

Subsidiary Legislation made under s.71.

## **Prison Regulations 2011**

### **LN.2011/165**

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Amending enactments	Relevant current provisions		Commencement date
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2012/011	r. 38		9.2.2012
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<sup>1</sup> *Notice of Commencement LN.142/2019*

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**SCHEDULE  
PAROLE BOARD**

*In exercise of the powers conferred upon him by section 71 of the Prison Act 2011 and all other enabling powers the Minister with responsibility for prisons has made the following Regulations—*

#### PART I: INTRODUCTORY

##### **Title and commencement.**

1. These regulations may be cited as the Prison Regulations 2011 and shall come into operation on the day of publication.

##### **Interpretation.**

2.(1) These regulations, unless the context otherwise requires—

“communication” includes any written or drawn communication from a prisoner to any other person, whether intended to be transmitted by means of a postal service or not, and any communication from a prisoner to any other person transmitted by means of a telecommunications system;

“convicted prisoner” means any prisoner convicted or found guilty of an offence or committed or attached for contempt of court or for failing to do or abstain from doing anything required to be done or left undone and “unconvicted prisoner” shall be construed accordingly;

“legal adviser” means, in relation to a prisoner, his barrister or solicitor; and

“officer” means a prison officer.

(2) Except as otherwise provided—

- (a) any reference in these Regulations to a numbered section is a reference to that section in the Act; and
- (b) any reference in these Regulations to a numbered regulation or Part is a reference to that regulation or Part in these Regulations.

#### PART II: PRISONERS

##### *Admission*

##### **Information to prisoners.**

3.(1) Every prisoner shall be provided, as soon as possible after his reception into prison, and in any case within twenty-four hours, with information in writing about those provisions of the Act and these regulations and other matters which it is necessary that he should know, including any privileges and earnings, and the proper method of making requests and complaints and of petitioning the Superintendent.

(2) In the case of a prisoner who cannot read or appears to have difficulty in understanding the information so provided, the Superintendent or an officer deputed by him shall so explain it to him that he can understand his rights and obligations.

(3) A copy of these Regulations shall be made available to any prisoner who requests it.

**Personal record and interview.**

4.(1) Each prisoner shall be weighed on admission and thereafter may be weighed at any time during his term of imprisonment or detention.

(2) The Superintendent shall record in the personal record of every prisoner his name, age, weight, height and distinguishing marks.

(3) Each prisoner shall as soon as possible after admission be interviewed by the Superintendent.

**Prisoner's property.**

5.(1) An unconvicted prisoner may have supplied to him at his expense and retain for his own use books, newspapers, writing materials and other means of occupation, except any that appears objectionable to the Prison Board or, pending consideration by them, to the Superintendent.

(2) Anything, other than cash, which a prisoner has at a prison and which he is not allowed to retain for his own use shall be taken into the Superintendent's custody.

(3) An inventory of a prisoner's property shall be kept, and he shall be required to sign it, after having a proper opportunity to see that it is correct.

(4) Any cash which a prisoner has at a prison shall be paid into an account under the control of the Superintendent and the prisoner shall be credited with the amount in the books of the prison.

(5) Any article belonging to a prisoner which remains unclaimed for a period of more than one year after he leaves prison, or dies, may be sold or otherwise disposed of.

(6) The Superintendent may confiscate any unauthorised article found in the possession of a prisoner after his reception into prison, or concealed or deposited anywhere within a prison.

*Classification and Privileges*

**Classification.**

6.(1) Subject to section 25, prisoners shall be classified and separated into such divisions as may be determined by the Superintendent in consultation with the Minister and the Prison Board.

(2) Classification of a prisoner into a particular division under subregulation (1) shall be carried out by the Superintendent, who shall seek confirmation of such classification by the Board at the next meeting of the Board, which may confirm or vary such classification.

(3) Prisoners committed or attached for contempt of court, or for failing to do or abstaining from doing anything required to be done or left undone—

- (a) shall be treated as a separate class for the purposes of this regulation;
- (b) notwithstanding anything in this rule, may be permitted to associate with any other class of prisoners if they are willing to do so; and
- (c) shall have the same privileges as an unconvicted prisoner under regulation 8(1), 21(3) and 25(1).

**Privileges.**

7.(1) There shall be established at every prison systems of privileges approved by the Minister and appropriate to the classes of prisoners there, which shall include arrangements under which money earned by prisoners in prison may be spent by them within the prison.

(2) Systems of privileges approved under subregulation (1) may include arrangements under which prisoners may be allowed time outside their cells and in association with one another, in excess of the minimum time which, subject to the other provisions of these Regulations apart from this regulation, is otherwise allowed to prisoners at the prison for this purpose.

(3) Systems of privileges approved under subregulation (1) may include arrangements under which privileges may be granted to prisoners only in so far as they have met, and for so long as they continue to meet, specified standards in their behaviour and their performance in work or other activities.

(4) Systems of privileges which include arrangements of the kind referred to in subregulation (3) shall include procedures to be followed in determining whether or not any of the privileges concerned shall be granted, or shall continue to be granted, to a prisoner; such procedures shall include a requirement that the prisoner be given reasons for any decision adverse to him together with a statement of the means by which he may appeal against it.

(5) Nothing in this regulation shall be taken to confer on a prisoner any entitlement to any privilege or to affect any provision in these Regulations other than this regulation as a result of which any privilege may be forfeited or otherwise lost or a prisoner deprived of association with other prisoners.

*Physical welfare and work*

**Clothing.**

8.(1) An unconvicted prisoner may wear clothing of his own if and in so far as it is suitable, tidy and clean, and shall be permitted to arrange for the supply to him from outside prison of sufficient clean clothing provided that, subject to section 26(2),—

- (a) he may be required, if and for so long as there are reasonable grounds to believe that there is a serious risk of his attempting to escape, to wear items of clothing which are distinctive by virtue of being specially marked or coloured or both; and
- (b) he may be required, if and for so long as the Minister is of the opinion that he would, if he escaped, be highly dangerous to the public or the police or to national security, to wear clothing provided under this regulation.

