ensure that prisoners are provided with the information required under Section 22;
- (h) to ensure that the safety of the community, and of staff, visitors, prisoners is protected;
- (i) to ensure that all prisoners are encouraged to build their self-respect and a sense of personal responsibility so as to improve morale and develop in them habits of good citizenship and hard work with a view to them leading good and useful lives in their communities after their discharge; and
- (j) to ensure, progressively and to the extent practicable within the limits of available resources, that prisoners are provided with facilities, programs and services designed to encourage rehabilitation and discourage offending.

PART 3 — ADMINISTRATION

9 Officers and employees of the Correctional Service

- (1) All persons who are employed in the service of the prison as reserve officers of the Nauru Police Force shall on the commencement date become officers of the Correctional Service under this Act and shall cease to be reserve officers of the Nauru Police Force.
- (2) The Chief Correctional Officer shall assign to each officer the rank of Senior Correctional Officer or Correctional Officer, or, if Cabinet has by regulation made provision for additional ranks within the Correctional Service, any such other rank as the Chief Correctional Officer deems appropriate.
- (3) The terms and conditions of service of officers of the Correctional Service are governed by this Act and by regulations, and in respect of any matter not covered by this Act or the regulations, by the *Public Service Act 2016*, provided that any provision of the *Public Service Act 2016* that is inconsistent with this Act or with the regulations shall not apply to officers of the Correctional Service.
- (4) All persons other than those referred to in subsection (1), who are employed in the service of the prison shall on the commencement date continue to be employed as public servants in the Correctional Service under the provisions of the *Public Service Act 2016* and of this Act.

10 Conditions and proscriptions applicable to officers

The following provisions shall apply to all officers:

- (a) all officers may be ordered to report for duty in any correctional centre or other location as determined by the Chief Correctional Officer;
- (b) all officers may be recalled to duty during times when they are not rostered on duty at a correctional centre;
- (c) all officers are considered to be shift workers for the purpose of Section 42 of the *Public Service Act 2016*;
- (d) no officer may receive any fee or gift from any person in relation to their employment.
- (e) no officer may have any business dealings or any other commercial relationship with a convicted prisoner; and
- (f) no officer may form any relationship with a prisoner which, in the opinion of the Chief Correctional Officer, is likely to compromise the security or good governance of a correctional centre.

11 Responsibilities of officers

- (1) Every officer shall:
 - (a) exercise the powers and duties conferred under this Act;
 - (b) obey all lawful directions which are given by a senior officer, including the Operating Policies and Procedures issued by the Chief Correctional Officer; and
 - (c) carry out their duty with proper care and diligence and with due respect for the rights of prisoners.

- (2) Any breach of this Section or Section 10, is a disciplinary offence under this Act.

12 Discipline of officers

- (1) Disciplinary offences applying to all officers are those prescribed in this Act and in the regulations.
- (2) Any hearing and determination for disciplinary proceedings against officers shall be conducted by the Chief Correctional Officer in accordance with the rules of natural justice and with any procedures prescribed by regulations.
- (3) Any hearing and determination for disciplinary proceedings against the Chief Correctional Officer shall be conducted by the Chief Secretary in accordance with the rules of natural justice and with any procedures prescribed by regulations.
- (4) Officers may appeal against a determination in a disciplinary proceeding to the Public Service Appeals Board.
- (5) An officer suspended from duty under disciplinary procedures shall be entitled to receive not less than one half of his or her usual pay, unless the Chief Secretary determines in writing that the officer shall be suspended without pay.
- (6) If an officer has been suspended from service pending the hearing and determination of a disciplinary proceeding, and the determination of the proceeding finds that the officer did not commit a disciplinary offence, the officer shall be entitled to the full amount of pay and other benefits which would have accrued during the period of suspension.

13 Protection from liability

Any officer who, in good faith, exercises a power or function that is conferred or imposed by or under this Act is not personally liable for any injury or damage caused by the exercise of that power or function.

14 Use of police officers as correctional officers

- (1) The Chief Correctional Officer may request the Commissioner of Police to provide police assistance to the Correctional Service in any circumstances in which he or she believes such assistance is necessary for the security or safety of any person.
- (2) A police officer who is providing assistance to the Correctional Service under this Section, shall have the same powers and responsibilities in relation to prisoners as a correctional officer under this Act.

PART 4 — INSPECTIONS AND VISITS

15 Inspections by the Resident Magistrate or Ombudsman

- (1) The Resident Magistrate or, if Parliament has made provision for an Ombudsman, the Ombudsman, shall conduct an inspection of each correctional centre at least twice in each calendar year, to assess compliance with the provisions and objectives of this Act, and shall submit to the Chief Correctional Officer and the Minister a report on each inspection.
- (2) The Minister shall cause each report on an inspection of a correctional centre to be tabled in Parliament within 3 sitting days of the receipt of the report.

16 Inspections on behalf of the Minister

The Minister may authorise any person to inspect a correctional centre, including:

- (a) to undertake visits as directed;
- (b) to prepare and submit a report to the Minister or other person according to specified requirements; and
- (c) to make appropriate recommendations to the Minister in relation to any aspect of the administration and management of a correctional centre or the welfare of any prisoner, visitor and officer.

17 Right of entry and inspection by Judges, Resident Magistrate, Ombudsman

A Judge, Resident Magistrate, the Ombudsman and any person authorised in writing by the Minister or by the Ombudsman, may enter and inspect a correctional centre at any time.

18 Visits by religious representatives

- (1) The Chief Correctional Officer may authorise persons nominated by the religions and denominations of the prisoners at a correctional centre as religious representatives for the correctional centre.
- (2) An authorisation made under subsection (1), shall take into account the rights of the prisoners and the spiritual needs of prisoners.
- (3) A religious representative may:
 - (a) meet with individual prisoners or group of prisoners;
 - (b) provide religious books to prisoners;
 - (c) conduct religious ceremonies and observances; and
 - (d) provide appropriate counselling and support to prisoners.
- (4) A prisoner shall not be required to attend or participate in religious services and observances, nor to meet with any religious representative.

PART 5 — ADMISSION AND MANAGEMENT OF PRISONERS

19 Least restrictive conditions

- (1) Prisoners are to be placed in the least restrictive conditions suitable to their classification.
- (2) Segregation or placement in a management or security unit shall only be to minimise the risk associated with the reason for placement.
- (3) Restrictions on remand prisoners shall be limited to those that are necessary to maintain the good order, security and management of the correctional centre, the safety of the community and the safety of the prisoner.

20 Lawful custody

- (1) Prisoners are to be legally detained by the Correctional Service and full and accurate records of prisoners' warrants, sentences imposed by the courts, discharges, bails and fines are to be maintained.
- (2) Prisoners shall be first admitted to a correctional centre on the authority of a warrant of arrest, order of a court, written refusal to grant bail by a lawfully authorised police officer, or on the authority provided for by any other written law.
- (3) Upon presentation of a person to be held in custody in a correctional centre, the Chief Correctional Officer or a senior correctional officer shall be satisfied:
 - (a) that the person is the person to whom the warrant, order, written refusal or other instrument of authority relates; and
 - (b) of the apparent age of the person.
- (4) Where there is doubt as to the identity of a person or as to the validity of the warrant, order, written refusal, or other instrument of authority, the Chief Correctional Officer or senior correctional officer shall be entitled to refuse the admission of the person and to require that the person be taken back to the court or person who has signed the warrant, refusal or instrument of authority in order for matters of identity and process to be confirmed and rectified.
- (5) Upon admission all prisoners shall be deemed to be in the lawful custody of the Chief Correctional Officer and shall be subject to the provisions of this Act for the entire period that they are in custody, even when a prisoner is not within the confines of a correctional centre.
- (6) A child below the age of 6 months may be admitted with the mother who is lawfully detained, at the discretion of the Chief Correctional Officer.
- (7) The Chief Correctional Officer may admit a child over the age of 6 months but under the age of 2 years with the mother who is lawfully detained, provided that:
 - (a) there are special circumstances;
 - (b) it is in the best interests of the child; and
 - (c) the correctional centre can, as far as is reasonably practicable, ensure that the basic needs of the child are adequately met.

