

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3523 of 23March, 2006

LEGAL NOTICE NO. 29 OF 2006.

PRISON ORDINANCE 1986

PRISON (AMENDMENT) REGULATIONS 2006

In exercise of the powers conferred on him by section 75 of the Prison Ordinance 1986, the Governor has made the following regulations—

Title.

1. These Regulations may be cited as the Prison (Amendment) Regulations 2006.

Revocation of regulation 11.

2. Regulation 11 is revoked.

Amendment of regulation 8.

3. After regulation 8(4), insert—

“(5) The Superintendent may at any time require the prisoner on temporary release to undertake a compulsory test for controlled drugs.”.

Amendment of regulation 65.

4. In Regulation 65 renumber paragraphs (s), (t), (u) as (w),(x),(y) respectively and after paragraph (r) insert the following paragraphs—

“(s) is found with any substance in his urine which demonstrates that a controlled drug has, whether in prison or while on temporary release under section 8, been administered to him by himself or by another person;

(t) it shall be a defence for a prisoner charged with an offence under paragraph (s) above to show that—

- (i) the controlled drug had been, prior to its administration, lawfully in his possession for his use or was administered to him in the course of a lawful supply of the drugs to him by another person;
 - (ii) the controlled drug was administered by or to him in circumstances in which he did not know and had no reason to suspect that such a drug was being administered; or
 - (iii) the controlled drug was administered by or to him under duress or to him without his consent in circumstances where it was not reasonable for him to have resisted.
- (u) (i) is intoxicated as a consequence of consuming any alcoholic beverage;
- (ii) consumes any alcoholic beverage whether or not provided to him by another person;
- (v) it shall be a defence for a prisoner charged with an offence under paragraph (u) above to show that—
- (i) the alcohol was consumed by him in circumstances in which he did not know and had no reason to suspect that he was consuming alcohol;
 - (ii) the alcohol was consumed by him without his consent in circumstances where it was not reasonable for him to have resisted; or
 - (iii) the alcohol was provided to him pursuant to a written order under regulation 34(1).”.

Insertion of regulations 78A, 78B, 78C and 78D.

5. After regulation 78 insert the following regulations—

“Mandatory Drugs Tests.

Compulsory testing for controlled drugs.

78A.(1) When requiring a prisoner to provide a sample, a prison officer shall, so far as is reasonably practicable, inform the prisoner—

- (a) that the prisoner is required to provide a sample in accordance with section 49B(1) of the Prison Ordinance; and
- (b) that a refusal to provide the prison officer with a sample may lead to disciplinary proceedings being brought against him.

(2) A prison officer shall require a prisoner to provide a fresh sample, free from any adulteration whether in prison or on temporary release.

(3) A prison officer requiring a sample of urine shall make such arrangements and give the prisoner such instructions for its provision as may be reasonably necessary in order to prevent or detect its adulteration or falsification.

(4) A prisoner who is required to provide a sample may be kept apart from other prisoners for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(5) A prisoner who is unable to provide a sample of urine when required to do so may be kept apart from other prisoners until he has provided the required sample, save that a prisoner may not be kept apart under this subsection for a period of more than 5 hours.

(6) A prisoner required to provide a sample of urine shall be afforded such degree of privacy for the purpose of providing the sample as may be compatible with the need to prevent or detect any adulteration or falsification of the sample; in particular a prisoner shall not be required to provide such a sample in the sight of a person of the opposite sex.

Compulsory testing for alcohol.

78B.(1) When requiring a prisoner to provide a sample, a prison officer shall, so far as is reasonably practicable, inform the prisoner—

- (a) that the prisoner is required to provide a sample in accordance with section 49B(2) of the Prison Ordinance;
- (b) that a refusal to provide the prison officer with a sample may lead to disciplinary proceedings being brought against him.

(2) A prison officer requiring a sample shall make such arrangements and give the prisoner such instructions for its provision as may be reasonably necessary in order to prevent or detect its adulteration or falsification.

(3) A prisoner who is required to provide such a sample may be kept apart from other prisoners for a period not exceeding one hour to enable arrangements to be made for the provision of the sample.

(4) A prisoner who is unable to provide a sample of urine when required to do so may be kept apart from other prisoners until he has provided the required sample, save that a prisoner may not be kept apart under this sub-regulation for a period of more than 5 hours.

(5) A prisoner required to provide a sample of urine shall be afforded such degree of privacy for the purpose of providing the sample as may be compatible with the need to prevent or detect any adulteration or falsification of the sample; in particular a prisoner shall not be required to provide such a sample in the sight of a person of the opposite sex.

Keeping of test records.

78C. The prison officer shall ensure that detailed records are kept of each prisoner's drugs and alcohol test and provide the prisoner concerned with a copy of his test results upon request.

CCTV in Prison.

Observation of prisoners by means of an overt closed circuit television system.

78D. Without prejudice to his other powers to supervise the prison, prisoners and other persons in the prison, whether by use of an overt closed circuit television system or otherwise, the Superintendent may make arrangements for any prisoners to be placed under constant observation by means of an overt closed circuit television system while the prisoner is in a cell or other place in the prison if he considers that—

- (a) such supervision is necessary for—
 - (i) the health and safety of the prisoner or any other person;
 - (ii) the prevention, detection, investigation or prosecution of crime; or
 - (iii) securing or maintaining prison security or good order and discipline in the prison; and
- (b) it is proportionate to what is sought to be achieved.”.

Dated this 23rd day of March, 2006.

By Command,
P. R. BARTON,
Deputy Governor.

EXPLANATORY MEMORANDUM

The purpose of these Regulations is to allow the Superintendent of the Prison and his staff to undertake compulsory testing for controlled drugs and alcohol upon admission and throughout a prisoner’s sentence including temporary release and those held on remand. CCTV in the prison is authorised.