(2) A convicted prisoner shall be provided with clothing adequate for warmth and health.

(3) The clothing provided under this regulation shall include suitable protective clothing for use at work, where this is needed.

(4) Subject to section 26(2), a convicted prisoner shall wear clothing provided under this regulation and no other, except as a privilege under regulation 7.

(5) A prisoner may be provided, where necessary, with suitable and adequate clothing on his release.

**Food.**

9.(1) The food provided for prisoners shall be wholesome, nutritious, well prepared and served, reasonably varied and sufficient in quantity.



(2) No convicted prisoner shall be given less food than is ordinarily provided, except upon the written recommendation of the medical officer.

(3) Food shall be given to a prisoner before he commences work.

**Alcohol and tobacco.**

10.(1) No prisoner shall be allowed to have any alcohol.

(2) No prisoner shall be allowed to smoke or to have any tobacco, except as a privilege under regulation 7, and in accordance with any order of the Superintendent.

**Dietary inspection.**

11. The medical officer shall frequently inspect the prison dietary and shall make such recommendation to the Superintendent as he may deem fit.

**Physical training.**

12. All prisoners certified as fit to do so by the medical officer, other than those undergoing punishment, shall perform such physical training as may be directed by the medical officer or Superintendent.

**Daily exercise.**

13.(1) A prisoner not engaged in outdoor work shall be given exercise in the open air for not less than one hour in all, each day, if weather permits.

(2) The Superintendent may in special circumstances authorise the reduction of the period aforesaid to half an hour a day.

**Wage-earning scheme.**

14.(1) There shall be a wage-earning scheme which any prisoner, who is adjudged by the Superintendent to be of good behaviour, may enter.

(2) A prisoner within the wage-earning scheme who is assigned and performs work under the scheme may earn a sum not exceeding £6.00 per week, of which—

- (a) not more than £5.00 may be expended each week on behalf of and at the request of the prisoner, in such manner as the Superintendent may approve; and

(b) the remainder shall be credited to the account of the prisoner for payment on discharge.

(3) A prisoner within the wage-earning scheme who is assigned and performs work as cook, laundry orderly, librarian or landing cleaner may earn, in addition to any other sums specified in subregulation (2), sums not exceeding £14.00 in the case of cook, £12.00 in the case of laundry orderly, £7.00 in the case of librarian and £6.00 in the case of landing cleaner.

(4) A prisoner within the wage-earning scheme who exercises special skill in work within or for the benefit of the prison, not being work specified in subregulation (3), may earn, in addition to any other sums specified in subregulation (2), the sum of £10.00 per week.

(5) A prisoner within the wage-earning scheme who undertakes a course of training and/or education in prison approved by the Superintendent may earn in addition to any other sum specified in subregulation (2) or (3) £3.00 per week during the course of training or while attending a course of education.

(6) In the case of the earnings under subregulations (3), (4) and (5) of a prisoner within the wage-earning scheme—

(a) so much of those earnings as the Superintendent may determine may be expended each week on behalf of and at the request of the prisoner in such manner as the Superintendent may approve; and

(b) the remainder shall be credited to the account of the prisoner for payment on discharge.

(7) Notwithstanding any provision of this regulation no remuneration shall be paid to a prisoner under any wage earning scheme at a rate greater than the statutory minimum wage per hour.

### **Library.**

15. A library shall be provided in the prison and, subject to any directions of the Superintendent, every prisoner shall be allowed to have library books and to exchange them.

### **Education.**

16.(1) Every prisoner able to profit from the education facilities provided at the prison shall be encouraged to do so.

(2) Educational classes shall be arranged at every prison and, subject to any directions of the Minister, reasonable facilities shall be afforded to prisoners who wish to do so to improve their

education by training by distance learning, private study and recreational classes, in their spare time.

(3) Special attention shall be paid to the education and training of prisoners with special educational needs, and if necessary they shall be taught within the hours normally allotted to work.

(4) In the case of a prisoner of compulsory school age as defined in section 49 of the Education and Training Act, arrangements shall be made for his participation in education or training courses for at least 15 hours a week within the normal working week.

### **Hygiene.**

17.(1) Every prisoner shall be provided with toilet articles necessary for his health and cleanliness, which shall be replaced as necessary.

(2) Every prisoner shall be required to wash at proper times and to have a shower at least once a week.

(3) A prisoner's hair shall not be cut without his consent.

### **Family relationships.**

18.(1) Special attention shall be paid to the maintenance of such relationships between a prisoner and his family as are desirable in the best interests of both.

(2) A prisoner shall be encouraged and assisted to establish and maintain such relations with persons and agencies outside prison as may, in the opinion of the Superintendent, best promote the interests of his family and his own social rehabilitation.

### **Work.**

19. A convicted prisoner shall be required to do useful work for not more than 10 hours a day, and arrangements shall be made to allow prisoners to work, where possible, outside the cells and in association with one another.

### **Sunday work.**

20. Arrangements shall be made so as not to require prisoners of the Christian religion to do unnecessary work on Sunday, Christmas Day and Good Friday, or prisoners of other religions to do any such work on their recognised days of religious observance.

### **Medical attention.**

21.(1) If an unconvicted prisoner desires the attendance of a named registered medical practitioner or dentist other than the medical officer, and will pay any expense incurred, the Superintendent must, if satisfied that there are reasonable grounds for the request, allow the prisoner to be visited and treated by that practitioner or dentist, in consultation with the medical officer.

(2) Subject to any directions given in the particular case by the Minister, a registered medical practitioner selected by or on behalf of a prisoner who is a party to any legal proceedings must be afforded reasonable facilities for examining the prisoner in connection with the proceedings, and may do so out of hearing but in sight of an officer.