21 Admission of prisoners

- (1) The correctional centre reception process shall ensure that all prisoners are:
 - (a) identified;
 - (b) assessed for risk of suicide or self-harm;
 - (c) assessed for urgent welfare, medical or psychiatric needs; and
 - (d) provided with suitable accommodation or services for their health or welfare.
- (2) From the time of admission, arrangements shall be made:
 - (a) for female prisoners to be kept separate from male prisoners; and
 - (b) for young prisoners to be kept separately from adult prisoners or prisoners of other classifications.
- (3) Notwithstanding subsection (2), the Chief Correctional Officer may issue instructions for either separation or contact between any prisoners of the same sex, or between young and adult prisoners, where it is for the purposes of:
 - (a) the personal safety of any person;
 - (b) the maintenance of family or social relationships in the best interests of the prisoners; or
 - (c) the safety, security or good governance of a correctional centre.
- (4) The Chief Correctional Officer may issue instructions for the separation of any prisoners in order to manage the containment or treatment of any medical condition or infectious disease as recommended by a health practitioner.

22 Information to be provided

- (1) On admission, all prisoners are to be provided with sufficient information to understand the practices and procedures of the correctional centre.
- (2) As soon as practicable after admission, all prisoners shall be given information about:
 - (a) any right of appeal;
 - (b) the rights of prisoners;
 - (c) the obligations of prisoners;
 - (d) correctional centre offences and prohibited articles;
 - (e) classification procedures;
 - (f) work programs;
 - (g) relevant medical, health and hygiene matters; and
 - (h) the law in relation to the release of prisoners under Part 10.

23 Classification of prisoners

- (1) All prisoners shall be classified in accordance with the regulations.
- (2) The following objectives shall apply to the classification of prisoners:
 - (a) facilitation of rehabilitation and maintenance of effective security; and
 - (b) facilitation of appropriate arrangements for the accommodation and other needs of:
 - (i) female prisoners;
 - (ii) young prisoners;
 - (iii) remand prisoners;
 - (iv) prisoners in custody in relation to a civil matter; and

- (v) prisoners assessed as being at risk in a correctional centre.
- (3) The Cabinet shall make regulations prescribing categories, criteria and procedures for the classification of prisoners, including provision for the two-part classification of prisoners: the first part reflecting whether the prisoner is a convicted prisoner and whether convicted of a criminal or civil offence, and the second part reflecting the level of danger or security risk posed by the prisoner.
- (4) The classification of a prisoner shall not affect their entitlement to all of the rights protected under Section 25, but may affect their access to regulated privileges.

24 Obligations of prisoners

The obligations of a prisoner are:

- (a) to comply with lawful directions and with, any operating policies and procedures applicable to the conduct of prisoners and the authority of officers;
- (b) to refrain from committing a correctional centre offence; and
- (c) to work towards his or her effective rehabilitation and reintegration into the community.

25 Rights of prisoners

- (1) A prisoner is entitled to the following rights:
 - (a) to have available adequate bed and bedding;
 - (b) access to washing facilities for personal hygiene;
 - (c) access to clean and sufficient drinking water and food;
 - (d) to have natural or artificial light;
 - (e) to have sanitary facilities and products;
 - (f) to have clean and sufficient clothing;
 - (g) to have the opportunity to undertake sufficient physical exercise beyond the confines of their cell;
 - (h) subject to Section 31(4), to have access to legal representatives, including the right to communicate in confidence and privacy;
 - (i) to have access to medical care and treatment;
 - (j) to receive and send written correspondence;
 - (k) to receive visits from family, friends and members of their community, subject to the visiting rules prescribed by regulations; and
 - (l) to have a correctional centre offence dealt with according to the rules of natural justice, including the provision of an interpreter, where necessary.
- (2) The Cabinet shall make regulations prescribing the rules to be applied to correctional centre visits, which regulations shall provide for visits to be permitted on at least 2 days per week and for at least 1 hour per visit.
- (3) Notwithstanding Section 33(c), a prisoner's right under subsection (1)(k) may be restricted for up to 30 days by way of punishment for a correctional centre offence.

26 Prisoner deaths

- (1) The Correctional Service has a duty to prevent prisoner deaths due to unnatural causes.

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- (2) The Chief Correctional Officer shall establish an effective reporting system for prisoner deaths.
 - (3) An inquest in accordance with the *Inquests Act 1977* shall be conducted in relation to every prisoner death.
 - (4) The Chief Correctional Officer and all correctional officers shall provide all necessary assistance to any police investigation or inquest into the death of a prisoner.

PART 6 — MEDICAL ISSUES

27 Standard of treatment

Medical treatment shall be provided for prisoners to a community standard.

28 Medical test or treatment

Prisoners shall be notified of the results of any medical test or treatment and provided with any necessary support.

29 Spread of disease

- (1) The Chief Correctional Officer shall ensure that conditions within correctional centres do not facilitate the spread of disease.
- (2) The Chief Correctional Officer shall implement the recommendations made by the department responsible for health aimed at reducing the risk of the outbreak of disease.
- (3) Information about the medical condition of any prisoner shall be disclosed to the Chief Correctional Officer by the treating health practitioner or by the prisoner as soon as possible if action is or may be required to ensure the safety and well-being of officers, prisoners, visitors or any other person.

PART 7 — DISCIPLINE OF PRISONERS

30 Correctional centre offences

- (1) The Cabinet shall make regulations in relation to correctional centre offences by prisoners.
- (2) The rules relating to correctional centre offences shall be explained verbally to all prisoners upon admission to a correctional centre, and shall be displayed in writing at all correctional centres in a manner that enables all prisoners to view them.
- (3) When a prisoner is charged with a correctional centre offence, criminal proceedings may also be taken against the prisoner arising from the same circumstances, and the court may take into account any penalty imposed under this Act, when sentencing a prisoner for the criminal offence.

31 Correctional centre offence proceedings

- (1) Any hearing and determination in correctional centre offence proceedings against prisoners may be conducted by the Chief Correctional Officer or a tribunal established by regulations.
- (2) Correctional centre offences shall be dealt with in an effective, just, fair, consistent and timely manner, and proceedings under this Part shall be conducted according to the rules of natural justice.
- (3) Where necessary, a prisoner subject to correctional centre offence proceedings shall be provided with an interpreter.
- (4) A prisoner is not entitled to legal representation in relation to a correctional centre offence.
- (5) There is no right of appeal to a court or any other body in relation to correctional centre offence proceedings under this Part, except where provision is made by regulations for appeal from a determination of the Chief Correctional Officer to a tribunal established by regulations for that purpose.

32 Penalties

The following limitations apply to the penalties that may be imposed by the Chief Correctional Officer or tribunal for a correctional centre offence:

- (a) forfeiture of remission of sentence for a period not exceeding 90 days;
- (b) separation for a period not exceeding 28 days; or
- (c) removal or restriction of any of the regulated privileges enjoyed by a prisoner for a period not exceeding 60 days.

33 Improper punishment

No prisoner may be subjected, by way of punishment, to:

- (a) corporal punishment in any form;
- (b) the use of instruments of restraint; or
- (c) withdrawal or infringement of the rights to which they are entitled under Section 25.

PART 8 — SECURITY

34 Objectives of correctional centre security

The objectives of the correctional centre security system are to provide measures to:

- (a) prevent a prisoner from escaping;
- (b) provide a healthy, safe and secure working and living environment for staff, visitors and prisoners;
- (c) control any article within a correctional centre that may pose a risk to the good governance, order or security of the correctional centre; and
- (d) place all prisoners appropriately within a correctional centre according to their legal status, classification, management requirements and individual needs.

35 Use of force

- (1) Officers may not use force against any prisoner, except:
 - (a) for self-defence or the defence of any person;
 - (b) in the event of an escape, attempted escape or unauthorised entry; or
 - (c) when a prisoner resists an officer acting in the lawful discharge of his or her duty.
- (2) When the use of force is permitted an officer may not use more force than is necessary in the circumstances, and shall make a report of all relevant matters to the Chief Correctional Officer in accordance with the regulations.
- (3) Each officer shall be trained in relation to the use of force for the purpose of restraining aggressive prisoners, and for dealing with prisoners practising passive resistance.

36 Use of instruments of restraint

- (1) Instruments of restraint may only be used as a precaution against escape, or upon the order of the Chief Correctional Officer if other means of controlling a prisoner have failed.
- (2) Instruments of restraint may only be used for the minimum time necessary and the following requirements shall apply to their use:
 - (a) they shall not be applied in such a way as to cause unnecessary pain to the prisoner; and
 - (b) they shall be applied in a manner which preserves the dignity of the prisoner as far as is practicable.
- (3) Chains and irons to restrain prisoners shall not be used in any circumstances.
- (4) A strait jacket may only be used on medical grounds, and the authority of a health practitioner shall be obtained before its use, or as soon as is reasonably practicable after it has been applied.