(3) A prisoner may correspond, in accordance with arrangements made by the Superintendent for the confidential handling of correspondence, with a registered medical practitioner who has treated the prisoner for a life threatening condition, and such correspondence may not be opened, read or stopped unless the Superintendent has reasonable cause to believe its contents do not relate to the treatment of that condition.

#### **Serious illness and death.**

22.(1) When the life of any prisoner is in danger, the Superintendent shall notify the minister of the religious denomination to which such prisoner belongs, and the relatives and next of kin of the prisoner, and may permit such relatives and next of kin to visit the prisoner.

(2) When a prisoner dies from natural causes the Superintendent shall surrender the body to the relatives of the deceased for burial if the relatives so desire and there is no objection by the medical officer on grounds of public health.

#### **Special examinations.**

23.(1) The medical officer shall examine prisoners in cellular confinement or special cells not less than once in each day.

(2) Before confinement in a special cell the medical officer shall examine the prisoner concerned and shall give such directions for preventing injury to health as he may consider necessary.

#### *Communications and Visits*

#### **Communications generally.**

24.(1) Except as provided by the Act and these Regulations, a prisoner shall not be permitted to communicate with any person outside the prison, or such person with him, except with the leave of the Superintendent or as a privilege under regulation 7.

(2) Notwithstanding subregulation (1), and except as otherwise provided in the Act and these Regulations, the Superintendent may, with a view to securing discipline and good order or the prevention of crime or in the interest of any persons, impose any restriction or condition, either generally or in a particular case, upon the communications to be permitted between a prisoner and other persons.

(3) Every visit to a prisoner shall take place within the sight of a prison officer.

(4) Except as provided by these regulations, every visit shall take place within the hearing of a prison officer, unless the Superintendent otherwise directs.

(5) The Minister may give directions, generally or in relation to any visit or class of visit, concerning the days and times when prisoners may be visited.

#### **Personal letters and visits.**

25.(1) Subject to subregulation (8), an unconvicted prisoner may send and receive as many letters and may receive as many visits as the Superintendent may direct, either generally or in a particular case.

(2) Subject to subregulation (8), a convicted prisoner shall be entitled–

- (a) to send and receive a letter on his reception to prison and thereafter once a week at public expense;
- (b) to receive a visit once a week of not more than two persons;
- (c) to receive such letters as are addressed to him.

(3) The Superintendent may allow a prisoner an additional letter or visit of not more than four persons as a privilege under regulation 7 or where necessary for his welfare or that of his family.

(4) The Superintendent may allow a prisoner entitled to a visit to send and to receive a letter instead.

(5) The Superintendent may defer the right of a prisoner to a visit until the expiration of any period of cellular confinement.

(6) The chairman of the Prison Board, or in his absence a member of the Board, may allow a prisoner an additional letter or visit in special circumstances, and may direct that a visit may extend beyond the normal duration.

(7) The Superintendent may allow additional letters and visits in relation to any prisoner or class of prisoners.

(8) A prisoner shall not be entitled under this regulation to receive a visit from–

- (a) any person, whether or not a relative or friend, during any period of time that person is the subject of a prohibition imposed under regulation; or
- (b) any other person, other than a relative or friend, except with the leave of the Superintendent.

(9) A prisoner may be allowed by the Superintendent a special extra visit of not more than four persons on, or within seven days of, Christmas Day and on, or within seven days of, Easter Sunday.

(10) Any letter or visit under the following provisions of these regulations shall not be counted as a letter or visit for the purpose of this regulation.

#### **Visitors.**

26.(1) Without prejudice to any other powers to prohibit or restrict entry to prisons, the Minister may prohibit visits by a person to a prison or to a prisoner in a prison for such periods of time as he considers necessary if the Minister considers that such a prohibition is–

- (a) necessary on grounds specified in regulation 27(5); and
- (b) is proportionate to what is sought to be achieved by the prohibition.

(2) Subregulation (1), shall not apply in relation to any visit to a prison or prisoner by a member of the Prison Board of the prison, or under section 17, or to prevent any visit by a legal adviser for the purposes of an interview under regulation 33 or visit allowed by the Prison Board under regulation 25(6).

#### **Interception of communications.**

27.(1) The Minister may give directions to the Superintendent concerning the interception in a prison of any communication by any prisoner or class of prisoners if the Minister considers that the directions are–

- (a) necessary on grounds specified in subregulation (5); and
- (b) proportionate to what is sought to be achieved.

(2) Subject to any directions given by the Minister, the Superintendent may make arrangements for any communication by a prisoner or class of prisoners to be intercepted in a prison by an officer if he considers that the arrangements are—

- (a) necessary on grounds specified in subregulation (5); and
- (b) proportionate to what is sought to be achieved.

(3) The Superintendent may not make arrangements for interception of any communication between a prisoner and

- (a) the prisoner's legal adviser; or
- (b) any body or organisation with which the Minister has made arrangements for the confidential handling of correspondence,

unless the Superintendent has reasonable cause to believe that the communication is being made with the intention of furthering a criminal purpose.

(4) Any communication by a prisoner may, during the course of its transmission in a prison, be terminated by an officer if he considers that to terminate the communication is—

- (a) necessary on grounds specified in subregulation (5); and
- (b) proportionate to what is sought to be achieved by the termination.

(5) The grounds referred to in subregulations (1)(a), (2)(a) and (4)(a) are—

- (a) the prevention, detection, investigation or prosecution of crime;
- (b) the interests of public safety;
- (c) securing or maintaining prison security or good order and discipline in prison;
- (d) the protection of health or morals; or
- (e) the protection of the rights and freedoms of any person.

(6) Any reference to the grounds specified in subregulation (5) in relation to the interception of a communication by means of a telecommunications system in a prison, or the disclosure or retention of intercepted material from such a communication, shall be taken to be a reference to those grounds with the omission of subregulation (5) (e).