37 Protective equipment

- (1) Protective equipment may only be issued to officers upon the order of the Chief Correctional Officer or a senior correctional officer, and may only be used for the purpose of preventing:

- (a) an escape, if the use of protective equipment is the only means of preventing the escape;
 - (b) any combined break-in or outbreak or any attempt to barricade or to force or break open any door, gate, enclosure, wall or fence of a correctional centre, if the use of protective equipment is the only means of preventing such actions; or
 - (c) any violence or harm to an officer or other person, if the officer or person is in danger of suffering bodily harm.
- (2) No officer shall be issued with protective equipment unless the officer has undertaken a course of training in relation to its use.

38 Searches

- (1) Subject to Section 39, an officer may search any person within, entering or requesting entry to a correctional centre, provided that a search may only be conducted by an officer of the same gender as the person being searched.
- (2) An officer may conduct an inspection or examination of any property or item in the possession of a prisoner within a correctional centre.
- (3) An officer may inspect, examine and search any property or item being brought into a correctional centre.
- (4) The Chief Correctional Officer may refuse to allow any article or thing to be brought into, or to remain in a correctional centre if he or she is of the opinion that it may compromise the safety, security or good governance of a correctional centre.

39 Searches of visitors

- (1) A person who seeks entry to a correctional centre as a visitor may be required to submit to a pat search as a condition of entry if asked to do so by a correctional officer.
- (2) In this Section, a '*pat search*' means a search to detect the presence of a prohibited article carried out by:
 - (a) quickly running the hands over the person's outer clothing;
 - (b) using an electronic or mechanical scanning device over, or in close proximity to the person's outer clothing; or
 - (c) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person.
- (3) A pat search may only be conducted by a person of the same gender as the person being searched.
- (4) If a person refuses to submit to a pat search, a correctional officer may:
 - (a) prohibit the person from entering the correctional centre;
 - (b) order the person to leave the correctional centre; or
 - (c) immediately remove the person from the correctional centre.
- (5) Notwithstanding this Section, a Judge, the Resident Magistrate or the Ombudsman, when seeking entry to a correctional centre, may be searched only with their consent and may not be prohibited from entry for refusal to undergo a search.

40 Prohibited article

- (1) The Cabinet may by regulations declare any property to be a 'prohibited article'.

- (2) Every prohibited article shall be seized and dealt with in accordance with the regulations.

PART 9 — SKILLS, WORK AND RECREATION

41 Development of skills

To the extent that it is reasonably practicable, all prisoners are to be given opportunities to develop personal and employment skills to assist their effective rehabilitation and reintegration into the community.

42 Approved correctional centre work

All prisoners may be requested to undertake work within or outside a correctional centre in accordance with the regulations, provided that:

- (a) the nature of the work preserves the human dignity of all prisoners and takes account of their religious observances and practices;
- (b) a prisoner is not required to work for more than 8 hours each day, or for more than 6 days per week, and that due regard is given to the observance of public holidays and religious practices; and
- (c) the prisoner is medically fit to perform the particular work.

43 Cleaning of facilities

All prisoners shall be required to keep their cells and rooms, common areas, kitchen, toilet and bathing facilities, furniture, clothing and utensils clean and in good repair.

44 Recreation and development

The Chief Correctional Officer and all officers shall encourage prisoners to maintain their mental and physical health, to use leisure time constructively and to develop positive social skills through a range of active and passive recreational activities.

PART 10 — RELEASE OF PRISONERS

45 Discharge of prisoners

- (1) The Chief Correctional Officer shall be responsible for ensuring that a prisoner is discharged:
 - (a) at the end of their effective sentence;
 - (b) in accordance with the order of any court; and
 - (c) in accordance with any decision made by the Parole Board.
- (2) The Secretary for Justice may determine any doubt or dispute as to the date of discharge, which determination may be subject to judicial review.

46 Remission of sentence

- (1) A prisoner serving a sentence of imprisonment of more than 1 month, other than a prisoner serving a life sentence, may on the ground of his or her good conduct and industry be granted remission in accordance with the provisions of this Section, provided that nothing in this Section shall permit the reduction of any period of imprisonment to a period less than 31 days.
- (2) The remission granted under this Section shall not exceed one third of the total sentence.
- (3) The amount of remission, if any, earned by a prisoner shall be determined in the manner prescribed by regulations, and until such regulations have been made, may be determined by a system of marks approved by the Minister and published in the Gazette.
- (4) The effective sentence of each prisoner and the expected date of release based upon that effective sentence shall be calculated and recorded in prison records at least once every month.

47 Unauthorised absence of prisoner

Any unauthorised absence from a correctional centre shall not count as time served in relation to the sentence.

48 Review of sentence for health reasons

Where a prisoner is suffering from an illness, disability or other condition, including pregnancy or giving birth to a child or there are special circumstances that make their detention within a correctional centre impractical or undesirable, the court that sentenced the prisoner may, at the request of the Minister, review the sentence of the prisoner and make orders:

- (a) for the release of the prisoner; or
- (b) for the prisoner to be moved to suitable accommodation outside of a correctional centre.

PART 11 — OFFENCES

49 Harbours

Any person who:

- (a) knowingly harbours any prisoner on an unauthorised absence from a correctional centre;
- (b) knowingly employs any prisoner on an unauthorised absence from a correctional centre; or
- (c) knowingly and without lawful excuse assists any prisoner who is on an unauthorised absence from a correctional centre,

commits an offence and upon conviction is liable to a fine of \$1,000 or 2 years imprisonment or to both.

50 Unlawful possession of correctional service property

- (1) Any person, other than a correctional officer, who without lawful excuse:
 - (a) possesses any property or equipment which has been supplied to an officer for the purpose of his or her duty, or any other property of the Correctional Service;
 - (b) knowingly purchases or receives any property or equipment issued to an officer or belonging to the Correctional Service; or
 - (c) aids or abets any officer in selling or disposing of any property or equipment of the Correctional Service;

commits an offence and upon conviction is liable to a fine of \$1,000 or to 2 years imprisonment or to both.

- (2) Any person who, without lawful excuse, sells or unlawfully disposes of any property or equipment of the Correctional Service, commits an offence and upon conviction is liable to a fine of \$2,000 or 4 years imprisonment or to both.
- (3) Any person who, having ceased to be an officer, within a reasonable time fails or refuses to deliver up to the person authorised by the Chief Correctional Officer for this purpose, all property of the Correctional Service in his possession as determined by the Chief Correctional Officer, commits an offence and upon conviction is liable to a fine of \$500 or 6 months imprisonment or to both.
- (4) Subject to any limits or conditions imposed by regulations, the Chief Correctional Officer may permit any person who has ceased to be an officer to keep specified property of the Correctional Service.

51 Offences in relation to prohibited articles

- (1) Any person who brings, sells or attempts by any means whatsoever to introduce into a correctional centre, or to give to a prisoner, any prohibited article, commits an offence and upon conviction is liable to a fine of \$1,000 or to 2 years imprisonment or to both.
- (2) Any prisoner who has in his possession a prohibited article, commits an offence and upon conviction is liable to a fine of \$1,000 or to 2 years imprisonment or to both.
- (3) No offence is committed under this Section unless there is a notice under

the hand of the Chief Correctional Officer posted inside the correctional centre for viewing by all prisoners and other persons in the correctional centre, and a notice posted outside the correctional centre for viewing by all members of the public, specifying all articles that have been declared prohibited articles under Section 40.

52 Failure to leave a correctional centre

A person who fails to leave a correctional centre when directed to do so by a correctional officer, commits an offence and upon conviction is liable to a fine of \$500 or to 6 months imprisonment or to both.

53 Disorderly manner in a correctional centre

A person who acts in a disorderly manner in a correctional centre, commits an offence and upon conviction is liable to a fine of \$500 or to 6 months imprisonment or to both.

54 Resisting or obstructing an officer

A person who resists or obstructs an officer in the exercise of his or her powers, duties or functions under this Act, commits an offence and upon conviction is liable to a fine of \$500 or to 6 months imprisonment or to both.

55 Arrest without warrant

A person who commits an offence under this Part may be arrested without warrant.