(7) For the purposes of this regulation “interception”–

- (a) in relation to a communication by means of a telecommunications system, means any action taken in relation to the system or its operation so as to make some or all of the contents of the communications available, while being transmitted, to a person other than the sender or intended recipient of the communication; and the contents of a communication are to be taken to be made available to a person while being transmitted where the contents of the communication, while being transmitted, are diverted or recorded so as to be available to a person subsequently; and
- (b) in relation to any written or drawn communication, includes opening, reading, examining and copying the communication.

**Permanent log of communications.**

28.(1) The Superintendent may arrange for a permanent log to be kept of all communications by or to a prisoner.

(2) The log referred to in subregulation (1) above may include, in relation to a communication by means of a telecommunications system in a prison, a record of the destination, duration and cost of the communication and, in relation to any written or drawn communication, a record of the sender and addressee of the communication.

**Disclosure of material.**

29. The Superintendent may not disclose to any person who is not an officer or the Minister any intercepted material, information retained pursuant to regulation 28 or material obtained by means of an overt closed circuit television system used during a visit unless–

- (a) he considers that such disclosure is–
  - (i) necessary on grounds specified in regulation 27(5); and
  - (ii) proportionate to what is sought to be achieved by the disclosure; or



- (b) in the case of intercepted material or material obtained by means of an overt closed circuit television system used during a visit, all parties to the communication or visit consent to the disclosure; or
- (c) in the case of information retained pursuant to regulation 28, the prisoner to whose communication the information relates, consents to the disclosure.

**Retention of material.**

30.(1) The Superintendent shall not retain any intercepted material or material obtained by means of an overt closed circuit television system used during a visit for a period longer than 3 months beginning with the day on which the material was intercepted or obtained unless he is satisfied that continued retention of it is—

- (a) necessary on grounds specified in regulation 27(5); and
- (b) proportionate to what is sought to be achieved by the continued retention.

(2) Where such material is retained for longer than 3 months pursuant to subregulation (1) the Superintendent shall review its continued retention at periodic intervals until such time as it is no longer held by the Superintendent.

(3) The first review referred to in subregulation (2) shall take place not more than 3 months after the decision to retain the material taken pursuant to subregulation (1), and subsequent reviews shall take place not more than 3 months apart thereafter.

(4) If the Superintendent, on a review conducted pursuant to subregulation (2) or at any other time, is not satisfied that the continued retention of the material satisfies the requirements set out in subregulation (1), he shall arrange for the material to be destroyed.

**Police interviews.**

31.(1) A police officer may, on production of an order issued and signed by the Commissioner of Police, interview any prisoner willing to see him.

(2) A Customs Officer may, on production of an order issued and signed by the Collector of Customs, interview any prisoner willing to see him.

**Securing release.**

32. A person detained in prison in default of finding a surety or of payment of a sum of money, may communicate with, and be visited at any reasonable time of a weekday by, any relative or friend to arrange for a surety or payment in order to secure his release from prison.

**Interview with legal advisers.**

33.(1) Where the legal adviser of a prisoner in any legal proceedings, civil or criminal, to which the prisoner is a party, visits the prisoner, the legal adviser shall be afforded reasonable facilities for interviewing him in connection with those proceedings, and may do so out of hearing but in the sight of an officer.

(2) On such a visit the prisoner's legal adviser may interview the prisoner on any other legal business in the sight and hearing of an officer.

**Delivery and receipt of legally privileged material.**

34.(1) A prisoner may deliver to, or receive from, the prisoner's legal adviser and any court, either by post or during a legal visit under regulation 33, any legally privileged material and such material may only be opened, read or stopped by the Superintendent in accordance with the provisions of this regulation.

(2) Material to which this regulation applies may be opened if the Superintendent has reasonable cause to believe that it contains an illicit enclosure and any such enclosures shall be dealt with in accordance with the other provisions of these Regulations.

(3) Material to which this regulation applies may be opened, read and stopped if the Superintendent has reasonable cause to believe its contents endanger prison security or the safety of others or are otherwise of a criminal nature.

(4) A prisoner shall be given the opportunity to be present when any material to which this regulation applies is opened and shall be informed if it or any enclosure is to be read or stopped.

(5) A prisoner shall on request be provided with any writing materials necessary for the purposes of subregulation (1).

(6) In this regulation, "illicit enclosure" includes any article possession of which has not been authorised and any material to or from a person other than the prisoner concerned, his legal adviser or a court.

**Money and articles received by post.**

35.(1) Any money or other article (other than a letter or other communication) sent to a convicted prisoner by post shall be dealt with in accordance with the provisions of this regulation, and the prisoner shall be informed of the manner in which it is dealt with.

(2) Any cash shall, at the discretion of the Superintendent, be—

- (a) dealt with in accordance with regulation 5(4); or
- (b) returned to the sender,

Provided that in relation to a prisoner committed to prison in default of payment of any sum of money, the prisoner shall be informed of the receipt of the cash and, unless he objects to its being so applied, it shall be applied in or towards the satisfaction of the amount due from him.

(3) Any security for money shall, at the discretion of the Superintendent, be:

- (a) delivered to the prisoner or placed with his property at the prison; or
- (b) returned to the sender; or
- (c) encashed and the cash dealt with in accordance with subregulation (2).

(4) Any other article to which this regulation applies shall, at the discretion of the Superintendent be—

- (a) delivered to the prisoner or placed with his property at the prison; or
- (b) returned to the sender; or
- (c) in a case where the sender's name and address are not known or the article is of such a nature that it is unreasonable to return it, sold or otherwise disposed of, and the net proceeds of any sale applied in accordance with subregulation (2).

*General*

**Viewing of prisons.**

36.(1) No person shall be permitted to view a prison except as may be provided by law or unless authorised by the Superintendent.

(2) No person viewing the prison shall be permitted to take a photograph, make a sketch or communicate with a prisoner unless authorised by law or by the Superintendent.

**Control of persons and vehicles.**

37. Any person or vehicle entering or leaving the prison may be stopped, examined and searched and in addition any such person may be photographed, fingerprinted or required to submit to other physical measurement.

(2) Any such search of a person shall be carried out in as seemly a manner as is consistent with discovering anything concealed about the person or their belongings.