PART 12 — MISCELLANEOUS

56 Regulations

- (1) The Cabinet may make regulations in relation to all matters that are required or permitted under this Act or are necessary, or convenient to be prescribed, for giving effect to the objectives of this Act.
- (2) Without limiting the generality of subsection (1), the Cabinet may make regulations providing for the following matters:
 - (a) the qualifications, ranks, appointment, discharge and duties of officers and employees of the Correctional Service;
 - (b) other matters relating to officers, including taking of oaths, provision of training, salary, and terms and conditions of employment;
 - (c) the management, administration and maintenance of the safety, security and good governance of the Correctional Service and correctional centres;
 - (d) disciplinary offences applying to officers, and penalties and procedures relating thereto;
 - (e) correctional centre offences applying to prisoners, and penalties and procedures relating thereto;
 - (f) rights of prisoners while in custody, including matters related to visits, communications, complaint procedures, and exercise and recreation;
 - (g) the admission and classification of prisoners;
 - (h) interviews of prisoners by police officers in course of their investigations;
 - (i) the transfer or transport of prisoners and the responsibilities of officers and other persons in relation to the security of prisoners being transferred or transported;
 - (j) separation of prisoners, and the review of prisoners under separation;
 - (k) the establishment and management of correctional centre enterprises including the setting of prices and charges for work or products on a commercial basis, and any other programs or arrangements for the training or rehabilitation of prisoners;
 - (l) providing support for prisoners after their release, including arrangements with relevant government and other agencies, religious bodies and community based groups;
 - (m) the provision of medical and other services to prisoners, including arrangements for dealing with infectious diseases;
 - (n) reporting, investigating and otherwise dealing with the death of prisoners;
 - (o) procedures for correctional centre visits and dealing with matters relating to the taking of property into correctional centres;
 - (p) offences for breach of any regulations, and penalties for such offences of up to \$200 fine or imprisonment for 3 months or to both;
 - (q) criteria or rules in relation to the forfeiture of remission earned and procedures for appeals against decisions relating to remission; and
 - (r) the grant and withdrawal of privileges to prisoners, dependent upon classification, behaviour or other criteria, including privileges such as the use of television and computer equipment and escorted leave for special family events.

57 Administrative guidance

The provisions of Sections 4, 8, 19, 23(2), 29(1), 34, 41 and 44 are intended to provide guidance in the administration of this Act and to clarify the objectives underlying this Act, and do not create, confer or impose on any person any right, entitlement or duty enforceable at law.

58 Administration of Act

This Act shall be administered by the Minister for Justice.

59 Transitional arrangements

- (1) Until the Cabinet has made regulations under this Act, the Standing Orders that were in use within the prison prior to the commencement of this Act shall continue in force.
- (2) Upon the Cabinet making regulations under this Act:
 - (a) the Standing Orders shall cease to have effect, and the Chief Correctional Officer may not issue any new or further standing orders; and
 - (b) the Chief Correctional Officer shall issue a manual of operating policies and procedures which shall contain policies and procedures for all matters previously covered by the Standing Orders that are not covered in the regulations, and any other matter not inconsistent with the Act or the regulations that the Chief Correctional Officer, in consultation with the Secretary for Justice, sees fit to include.

60 Savings

- (1) Nothing in Section 2 of this Act shall invalidate or alter the effect of anything lawfully done under the authority of the *Nauru Gaol and Prison Ordinance 1921*, *Gaol and Prison Rules 1921* or the *Suspension of Sentences Ordinance 1921* prior to the commencement date of this Act.
- (2) To the extent that the context permits or requires, a reference in any written law:
 - (a) to a prison shall be deemed to include a correctional centre;
 - (b) to the Superintendent of a prison shall be deemed to refer to the Chief Correctional Officer; and
 - (c) to the *Nauru Gaol and Prison Ordinance 1921* or any term used therein shall be deemed to refer to or to include reference to this Act or any corresponding term used herein.

61 Act to bind the Republic

This Act binds the Republic.

Correctional Service Regulations 2020

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The Correctional Service Regulations 2020 SL 27 were notified and commenced on 18 September 2020 (GN No 709/2020; Gaz 176/2020).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

The Cabinet makes the following Regulations under Section 56 of the *Correctional Service Act 2009*:

PART 1 — PRELIMINARY

1 Citation

These Regulations may be cited as the *Correctional Service Regulations 2020*.

2 Commencement

These Regulations come into effect on the day they are notified in the Gazette.

3 Interpretation

In these Regulations:

‘Act’ means the *Correctional Service Act 2009*;

‘digital or electronic communication’ means any form of communication which is transmitted electronically or digitally and includes any text message, writing, post, photograph, picture, recording, telephone, email or any other matter that is communicated electronically or digitally;

‘head protector’ means an open faced solid helmet designed to be worn by a prisoner to assist in preventing self harm that has padding inside and attached to a strap;

‘misconduct’ in case of a prisoner, refers to correctional centre offences under the Act;

‘officer’ means a correctional officer;

‘prohibited article’ has the same meaning given to it in the Act and includes item;

‘Secretary’ means the Secretary for Justice and Border Control;

‘spit hood’ means a bag or face mask of an open mask fabric designed to be placed over a prisoner’s face to prevent the prisoner from spitting at or biting an officer;

‘torso restraint’ means a soft belt restraint designed to immobilise a prisoner’s arms or legs; and

‘waist restraint’ means a belt designed to be worn around a prisoner’s waist attached to which is a handcuff to restrain the movement of hands.

PART 2 — ADMINISTRATIVE MANAGEMENT OF PRISONERS

4 Register of Prisoners

- (1) For the purpose of Section 8 of the Act, there shall be a Register of Prisoners kept and maintained by the Chief Correctional Officer as set out in Schedule 1:
 - (a) in writing; and
 - (b) in electronic form that is readily retrievable.
- (2) The Register shall contain the following details of each prisoner:
 - (a) full name;
 - (b) age;
 - (c) gender;
 - (d) date of birth;
 - (e) nationality;
 - (f) religion;
 - (g) height, weight and identification marks;
 - (h) classification;
 - (i) prisoner number;
 - (j) date of first admission to the correctional centre;
 - (k) length of sentence, if applicable;
 - (l) date of release;
 - (m) record of remission granted or forfeited;
 - (n) property brought into the centre;
 - (o) contact details of prisoner's next of kin; and
 - (p) any other necessary matter.

5 Classification of prisoners

- (1) The Chief Correctional Officer shall classify a prisoner in the appropriate classification under this Regulation.
- (2) The general classification of prisoners shall be as follows:
 - (a) remand prisoners;
 - (b) young prisoners as defined in the Act;
 - (c) convicted prisoners for criminal or other statutory offences;
 - (d) prisoners committed for failing to pay maintenance under the *Maintenance Act 1959*;
 - (e) prisoners committed for failing to pay traffic fines under the *Motor Traffic Act 2014*; or
 - (f) prisoners committed under Judgment Debtor Summons or for civil contempt of court.
- (3) Prisoners may be classified according to the level of danger or security risk they create as:
 - (a) maximum risk;
 - (b) medium risk; or
 - (c) minimum risk.
- (4) The Chief Correctional Officer may take the following matters into account in classifying prisoners as follows:
 - (a) age;

- (b) nature of offence;
 - (c) length of sentence;
 - (d) escape history;
 - (e) behaviour in the correctional centre during the current or previous period of imprisonment;
 - (f) the risk the prisoner poses to himself or herself, the security of the correctional centre, the community or to any other person; or
 - (g) any other matter that is relevant to the management, good order or security of the correctional centre and the safe custody and welfare of the prisoner which the Chief Correctional Officer in consultation with the Secretary may deem appropriate to establish.
- (5) A prisoner may be reclassified at any time if in the opinion of the Chief Correctional Officer, it is necessary to do so.

6 Separation of prisoners by gender

The prisoners shall be separated in accordance with their respective gender as follows:

- (a) male; or
- (b) female.

7 Compliance with directions, rules and laws

A prisoner shall comply with:

- (a) directions of an officer;
- (b) the Act, these Regulations or rules of the correctional centre;
- (c) orders of the Chief Correctional Officer; and
- (d) any other written laws.

8 Search of prisoner on admission

- (1) A prisoner shall be searched upon admission to the correctional centre.
- (2) The search may be:
 - (a) a physical body search; or
 - (b) a full or partial clothing, belongings or body scan.

9 Cells

- (1) A prisoner shall be accommodated in a separate cell, unless it is impracticable, in which case no more than 4 prisoners shall be accommodated in one cell.
- (2) A prisoner shall be provided with a separate bed.

10 Hygiene and cleanliness

- (1) A prisoner shall:
 - (a) keep his or her cell clean;
 - (b) maintain his or her personal cleanliness and hygiene; and
 - (c) wash and keep any clothing clean, hygienic and in good condition.
- (2) A correctional officer may direct a prisoner to comply with subregulation (1), where he or she deems necessary to do so.

11 Clothing

- (1) A prisoner may wear his or her own clothing at the correctional centre.

- (2) Where a prisoner has no clothes or is not allowed to wear his or her own clothing, the prisoner shall be provided with appropriate clothes.
- (3) Where a prisoner is required to attend a work program, he or she shall be provided with and wear the appropriate uniform for prisoners.
- (4) Subject to subregulation (3), where a prisoner attends to any matter outside the correctional centre, including attending court, he or she shall dress in his or her own appropriate clothing for the occasion.
- (5) Where a prisoner is provided clothing under subregulations (2) and (3), the prisoner shall:
 - (a) wear such clothing at all appropriate times;
 - (b) wash and keep any clothing clean, hygienic and in good condition; and
 - (c) not make unauthorised alterations to the clothing.