38. *Deleted.*

#### **Temporary release.**

39.(1) The Minister may, in accordance with the other provisions of this regulation, release temporarily a prisoner to whom this regulation applies.

(2) A prisoner may be released under this regulation for a maximum of seven days subject to any conditions.

Provided that where a prisoner is released under this regulation for the purpose of receiving medical treatment, the Minister may, if he thinks fit, having regard to all the circumstances of the case authorise the release of the prisoner for such period as he deems appropriate.

(3) A prisoner may only be released under this regulation—

- (a) on compassionate grounds or for the purpose of receiving medical treatment;
- (b) to receive instruction or training which cannot reasonably be provided in the prison;
- (c) to enable him to participate in any proceedings before any court, tribunal or inquiry;
- (d) to enable him to consult with his legal adviser in circumstances where it is not reasonably practicable for the consultation to take place in the prison;
- (e) to assist any police officer in any enquiries; or
- (f) to facilitate the prisoner's transfer between prisons.

(4) A prisoner shall not be released under this regulation unless the Minister is satisfied that there would not be an unacceptable risk of his committing offences whilst released or otherwise failing to comply with any condition upon which he is released.

(5) A prisoner released under this regulation may be recalled to prison at any time whether the conditions of his release have been broken or not.

(6) This regulation applies to prisoners other than persons committed in custody for trial or to be sentenced or otherwise dealt with before or by any court or remanded in custody by any court.

**Women prisoners.**

40.(1) Women prisoners shall be attended only by women prison officers.

(2) No male prison officer shall enter or remain in a room in which women prisoners are confined unless accompanied by a woman prison officer.

**Applications.**

41.(1) Every request by a prisoner to see the Superintendent or a member of the Prison Board shall be recorded by the officer to whom it is made, and promptly passed to the Superintendent.

(2) On every day other than a Saturday, Sunday or public holiday the Superintendent shall hear the applications of prisoners who have asked to see him.

(3) Where a prisoner has asked to see a member of the Prison Board the Superintendent shall ensure that the member of the Prison Board is informed of the prisoner's request.

**Services.**

42. So far as is practicable, arrangements shall be made for a minister of the Christian religion to hold services for prisoners on Sundays, Good Friday and Christmas Day.

**List C Articles.**

43.(1) A List C article is any article or substance in the following list—

- (a) tobacco;
- (b) money;
- (c) clothing;
- (d) food;
- (e) drink;
- (f) letters;

- (g) paper;
- (h) books;
- (i) tools;
- (j) information technology equipment.

(2) In this regulation—

“information technology equipment” includes any laptop or notebook computer, desktop computer, gaming console, handheld computing device, personal organiser or any electronic device containing a computer processor and capable of connecting to the internet, and any reference to information technology equipment includes a reference to—

- (a) a component part of a device of that description; or
- (b) any article designed or adapted for use with any information technology equipment (including any disk, film or other separate article on which images, sounds, computer code or other information may be stored or recorded).

*Order, Discipline and Offences*

**Removal from association.**

44.(1) Where it appears desirable, for the maintenance of good order or discipline, or in his own interests, that a prisoner should not associate with other prisoners, either generally or for particular purposes, the Superintendent may arrange for the prisoner's removal from association accordingly.

(2) A prisoner shall not be removed under this regulation for a period of more than 3 days without the authority of the chairman of the Prison Board, or, in his absence, a member of the Board, or of the Minister and authority given under this subregulation shall be for a period not exceeding 14 days but it may be renewed from time to time for a like period.

(3) The Superintendent may arrange at his discretion for a prisoner removed under this regulation to resume association with other prisoners, and shall do so if in any case the medical officer so advises on medical grounds.

(4) This regulation shall not apply to a prisoner the subject of a direction under regulation 45(1).

**Close supervision centres.**

45.(1) Where it appears desirable, for the maintenance of good order or discipline or to ensure the safety of officers, prisoners or any other person, that a prisoner should not associate with other prisoners, either generally or for particular purposes, the Superintendent may direct the prisoner's removal from association accordingly and his placement in a close supervision centre of a prison.

(2) A direction given under subregulation (1) shall be for a period not exceeding one month, but may be renewed from time to time for a like period.

(3) The Superintendent may direct that such a prisoner as aforesaid shall resume association with other prisoners, either within a close supervision centre or elsewhere.

(4) In exercising any discretion under this regulation, the Superintendent shall take account of any relevant medical considerations which are known to him.

(5) A close supervision centre is any cell or other part of a prison designated by the Superintendent for holding prisoners who are subject to a direction given under subregulation (1).

**Removal from a cell or living unit.**

46. Following the imposition of a punishment of removal from his cell or living unit, a prisoner shall be accommodated in a separate part of the prison under such restrictions of earnings and activities as the Superintendent may direct.

**Temporary confinement.**

47.(1) The Superintendent may order a refractory or violent prisoner to be confined temporarily in a special cell, but a prisoner shall not be so confined as a punishment, or after he has ceased to be refractory or violent.

(2) A prisoner shall not be confined in a special cell for longer than 24 hours without a direction in writing given by Superintendent and such a direction shall state the grounds for the confinement and the time during which it may continue.

**Restraints.**

48.(1) The Superintendent may order a prisoner to be put under restraint where this is necessary to prevent the prisoner from injuring himself or others, damaging property or creating a disturbance.

(2) Notice of such an order shall be given without delay to the chairman or a member of the Prison Board, and to the medical officer.

(3) On receipt of the notice the medical officer shall inform the Superintendent whether there are any medical reasons why the prisoner should not be put under restraint and the Superintendent shall give effect to any recommendation which the medical officer may make.

(4) A prisoner shall not be kept under restraint longer than necessary, nor shall he be so kept for longer than 24 hours without a direction in writing given by the chairman or a member of the Prison Board and such a direction shall state the grounds for the restraint and the time during which it may continue.