12 Physical exercise

- (1) A prisoner shall be allowed a minimum of one hour of physical exercise time outside the confines of his or her cell each day.
- (2) Notwithstanding subregulation (1), the Chief Correctional Officer may where he or she deems it necessary, vary, refuse or restrict the exercise time of a prisoner.

13 Separate treatment of prisoners

- (1) The Chief Correctional Officer may order a prisoner be subject to:
 - (a) separate confinement; or
 - (b) the use of mechanical or medical restraints.
- (2) The mechanical restraints authorised to be used by an officer are:
 - (a) handcuffs;
 - (b) waist restraints;
 - (c) torso restraints;
 - (d) head protectors; and
 - (e) spit hoods.
- (3) Medically administered restraints are only to be used by a health practitioner.
- (4) An officer or a person authorised to carry out an order under subregulation (1), may use reasonable force in carrying out the order where the officer or person deems it necessary.

PART 3 — FOOD REQUIREMENT

14 General food

- (1) The prisoners shall be provided with food duly approved by a health practitioner.
- (2) The Chief Correctional Officer shall ensure as far as practicable to provide the food approved in subregulation (1).
- (3) A specialised health practitioner may at any time inspect the quality and quantity of food served to the prisoners, with or without notice.
- (4) The minimum standards of nutritional requirements of the food shall be published in the Gazette at least once every year by the Chief Correctional Officer.

15 Special dietary requirements

Where a health practitioner certifies in writing:

- (a) the refusal of a prisoner to eat the ordinary food provided at the correctional centre is likely to endanger the life of the prisoner; or
 - (b) for medical reasons, requires a special diet plan for a prisoner,
- the Chief Correctional Officer shall comply with the directions of the health practitioner.

16 Prisoner to consume food

- (1) Where a prisoner without any reasonable excuse refuses to consume the food provided in the correctional centre, the Chief Correctional Officer may cause food to be consumed by the prisoner.
- (2) For the purpose of subregulation (1), the consumption of food by a prisoner shall be carried out under the direct supervision of a health practitioner.

PART 4 — PRISONER PROPERTY

17 Register of prisoner property

- (1) The Chief Correctional Officer shall ensure that a register of prisoners' property is kept and maintained in writing or in electronic form.
- (2) The register under subregulation (1), shall contain a full description of:
 - (a) property or items brought when the prisoner was received in the correctional centre or acquired while in the correctional centre; and
 - (b) items issued to the prisoner when he or she is initially received in the correctional centre.

18 Property on reception

- (1) Any property or item received from or found on a prisoner while such prisoner is being received or processed in the correctional centre, shall be thoroughly searched in the presence of the prisoner to for the purpose of:
 - (a) the identification of such property or item; and
 - (b) the separation of authorised and prohibited items.
- (2) The property or item in subregulation (1) shall be taken from the prisoner to be retained in the correctional centre.
- (3) The Chief Correctional Officer shall keep a record of such property or items in the register of prisoners' property.
- (4) Where the prisoner consents to any property or items including prohibited items to be given to his or her family members, the Chief Correctional Officer shall:
 - (a) record the property in the register;
 - (b) provide the property to the person directed by the prisoner; and
 - (c) require the person taking such property to acknowledge receipt of the property with the date and time appropriately recorded.

19 Authorised property or item may be removed from or not be used by the prisoner

The Chief Correctional Officer may remove or not allow a prisoner to keep or use any authorised property or item in the following circumstances:

- (a) where in the opinion of the Chief Correctional Officer, the security of the correctional centre is threatened;
- (b) where in the opinion of the Chief Correctional Officer, the presence of such property or item threatens the safety or welfare of any prisoner; or
- (c) in an emergency in the correctional centre.

20 Property or item may be stored or removed

- (1) A prisoner who acquires or is issued with any property or item may request the Chief Correctional Officer to store such property.
- (2) Where the Chief Correctional Officer agrees to store any property or item under subregulation (1), all such property or items shall be labelled, packed and stored in a secure manner so that the property or items:
 - (a) are not damaged, lost or misplaced; and

- (b) can be promptly identified and retrieved for the purpose of returning the property or item to the prisoner, inspection or any other lawful purpose.

21 Return of property or items

- (1) The Chief Correctional Officer shall take all reasonable steps to ensure a prisoner's property or items are returned to the prisoner on the day such prisoner is discharged or released and:
- (a) the prisoner's property or items shall be checked against the property register;
 - (b) the prisoner shall check the entries in the property register and sign a receipt for the property or items to be returned; and
 - (c) no property or item may be returned unless the prisoner has signed a receipt for such property or item.
- (2) Where a prisoner's property or items do not correspond with the relevant entries in the property register, the matter shall be referred to and resolved by the Chief Correctional Officer as soon as practicable.

22 Unclaimed property or item

- (1) Where a former prisoner leaves any property or item at the correctional centre, the Chief Correctional Officer shall take all reasonable steps to give written notice to the former prisoner that the property or item needs to be collected.
- (2) Where a former prisoner does not collect the property or item under subregulation (1) within 30 days from when the written notice was given, such property or item shall be forfeited to the Correctional Service or be disposed of appropriately.

23 Property of deceased prisoner

The Chief Correctional Officer shall allow the deceased prisoner's next of kin to collect the property of the prisoner.

PART 5 — APPROVED CORRECTIONAL CENTRE WORK

24 Approved correctional centre work

- (1) The approved work which a prisoner may undertake are as follows:
 - (a) fishing;
 - (b) farming;
 - (c) gardening;
 - (d) weeding and cleaning public places such as cemeteries, roadside, drainage, buildings, school buildings and compounds;
 - (e) assisting the cooks in the correctional centre kitchen;
 - (f) cleaning and maintaining the correctional centre; or
 - (g) any other work program which the Chief Correctional Officer may in consultation with the Secretary approve from time to time.
- (2) The Chief Correctional Officer may require a prisoner to undertake any approved work under subregulation (1).
- (3) Where a prisoner is assigned any approved work, he or she shall be attentive and diligent in the performance of the work.
- (4) The work under subregulation (1):
 - (a) forms part of the rehabilitation program for prisoners; or
 - (b) may be a matter for consideration for the grant of remission or parole for a prisoner.
- (5) A prisoner commits a misconduct where he or she for no reasonable excuse fails to comply with the directions of the Chief Correctional Officer to carry out any work under this Regulation.

PART 6 — PRISONER PRIVILEGES

25 Prisoner privileges

- (1) The prisoners may be eligible to the following privileges:
 - (a) undertaking an educational or training program;
 - (b) undertaking a recreational program, other than a program satisfying the right of a prisoner to have the opportunity to undertake sufficient physical exercise beyond the confines of the prisoner's cell;
 - (c) accessing normal television programs;
 - (d) accessing computer equipment for educational and training purposes;
 - (e) leave of absence, other than for medical or psychiatric examination, assessment or treatment; or
 - (f) food, clothing and other permissible items from family members.
- (2) A privilege involving the prisoner being outside the correctional centre is not available to a prisoner, who is classified as a maximum risk prisoner under Regulation 5(3)(a).

26 Withdrawal of privilege

A privilege under these Regulations may be withdrawn at any time as part of a disciplinary penalty, security or any other reason the Chief Correctional Officer may deem necessary.

PART 7 — VISITORS TO CORRECTIONAL CENTRE

27 Designation of place for visitation

The Chief Correctional Officer shall designate a place within the correctional centre where the prisoners may be able to exercise their visitation privileges.

28 Authorisation required to visit in correctional centre

- (1) A family member is permitted to visit a prisoner during the scheduled visitation period for such prisoner.
- (2) Any person visiting a prisoner under subregulation (1) shall report to the officer on duty at the correctional centre, who shall thereafter permit the person to visit the prisoner.
- (3) Subject to subregulation (1), no person is permitted to visit a prisoner without the prior approval of the Chief Correctional Officer or a senior officer in charge of the correctional centre at the time of such visit.

29 Register of Visitors

- (1) There shall be a Register of Visitors.
- (2) The Chief Correctional Officer shall be responsible for keeping and maintaining a Register of Visitors as set out in Schedule 2.

30 Details of visitors

- (1) The officer on duty at the time of the visitation shall record the following details of the visitor:
 - (a) full name and telephone number;
 - (b) name of the prisoner he or she is visiting;
 - (c) his or her relationship to the prisoner; and
 - (d) type of identification sighted.
- (2) A visitor shall:
 - (a) provide proof of his or her identity when required to do so by the Chief Correctional Officer or an officer on duty; and
 - (b) sign the Register before commencing visitation.