(5) Particulars of every case of restraint of a prisoner under the foregoing provisions of this regulation shall be forthwith recorded in the personal record of the prisoner.

(6) Except as provided by this regulation, no prisoner shall be put under restraint otherwise than for safe custody during removal, or on medical grounds by direction of the medical officer.

(7) No prisoner shall be put under restraint as a punishment.

(8) Any means of restraint shall be of a pattern authorised by the Minister, and shall be used in such manner and under such conditions as the Minister may direct.

#### **Offences against discipline.**

49. A prisoner shall be guilty of an offence against discipline if he—

- (a) mutinies or incites another prisoner to mutiny;
- (b) commits any assault;
- (c) fights with any person;
- (d) escapes from prison or from legal custody;
- (e) absents himself from any place he is required to be or is present at any place where he is not authorised to be;
- (f) has in his cell or room or in his possession any unauthorised article, or a greater quantity of any article than he is authorised to have;



- (g) sells or delivers to any person any unauthorised article;
- (h) sells or delivers to any other person, without permission, anything he is allowed to have only for his own use;
- (i) takes improperly or is in unauthorised possession of any article belonging to another person or to the prison;
- (j) receives any controlled drug, or, without the consent of a prison officer, any other article, during the course of a visit, not being an interview under regulation 33;
- (k) intentionally or recklessly sets fire to any part of a prison or any other property, whether or not his own;
- (l) destroys or damages any part of the prison or any property not his own;
- (m) makes any false and malicious allegation against an officer;
- (n) treats with disrespect an officer or any person visiting a prison;
- (o) uses threatening, abusive or insulting words or behaviour;
- (p) is indecent in language, act or gesture;
- (q) repeatedly makes groundless complaints;
- (r) intentionally fails to work properly or, being required to work, refuses to do so;
- (s) disobeys any lawful order;
- (t) disobeys or fails to comply with any regulation applying to him;
- (u) subject to regulation 50, is found with any substance in his urine which demonstrates that a controlled drug has, whether in prison or while on temporary release under regulation 39, been administered to him by himself or by another person;
- (v) subject to regulation 51, is intoxicated as a consequence of consuming any alcoholic beverage;
- (w) subject to regulation 51, consumes any alcoholic beverage whether or not provided to him by another person;

- (x) fails to comply with any condition upon which he is temporarily released under regulation 39;
  - (y)–
    - (i) attempts to commit,
    - (ii) incites another prisoner to commit, or
    - (iii) assists another prisoner to commit or to attempt to commit,
- any of the foregoing offences; or
- (z) in any way offends against good order and discipline.

**Defences to regulation 49(u).**

50. It shall be a defence for a prisoner charged with an offence under subregulation 49(u) to show that–

- (a) 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 drug to him by another person;
- (b) 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
- (c) 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.

**Defences to regulation 49(v) or 49(w).**

51. It shall be a defence for a prisoner charged with an offence under regulation 49(v) or 49(w) to show that–

- (a) 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; or
- (b) the alcohol was consumed by him without his consent in circumstances where it was not reasonable for him to have resisted.

**Disciplinary charges.**

52.(1) Where a prisoner is to be charged with an offence against discipline, the charge shall be laid as soon as possible and, save in exceptional circumstances, within 48 hours of the discovery of the offence.

(2) The prisoner who is to be charged with an offence against discipline may be kept apart from other prisoners pending the Superintendent's first enquiry or determination under regulation 53.

(3) Every charge shall be inquired into by the Superintendent, or as the case may be, a justice of the peace.

(4) Every charge shall be first inquired into not later, save in exceptional circumstances, than—

- (a) the next day, not being a Saturday, Sunday or public holiday, after it is laid;
- (b) where it is referred to a justice of the peace under regulation 53(2), 28 days after it is so referred.

**Determination of mode of inquiry.**

53.(1) Before inquiring into a charge the Superintendent shall determine whether it is so serious that additional days should be awarded for the offence, if the prisoner is found guilty.

(2) Where the Superintendent determines—

- (a) that it is so serious, he shall:
  - (i) refer the charge to a justice of the peace for him to inquire into it;
  - (ii) refer any other charge arising out of the same incident to a justice of the peace for him to inquire into it; and
  - (iii) inform the prisoner who has been charged that he has done so;
- (b) that it is not so serious, he shall proceed to inquire into the charge.

(3) If—

- (a) at any time during an inquiry into a charge by the Superintendent; or
- (b) following such an inquiry, after the Superintendent has found the prisoner guilty of an offence but before he has imposed a punishment for that offence,

it appears to the Superintendent that the charge is so serious that additional days should be awarded for the offence if (where paragraph (a) applies) the prisoner is found guilty, the Superintendent shall act in accordance with subregulation (2)(a)(i) to (iii) and a justice of the peace shall first inquire into any charge referred to him under this regulation not later than, save in exceptional circumstances, 28 days after the charge was referred.

**Rights of prisoners charged.**

54.(1) Where a prisoner is charged with an offence against discipline, he shall be informed of the charge as soon as possible and, in any case, before the time when it is inquired into by the Superintendent, or as the case may be, a justice of the peace.

(2) At the inquiry into a charge against a prisoner he shall be given a full opportunity of hearing what is alleged against him and of presenting his own case.

(3) The Superintendent shall have power, on any inquiry into an offence against prison discipline, to administer an oath to any witness.

**Superintendent's punishments.**

55.(1) Subject to subregulation (2) and regulation 57, if the Superintendent finds a prisoner guilty of an offence against discipline he may make impose one or more of the following punishments—

- (a) caution;
- (b) forfeiture for a period not exceeding 42 days of any of the privileges under regulation 7;
- (c) exclusion from associated work for a period not exceeding 21 days;
- (d) stoppage of earnings for a period not exceeding 84 days;
- (e) cellular confinement for a period not exceeding 14 days;
- (f) in the case of a prisoner otherwise entitled to them, forfeiture for any period of the right, under regulation 5(1) to have the articles there mentioned.

(2) A caution shall not be combined with any other punishment for the same charge.

(3) If a prisoner is found guilty of more than one charge arising out of an incident, punishments under this regulation may be ordered to run consecutively but in the case of punishment of cellular confinement, the total period shall not exceed 14 days.

#### **Punishments by a justice of the peace.**

56.(1) If he finds a prisoner guilty of an offence against discipline the justice of the peace may, subject to subregulation (2) and to regulation 57, impose one or more of the following punishments—

- (a) any of the punishments mentioned in regulation 55(1);
- (b) if applicable, an award of additional days not exceeding 42 days.

(2) A caution shall not be combined with any other punishment for the same charge.

(3) If a prisoner is found guilty of more than one charge arising out of an incident, punishments under this regulation may be ordered to run consecutively but, in the case of a punishment of additional days, the total period of additional days shall not exceed 42 days and, in the case of a punishment of cellular confinement, the total period shall not exceed 14 days.

#### **Offences committed by young persons.**

57. In the case of an offence against discipline committed by a prisoner who was under the age of 21 years when the offence was committed regulation 55 or, as the case may be, regulation 56 shall have effect, but—

- (a) the maximum period of forfeiture of privileges under regulation 7 shall be 21 days;
- (b) the maximum period of stoppage of or deduction from earnings shall be 42 days;
- (c) the maximum period of cellular confinement shall be 10 days.

#### **Provisions in relation to particular awards.**

58.(1) A punishment of stoppage of earnings may, instead of forfeiting all of a prisoner's earnings for a specified period not exceeding 28 days or as the case may be, 56 days, be expressed so far as to forfeit a proportion (not being less than one half) of his earnings for a specified period not exceeding a correspondingly greater number of days.

(2) No punishment of cellular confinement shall be made unless the medical officer has certified that the prisoner is in a fit state of health to be so dealt with.

**Prospective award of additional days.**

59.(1) In the case of an offence against discipline committed by a prisoner who has attained the age of 21 years and is detained only on remand or to await trial or sentence, a punishment of additional days may be awarded notwithstanding that the prisoner has not (or had not at the time of the offence) been sentenced to imprisonment.

(2) A punishment under subregulation (1) shall have effect only if the prisoner in question subsequently becomes a fixed-term prisoner whose sentence is reduced, under section 497(3) of the Criminal Procedure and Evidence Act 2011, by a period which includes the time when the offence against discipline was committed.

(3) In subregulation (2), “fixed-term prisoner” has the meaning given in section 51(3).

**Suspended punishments.**

60.(1) Subject to any directions of the Minister, the power to impose a disciplinary punishment (other than a caution) shall include power to direct that the punishment is not to take effect unless, during a period specified in the direction (not being more than six months from the date of the direction) the prisoner commits another offence against discipline and a direction is given under subregulation (2).

(2) Where a prisoner commits an offence against discipline during the period specified in the direction given under subregulation (1) the person dealing with that offence may—

- (a) direct that the suspended award shall take effect; or
- (b) reduce the period or amount of the suspended award and direct that it shall take effect as so reduced; or
- (c) vary the original direction by substituting for the period specified therein a period expiring not later than six months from the date of variation; or
- (d) give no direction with respect to the suspended award.

(3) Where an award of additional days has been suspended under subregulation (1) and a prisoner is charged with committing an offence against discipline during the period specified in a direction given under that paragraph, the Superintendent shall either—

- (a) inquire into the charge and give no direction with respect to the suspended award;  
or
- (b) refer the charge to the justice of the peace for him to inquire into it.

**Remission and mitigation of awards.**

61.(1) Except in the case of a finding of guilt made, or a punishment imposed, by a justice of the peace under regulation 56(1) the Minister may quash any finding of guilt and may remit any punishment or mitigate it either by reducing it or by substituting another award which is, in his opinion, less severe.

(2) Subject to any directions given by the Minister, the Superintendent may on the grounds of good behaviour, remit or mitigate any punishment imposed by him or a justice of the peace.

**Prisoner not to be employed in disciplinary capacity.**

62. A prisoner shall not be employed in any disciplinary capacity.

**Cellular confinement.**

63.(1) A prisoner sentenced to cellular confinement shall see no one except the Superintendent, the medical officer, the chaplain and the prison officers.

(2) When it is proposed to impose a punishment of solitary confinement, the medical officer must inform the Superintendent whether there are any medical reasons why the prisoner should not be so dealt with.

(3) The Superintendent shall give effect to any recommendation which may be made under subregulation (2).

**Illegal detention.**

64. No prisoner shall in consequence of misconduct be detained in prison for a longer period than the sentence awarded on him by the court.

*Mandatory tests and CCTV***Compulsory testing for controlled drugs.**

65.(1) When requiring a prisoner to provide a sample, for the purpose of ascertaining whether he has any controlled drug in his body in accordance with section 48 of the Act, 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 48 of the Act; 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.

(3) 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.

(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 subregulation 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.**

66.(1) When requiring a prisoner to provide a sample, for the purpose of ascertaining whether he has alcohol in his body in accordance with section 49 of the Act, 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 49 of the Act;

(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) Subject to subregulation (4), 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.**

67. 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.

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

68. 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.

(2) If an overt closed circuit television system is used for the purposes of this regulation, the provisions of regulation 29 and 30 shall apply to any material obtained.

#### *Discharge*

#### **Interview.**

69. Every prisoner shall before he is discharged be interviewed by the Superintendent.

#### **Discharge.**

70. The Superintendent shall be responsible for the due discharge of every prisoner immediately upon his becoming entitled thereto, whether by expiration of sentence, licence, pardon or otherwise.

**Date and time of release.**

71.(1) Subject to subregulation (2), a prisoner shall be released from prison not later than twelve noon on the appropriate day.

(2) If such a day is Sunday, or public holiday, or, in the case of a prisoner professing the Jewish religion, a Saturday, the prisoner shall be released on the day next preceding.