31 Photographs and recordings

- (1) A visitor shall not take photographs, make drawings, record any images or sound or in any manner whatsoever use digital or electronic communication inside the correctional centre.
- (2) A visitor who fails to comply with subregulation (1), commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or a term of imprisonment not exceeding 6 months or to both.
- (3) The Chief Correctional Officer shall also restrict any further visitation of the visitor who contravenes this Regulation.

32 Officer to escort visitor to designated visitation place

- (1) An officer on duty shall escort the visitor to the designated place of visitation and be permitted to meet with the prisoner for the duration

authorised by the Chief Correctional Officer or the senior officer in charge of the correctional centre at the time of such visit for the period of visitation.

- (2) At the conclusion of the duration of the visit under subregulation (1), the visitor shall be escorted out of the correctional centre by an officer on duty.

33 Denial or suspension of visiting privileges

The Chief Correctional Officer may deny a visit or suspend visiting privileges to a person for any of the following reasons:

- (a) insufficient proof of identity;
- (b) inappropriate clothing;
- (c) refusal to submit to a search when required;
- (d) being intoxicated or under the influence of alcohol;
- (e) being under the influence of illicit drugs;
- (f) unruly behaviour;
- (g) uses abusive language;
- (h) prisoner declines to meet the visitor;
- (i) being in possession of a prohibited article or item; or
- (j) poses a threat to the security of the correctional centre.

34 Vehicles search

- (1) A vehicle entering or leaving the correctional centre may be searched by an officer.
- (2) The driver of the vehicle under subregulation (1), shall stop and permit the vehicle to be searched by the officer.
- (3) Where a driver fails to comply with subregulation (2), he or she commits an offence and upon conviction is liable to a fine not exceeding \$3,000 or a term of imprisonment not exceeding 12 months or to both.

35 Delivery of property or item for prisoner

- (1) A person, who is delivering any property or item to the correctional centre for a prisoner, shall deliver the property or item to the Chief Correctional Officer or an officer on duty.
- (2) The Chief Correctional Officer or officer shall:
 - (a) deliver the property or item to the respective prisoner; and
 - (b) in the absence of the respective prisoner, keep it in safe custody to be delivered to the prisoner as soon as practicable.
- (3) Where a person delivers any food items to the correctional centre for a prisoner, the Chief Correctional Officer or officer on duty may deliver the food items to the respective prisoner or keep such food items to be delivered during meal or any other appropriate time.

36 Consumable items of prisoners not to be consumed by any other persons

- (1) An officer or any other prisoner shall not consume any food or other consumable items delivered to the correctional centre for a prisoner.
- (2) An officer or a prisoner who contravenes this Regulation commits a misconduct.

37 Number of visitors

- (1) A prisoner shall be allowed a maximum of 5 visitors on any one occasion.
- (2) Each visiting period shall not exceed an hour.
- (3) The visiting period shall be as notified by the Chief Correctional Officer from time to time between 9:00am and 5:00pm.
- (4) Notwithstanding subregulations (1) and (2), the Chief Correctional Officer may increase the:
 - (a) number of visitors for a prisoner; or
 - (b) length of visit by a visitor for a prisoner.

38 Visit by legal practitioners

- (1) A legal practitioner acting in the course of his or her legal practice may enter the correctional centre and visit a prisoner at any time with the prior approval of the Chief Correctional Officer.
- (2) A legal practitioner visiting a prisoner under Section 25(1)(h) of the Act may deliver, discuss or obtain information including any legal instruments, with the prisoner.
- (3) A prisoner may retain any legal documents delivered under subregulation (2) with the approval of the Chief Correctional Officer.

39 Visit by police

For the purposes of carrying out an investigation, a police officer may enter the correctional centre and visit a prisoner at any time with or without a warrant.

40 Visit by person under the age of 18 years

A person under the age of 18 years shall not visit a prisoner without:

- (a) being accompanied by a parent, guardian or adult sibling; and
- (b) the prior approval of the Chief Correctional Officer.

41 Visit on special occasions

- (1) Notwithstanding Regulation 37, the Chief Correctional Officer may permit prisoners to have visitors on special occasions.
- (2) For the purpose of subregulation (1), '*special occasions*' mean:
 - (a) Christmas Day;
 - (b) Good Friday;
 - (c) Easter Monday;
 - (d) Independence Day;
 - (e) Constitution Day;
 - (f) Angam Day; or
 - (g) such other day the Chief Correctional Officer may deem appropriate.
- (3) The visits permitted under this Regulation may be for such length of time and with such number of visitors as may be determined by the Chief Correctional Officer.

42 Visiting rules

- (1) A prisoner or visitor shall follow the instructions of the Chief Correctional Officer or an officer on duty when visiting the correctional centre.

- (2) The correctional centre shall have its visiting rules clearly displayed in a conspicuous place.

43 Property or item for prisoner by visitor

- (1) A visitor shall not provide any property or item directly to a prisoner.
- (2) A visitor who contravenes subregulation (1), commits an offence and upon conviction shall be liable to a fine not exceeding \$3,000 or a term of imprisonment not exceeding 12 months or to both.
- (3) Where a prisoner receives a property or item under the circumstances in subregulation (1), he or she shall immediately declare such property or item to the Chief Correctional Officer or officer in charge at the time of the visit.
- (4) A prisoner who fails or neglects to comply with subregulation (3) commits a misconduct.

44 Search at end of visit

At the end of a visit, a prisoner may be searched by an officer before the prisoner is returned to his or her cell.

45 Cooperation with search or inspection

A prisoner shall:

- (a) cooperate with the officer conducting a search or inspection;
- (b) declare to the officer any property or item in his or her possession; and
- (c) produce to the officer for inspection the property or item that is in his or her possession.

46 Prohibited articles or items

Where a prohibited article or item is found in the possession of a prisoner or is supplied by a prisoner to another person, the prohibited article or item shall be immediately:

- (a) confiscated by an officer; and
- (b) retained as a property or item of the prisoner under Part 4 unless such prohibited article or item is directed by the Chief Correctional Officer to be disposed of.

47 Visit by Judge or Resident Magistrate

- (1) A Judge of the Supreme Court or Resident Magistrate shall visit the correctional centre at least twice in a year.
- (2) During the visit of a Judge or Resident Magistrate to the correctional centre, a prisoner may lodge a complaint to the Judge or Resident Magistrate.
- (3) Upon receipt of a complaint under subregulation (2), the Judge or Resident Magistrate shall make a written report and provide recommendations to the Secretary and Chief Correctional Officer within 30 days of receipt of the complaint.

PART 8 — AUTHORISED ABSENCE FROM CORRECTIONAL CENTRE

48 Leave of absence of prisoner

- (1) The Chief Correctional Officer may, by written order, grant a prisoner leave to be temporarily absent from the correctional centre without an order of the Court for any of the following circumstances:
 - (a) medical or psychiatric examination, assessment or treatment;
 - (b) participation in an activity organised by the Correctional Service;
 - (c) compassionate purpose as the Chief Correctional Officer deems appropriate; or
 - (d) such other purpose deemed appropriate by the Chief Correctional Officer.
- (2) An order granted under this Regulation shall be subject to special or general conditions.
- (3) An order granted under this Regulation may be varied or revoked at any time by the Chief Correctional Officer.

49 Return of prisoner

- (1) Where the purpose of any order under Regulation 48 has been carried out, the prisoner shall immediately return to the correctional centre.
- (2) Where a prisoner fails to comply with subregulation (1), the prisoner is deemed to have escaped from custody and shall be arrested without a warrant by an officer or a police officer.

PART 9 — CORRECTIONAL OFFICERS

50 Establishment of positions

The Chief Correctional Officer in consultation with the Secretary and approval of the Chief Secretary, may establish such positions for officers in the correctional centre.

51 Newly appointed officers

- (1) A newly appointed officer shall undertake and pass any training authorised by the Chief Correctional Officer to be undertaken.
- (2) The officer is allowed one opportunity to re-sit a part of any training to be undertaken under subregulation (1), in the event he or she fails to pass that component.
- (3) Where an officer fails the component after the re-sit under subregulation (2), such officer shall be dismissed from the Correctional Service.

52 Ranks of officers

For the purpose of Section 9 of the Act, the officers of the Correctional Service shall be classified in the following ranks:

- (a) Chief Correctional Officer;
- (b) Deputy Chief Correctional Officer;
- (c) Senior Correctional Officer; and
- (d) Correctional Officer.

53 Training

Notwithstanding Regulation 51, an officer shall undertake any training as recommended by the Chief Correctional Officer.