**Property.**

72. Any articles belonging to a prisoner and stored by the prison authorities on his admission shall be returned to him on release, and any sums due to him shall forthwith be paid to him in cash.

**PART III: OFFICERS**

**Reports on prisoners.**

73. The Superintendent shall at six-monthly intervals submit to the Minister a report on the conduct and general condition of every prisoner undergoing a sentence of imprisonment for more than three years, together with a report by the medical officer on the prisoner's mental and physical condition.

**Superintendent's records.**

74. The Superintendent shall keep the following records in addition to any others required by the Act—

- (a) a journal in which he shall record all occurrences of importance;
- (b) a nominal roll of all prisoners;
- (c) a book in which he shall record all punishments imposed on prison officers;
- (d) a list of official books and documents committed to his care;
- (e) an inventory of all personal property, whether of value or otherwise, taken from each prisoner;

- (f) an account of all receipts and disbursements.

**General duty of officers.**

75.(1) It shall be the duty of every prison officer–

- (a) to conform to these regulations and to the rules and regulations of the prison;
- (b) to assist and support the Superintendent in their maintenance; and
- (c) to obey his lawful instructions.

(2) A prison officer shall inform the Superintendent of any abuse or impropriety which comes to his knowledge.

**Use of force.**

76.(1) A prison officer in dealing with a prisoner shall not use force unnecessarily and, when the application of force to a prisoner is necessary, no more force than is necessary shall be used.

(2) No prison officer shall act deliberately in a manner calculated to provoke a prisoner.

**Complaints.**

77.(1) A prison officer shall report to the Superintendent all complaints made by prisoners.

(2) The Superintendent shall give any prisoner who complains reasonable opportunity of being heard.

**Entering cells at night.**

78.(1) No prison officer shall enter a prisoners cell at night unless accompanied by another officer, except in case of emergency.

(2) Whenever a prison officer enters a prisoner's cell at night he shall report the fact to the Superintendent the following morning.

**Delegation.**

79. The Superintendent may, with the leave of the Minister, delegate any of his powers and duties under these regulations to another officer, upon such conditions and for such period as he may think fit.

**Search of officers.**

80. An officer shall submit himself to be searched in the prison if the Superintendent so directs and any such search shall be conducted in as seemly a manner as is consistent with discovering anything concealed.

**Transactions with prisoners.**

81.(1) No officer shall take part in any business or pecuniary transaction with or on behalf of a prisoner without the leave of the Superintendent.

(2) No officer shall without authority bring in or take out, or attempt to bring in or take out, or knowingly allow to be brought in or taken out, to or for a prisoner, or deposit in any place with intent that it shall come into the possession of a prisoner, any article whatsoever.

**PART IV: PAROLE BOARD****Advisory Board.**

82.(1) The Minister shall set up an Advisory Board for the purposes of advising him with regard to any appointment to be made to the Parole Board.

(2) The Advisory Board set up under subregulation (1) shall consist of—

- (a) the Chief Secretary; and
- (b) two other members.

(3) The two other members referred to in subsection (2)(b) shall be appointed by the Minister in consultation with the Chief Secretary.

(4) The letter of the appointment shall be issued from the office of the Minister which must—

- (a) set out the term of appointment to the Advisory Board; and
- (b) include any other terms and conditions as may be determined by the Minister.

(5) The board shall regulate its own procedure for duties under these Regulations.

**Procedure for appointment of members.**

83.(1) If any vacancy occurs in the membership of the Parole Board, the Minister shall circulate the vacancy in such form and manner as he thinks appropriate.

(2) Applications for appointment to the Parole Board must be made in writing addressed to the Chief Secretary.

(3) The Advisory Board shall—

- (a) consider the written applications and select the persons for interview; and
- (b) notify the Minister in writing of the persons recommended for appointment.

**Functions of the Advisory Board.**

84.(1) The functions of the Advisory Board shall include—

- (a) to advise the Minister on the appointment criteria and process for appointment to the Parole Board;
- (b) to process any applications received for such appointments;
- (c) to recommend candidates that meet the requirements of the Act and the relevant criteria;
- (d) to ensure that existing Parole Board members standing for reappointment meet the requirements of the Act and the relevant criteria; and
- (e) any other related functions as may be required by the Minister.

**Revocation and savings.**

85. (1) Subject to the provisions of this regulation, the Prison Regulations 1987 are revoked.

(2) Where a prisoner committed an offence against discipline contrary to regulation 65 of the Prison Regulations 1987 prior to the coming into force of these Regulations, those Regulations shall continue to have effect to permit the prisoner to be charged with such an offence, disciplinary proceedings in relation to such an offence to be continued, and the Superintendent to impose punishment for such an offence.

(3) Where a prisoner was sentenced prior to the coming into force of these Regulations, regulation 6 of the Prison Regulations 1987 shall continue to apply to that prisoner as if regulation 38 of these Regulations had not come into force.

(4) Subject to subregulations (2) and (3), for the purposes of these Regulations, any appointment, approval, authority, certificate, condition, direction or restriction made, given or imposed under any provision of the Prison Regulations 1987 revoked by sub-regulation (1) shall be treated as having been made, given or imposed under the corresponding provision of these Regulations.

#### **Appointments to Parole Board.**

86.(1) The persons set out in the Schedule shall be deemed to have been appointed under section 52 of the Prison Act 2011 and for the purposes of such appointment the procedures set out in regulations 82 to 84 shall be deemed to have been complied with.

(2) For the purposes of section 52(8) of the Act, the date of appointment shall be 30 September 2011.

(3) Nothing in this regulation shall affect the operation of regulations 83 and 84 in relation to the persons appointed under subregulation (1).

SCHEDULE

PAROLE BOARD

Regulation 86(1)

Mr Alan Gordon	Chairman
Mr John Montegriffo	Drug Strategy Co-ordinator
Mr Desmond Bell	Probation Officer
Mr Robert Vasquez	Independent Member
Mrs Audrey Borastero	Independent Member
Mrs Patricia Scott	Independent Member