54 Expenditure, property or assets

The Chief Correctional Officer is responsible for the expenditure, property and assets of the Correctional Service.

55 Register of Assets

The Chief Correctional Officer shall ensure that:

- (a) a register is kept of the property or items owned or used by the Correctional Service, including correctional centre keys, uniforms and equipment for officers; and
- (b) each property or item on the register is checked at least once each month and, if any property or item is lost, stolen, damaged or destroyed or in a state that requires it to be repaired, maintained or replaced, an appropriate note is entered in the register against the property or item.

56 Disposal of property

- (1) The Chief Correctional Officer shall ensure that no property or item owned or used by the Correctional Service is disposed of without the authority of the Secretary.

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- (2) This regulation does not apply to consumables.

57 Uniform or equipment

- (1) An officer shall wear a uniform or equipment in accordance with an operational manual of the Correctional Service.
- (2) The uniforms and equipment issued to any officer remains the property of the Correctional Service and shall only be used in connection with their official duties.

PART 10 — REPORTING REQUIREMENTS

58 Reporting use of force

The Chief Correctional Officer shall, as soon as practicable after an incident occurs in which force is used against a prisoner, report the matter in writing to the Secretary, including:

- (a) the name of the prisoner;
- (b) the name of the officer;
- (c) the purpose for which force was used;
- (d) a description of the incident;
- (e) the date and time of the incident; and
- (f) the gravity of the incident.

59 Reporting death in custody

- (1) The Chief Correctional Officer shall, as soon as practicable after a prisoner dies, report the matter in writing to the Secretary.
- (2) The report shall include the following details:
 - (a) the name of the deceased prisoner;
 - (b) the name of the officer who witnessed the death or found the deceased prisoner;
 - (c) the name of any other relevant witness;
 - (d) information known about the date and time of death; and
 - (e) a detailed description of the circumstances, if known, in which the prisoner died and relevant circumstances leading up to the death.
- (3) The Secretary shall cause the report to be submitted to the Registrar of Courts for the purposes of consideration as to whether an inquest be conducted under the *Inquests Act 1977*.

60 Quarterly report to Secretary

The Chief Correctional Officer shall, before the end of 7 days after the end of each quarter, provide a written report to the Secretary in relation to the operation of the correctional centre during the quarter, including each of the following:

- (a) in relation to officers:
 - (i) details of each complaint made and a description of the progress of disciplinary proceedings, including outcomes whether or not the investigation is completed in that quarter;
 - (ii) a description of the progress of each probationary officer; and
 - (iii) details of each resignation, retirement or termination of service of an officer;
- (b) in relation to the property of the Correctional Service:
 - (i) details of any entries made in the Register of Assets under Regulation 55; and
 - (ii) details of any property or items disposed of; or
- (c) in relation to prisoners:
 - (i) the number of prisoners according to classification;
 - (ii) the remission earned by each prisoner; and

- (iii) details of any correctional centre proceedings for misconduct, including the outcomes.

61 Daily records

The Chief Correctional Officer shall ensure records are kept daily in relation to:

- (a) the number of prisoners, counted twice daily;
- (b) the hours when prisoners go to and return from work, undertake activities, exercise;
- (c) the parts of the correctional centre that are inspected or searched and the names of the officers undertaking these duties;
- (d) the identity of the visitors and the names of the officers detailed to accompany each visitor;
- (e) details of escorts dispatched and the name of the officer in charge of the escort;
- (f) the location of each prisoner;
- (g) details of the work or activity that prisoners have performed;
- (h) the mental or physical illness of any prisoner;
- (i) the opening and closing of the correctional centre and the checking of keys;
- (j) any unusual or significant occurrence; and
- (k) details of any prisoner transferred into police custody and a copy of the transfer order.

PART 11 — MISCONDUCT BY PRISONERS

62 Misconduct by prisoners

The following acts or omissions constitute misconduct by a prisoner:

- (a) disobeying a order, direction or instruction of the Chief Correctional Officer or any other officer;
- (b) engaging in a riot, insurrection or disturbance in the correctional centre;
- (c) acting in a way that is contrary to the security or good order of the correctional centre or the safety of another prisoner;
- (d) aiding or abetting another prisoner or an officer to commit an offence;
- (e) assaulting or threatening any person;
- (f) acting in a disruptive, abusive, offensive, discriminatory or indecent manner, whether by language or conduct;
- (g) engaging in sexual activity with another prisoner or an officer;
- (h) practicing witchcraft;
- (i) obtaining, consuming or supplying any intoxicating substances or drugs to another prisoner;
- (j) obtaining, consuming or supplying alcohol to another prisoner;
- (k) smoking or using a tobacco product;
- (l) obtaining, possessing or supplying a prohibited article or item listed in Schedule 3 to another prisoner;
- (m) obtaining, supplying or giving goods to or taking delivery of goods from any person without the approval of the Chief Correctional Officer;
- (n) consuming any food or other consumable items belonging to another prisoner;
- (o) failing to declare any property or item to the Chief Correctional Officer or officer in charge received under Regulation 43;
- (p) possessing any property of the Correctional Service without the approval of the Chief Correctional Officer;
- (q) entering another prisoner's cell or leaving allocated cell without the approval of the Chief Correctional Officer or an officer on duty;
- (r) damaging any property of the Correctional Service;
- (s) engaging in gambling; or
- (t) carrying out any work under Regulation 24 in a careless or negligent manner.

63 Investigation of allegation of misconduct against a prisoner

- (1) The Chief Correctional Officer may carry out or cause an investigation to be carried out into an allegation of misconduct by a prisoner.
- (2) Notwithstanding subregulation (1), the Chief Correctional Officer may initiate an investigation for any alleged misconduct in relation to any one or more prisoners, without a formal complaint.
- (3) An investigation shall take the following form:
 - (a) an interview with each relevant witness with written notes of the interview being made and retained;
 - (b) the provision of information to the prisoner about the allegations against him or her;

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- (c) provision of an opportunity for the prisoner to respond within a specified period that is reasonable in the circumstances with a copy of the information provided and any written submissions received being retained;
 - (d) an interview with the prisoner with written notes of the interview being made and retained; and
 - (e) an evaluation of the material obtained through the interviews.
- (4) Where, at the conclusion of an investigation, the Chief Correctional Officer believes on reasonable grounds that the prisoner has committed a misconduct, the Chief Correctional Officer may:
- (a) remove or restrict the right of the prisoner to receive visitors for a period not exceeding 30 days;
 - (b) remove or restrict privileges enjoyed by the prisoner for a period not exceeding 60 days;
 - (c) separate the prisoner from other prisoners for a period not exceeding 28 days; or
 - (d) order forfeiture of remission of sentence for a period not exceeding 90 days.
- (5) The penalty imposed shall be commensurate with the misconduct.
- (6) Where during the course of an investigation the Chief Correctional Officer is of the opinion that the matter involves a misunderstanding or may be resolved by means of an apology from the prisoner, the Chief Correctional Officer may conciliate the complaint.
- (7) The prisoner shall be given a written notice of the decision and the reasons for the decision.

PART 12 — MISCONDUCT BY OFFICERS

64 Misconduct by officers

The following acts or omissions constitute misconduct by an officer:

- (a) disobeying an order, direction or instruction of the Chief Correctional Officer or the Secretary;
- (b) wilfully, negligently or carelessly losing or damaging any record, equipment or property of the Correctional Service;
- (c) obtaining, possessing, consuming or supplying alcohol to a prisoner;
- (d) obtaining, possessing, consuming or supplying any intoxicating substances or drugs to a prisoner;
- (e) attending to duties while under the influence of intoxicating liquor or substances;
- (f) obstructing the execution of a lawful arrest of a prisoner;
- (g) providing or permitting a prisoner to obtain or possess a prohibited article or item;
- (h) aiding or abetting another officer or prisoner to commit a misconduct under these Regulations;
- (i) engaging in a riot, insurrection or disturbance in the correctional centre;
- (j) acting in a manner that is contrary to the security or good order of the centre or the safety of another officer or prisoner;
- (k) assaulting or fighting with another officer or prisoner;
- (l) acting in a disruptive, abusive, offensive, discriminatory or indecent manner, whether by language or conduct;
- (m) engaging in sexual activity with a prisoner;
- (n) bullying or harassing another officer or a prisoner;
- (o) smoking or using a tobacco product in the correctional centre;
- (p) consuming any food or other consumable items belonging to a prisoner;
- (q) engaging in gambling in the correctional centre; or
- (r) performing his or her duties in a careless or negligent manner.

65 False or misleading information

No officer shall provide any false or misleading information in response to a request for information that is made for official purposes in connection with his or her official duties.

66 Prohibition against destroying official records

- (1) No officer shall destroy an official record of the Correctional Service except with the written authority of the Secretary.
- (2) For the purpose of this Regulation, an '*official record*' means a record whether digital, printed or in any other form made or received by the Correctional Service in the conduct of its operations but does not include a record:
 - (a) made or received by the Correctional Service for delivery or transmission to another person or body and so delivered or transmitted;or

- (b) made by the Correctional Service for delivery as a draft only and not for further use or reference.

67 Prohibition against disclosing personal information, correspondence or information classified as confidential

- (1) An officer shall not disclose the personal information of a prisoner unless:
 - (a) required by law; or
 - (b) necessary in the due execution of his or her official duties.
- (2) Where information is required to be disclosed for the purpose of subregulation (1):
 - (a) prior approval of the Chief Correctional Officer shall be obtained; or
 - (b) in case of any information disclosed in the course of duty or fulfilling an obligation under law, the Chief Correctional Officer shall be immediately informed of such disclosure.

68 Record, equipment or property of the Correctional Service

- (1) An officer shall not wilfully, negligently or carelessly lose or damage any record, equipment or property of the Correctional Service issued or entrusted to the officer in the course of his or her duty.
- (2) An officer who contravenes subregulation (1), commits a misconduct under these Regulations and an offence under the *Crimes Act 2016*.

69 Investigation of allegation of misconduct against officer

- (1) A complaint against an officer shall be made in writing to the Chief Correctional Officer and shall include the:
 - (a) full name, residential address and contact details of the complainant;
 - (b) full name of the officer against whom the complaint is made; and
 - (c) details of the complaint.
- (2) Where a complaint against an officer is received by the Chief Correctional Officer, he or she:
 - (a) may dismiss the complaint with or without investigation where the complaint is deemed frivolous or vexatious;
 - (b) shall inform the complainant of the decision; and
 - (c) inform the Secretary in writing of the decision.
- (3) Where a complaint is withdrawn, the Chief Correctional Officer shall at the direction of the Secretary, continue an investigation into the subject matter of the complaint.
- (4) Where the Chief Correctional Officer is of the opinion that a complaint be investigated, he or she may conduct an investigation or cause an investigation to be conducted.
- (5) An investigation shall take the following form:
 - (a) an interview with any complainant with written notes of the interview being made and retained;
 - (b) an interview with each relevant witness with written notes of the interview being made and retained;
 - (c) the provision of information to the officer about the allegations with the opportunity for the officer to respond within a specified period that is

- reasonable in the circumstances with a copy of the information provided and any written submissions received being retained;
- (d) an interview with the officer and any representative of the officer with written notes of the interview being made and retained; and
 - (e) an evaluation of the material obtained through the interviews.
- (6) Where the Chief Correctional Officer believes on reasonable grounds that an officer has committed a misconduct, he or she may:
- (a) reprimand the officer; or
 - (b) in consultation with the Secretary:
 - (i) suspend the officer;
 - (ii) reduce the rank of the officer; or
 - (iii) terminate the employment of the officer.
- (7) Where during the course of an investigation, the Chief Correctional Officer is of the opinion that the matter involves a misunderstanding or may be resolved by means of an apology from the officer, the Chief Correctional Officer may conciliate the complaint.
- (8) The Chief Correctional Officer may direct an officer to attend an interview or a conciliation conference.
- (9) The Chief Correctional Officer in consultation with the Secretary, may suspend an officer on half pay pending the hearing and determination of a complaint against the officer.
- (10) Subregulation (9) does not prevent the Chief Correctional Officer in consultation with the Secretary from terminating the officer without first suspending the officer.
- (11) The Public Service Appeals Board shall have the jurisdiction to hear an appeal from the decision of the Chief Correctional Officer made under this Part.
- (12) The officer shall be given a written notice:
- (a) of the decision and the reasons for the decision;
 - (b) stating that the officer may appeal the decision to the Public Service Appeals Board; and
 - (c) stating the time within which the officer shall lodge an appeal.
- (13) The complainant shall be informed of the outcome of the complaint.

70 Complaint against Chief Correctional Officer

A complaint against a Chief Correctional Officer shall be made in writing to the Secretary and shall include the:

- (a) full name, residential address and contact details of the complainant;
- (b) full name of the Chief Correctional Officer; and
- (c) details of the complaint.

71 Allegation of misconduct against Chief Correctional Officer

- (1) Where the Secretary receives a complaint against the Chief Correctional Officer, the Secretary:
- (a) may dismiss the complaint with or without investigation where the complaint lacks merit; and
 - (b) shall inform the complainant of the decision.

- (2) Where the Secretary is of the opinion that a complaint has merit, the Secretary shall refer the complaint to the Chief Secretary in accordance with the *Public Service (Disciplinary) Regulations 2020*.

PART 13 — MISCELLANEOUS

72 **Communication with prisoners at hospital**

- (1) A person shall not communicate with a prisoner at the RON hospital without the prior approval of the Chief Correctional Officer.
- (2) The approval of the Chief Correctional Officer under subregulation (1) may be subject to any conditions the Chief Correctional Officer deems necessary.
- (3) A person who wishes to enter or has entered the hospital for the purposes of communicating with a prisoner shall, when requested by an officer, provide the officer with proof of the person's identity to the reasonable satisfaction of the officer.
- (4) A person does not contravene subregulation (1), if the person is:
 - (a) a Judge of the Supreme Court or Resident Magistrate;
 - (b) a legal practitioner acting in the course of his or her practice;
 - (c) a police officer; or
 - (d) a person who is required to communicate with a prisoner in the course of the person's duties under the Act or Regulations.
- (5) In this Regulation, '*communication*' includes communication in person or by any other means including digital or electronic communication.

73 **Procedure on death of prisoner**

Where a prisoner dies in the correctional centre, the Chief Correctional Officer shall ensure that notice of the death is given as soon as practicable to:

- (a) a health practitioner; and
- (b) the next of kin of the prisoner.

SCHEDULE 1

[Regulation 4]

REGISTER OF PRISONERS

Details of prisoner:	[insert full name] [insert date of birth] [insert religion] [insert nationality] [photo/photo identity]
Height, weight and identification marks if any:	[insert height] [insert weight] [insert identification marks if any. For example, scars or tattoos]
Classification:	[insert prisoner classification]
Prisoner number:	[insert prisoner number]
Date of first admission:	[insert date]
Length of sentence	[insert length of sentence]
Nature of offence for which person convicted:	[insert offence]
Date of release:	[insert date]
Record of remission granted or forfeited:	
Property brought into the correctional centre:	[list property]
Contact details of next of kin:	[insert full name] [insert relationship to prisoner] [insert phone number]

SCHEDULE 2

[Regulation 29]

REGISTER OF VISITORS

Full name:	<i>[insert full name]</i>
Address:	<i>[insert address]</i>
Contact details:	<i>[insert contact details]</i>
Name of prisoner visting:	<i>[insert prisoner name]</i>
Relationship to prisoner:	<i>[insert relationship]</i>
Visitor identification produced:	<i>[insert identification produced]</i>
Date of visit:	
Time in:	
Time out:	
Signature of visitor:	

SCHEDULE 3

CORRECTIONAL SERVICE ACT 2009

[Section 40; Regulation 62(l)]

LIST OF PROHIBITED ARTICLES OR ITEMS

The following are prohibited articles or items unless specifically authorised by the Chief Correctional Officer:

- (a) a camera or other device capable of capturing or recording images, whether digitally or on film or tape;
- (b) mobile phone;
- (c) laptop;
- (d) television;
- (e) flammable, corrosive or toxic substance;
- (f) intoxicating substances such as alcohol or drugs;
- (g) cigarettes or tobacco products;
- (h) matches or cigarette lighter;
- (i) paint;
- (j) glue;
- (k) oil;
- (l) acid or alkali;
- (m) herbicide, fungicide or insecticide;
- (n) a pressurised spray canister;
- (o) an explosive, explosive device or incendiary device, or a substance or device that can be used in the manufacture of an explosive or incendiary device;
- (p) a device or instrument designed or commonly used, or that has been or is capable of being adapted or modified, for the purpose of assisting a prisoner to escape from the correctional centre;
- (q) a book, diagram, plan or other document, or audio or video recording, or other material, that instructs, teaches or otherwise guides a person:
 - (i) how to make a weapon; or
 - (ii) about a method of escaping from the correctional centre or causing an insurrection, riot or other disturbance at the correctional centre;
- (r) pornographic material;
- (s) a device that includes a modem or other device enabling it to transmit or receive data to or from a network of computers; or
- (t) a data storage device.

