

L.N. 14 of 2000

**PRISONS ACT
(CAP. 260)**

Prison (Amendment) Regulations, 2000

IN EXERCISE of the powers conferred by section 6 of the Prisons Act, the Minister for Home Affairs has made the following regulations:—

1. The title of these regulations is the Prison (Amendment) Regulations, 2000, and shall be read and construed as one with the Prison Regulations, 1995, hereinafter referred to as “the principal regulations”. Citation.
L.N. 118 of 1995.

2. Immediately between paragraphs (1) and (3) of regulation 33 of the Maltese text of the principal regulations there shall be substituted the following:— Amends regulation
33 of the principal
regulations.

“(2) Prigunier ma ghandux jittiehed f’ habs iehor jekk it-Tabib tal-Habs jiċċertifika li ma jkunx jiflah għal dak it-trasferiment.”.

3. Immediately after regulation 69 of the principal regulations there shall be added the following new regulation:— Adds new
regulation 69A to
the principal
regulations.

“Provision of a sample. 69A. (1) The Director may order a prisoner to provide a sample for the purpose of ascertaining by means of laboratory analysis or of a device approved by the Minister whether he has any drugs or alcohol in his body.

Cap. 101. (2) In this regulation “drugs” means any dangerous
Cap. 31. drug as defined in section 12 of the Dangerous Drugs Ordinance, or any specified or restricted drug under the Medical and Kindred Professions Ordinance, and “sample” means a sample of urine and, or a sample of breath.

(3) When requiring a prisoner to provide a sample the Director shall, so far as is reasonably practicable, inform the prisoner:

(a) that he is being required to provide a sample for the purposes of this regulation;

(b) that a refusal to provide a sample may lead to disciplinary proceedings being brought against him.

(4) The sample shall be a fresh sample, free from adulteration.

(5) When requiring a sample from a prisoner, the Director 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.

(6) 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.

(7) a prisoner who is unable to provide a sample 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 paragraph for a period of more than five hours.

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

Amends regulation
74 of the principal
regulations.

4. Regulation 74 of the principal regulations shall be amended as follows:—

(a) in the Maltese text of paragraph (a) thereof, immediately after the word “ammutinament” there shall be inserted the words “jew ixewwex lil haddiehor biex jaghmel ammutinament”; and

(b) for paragraph (x) thereof there shall be substituted the following:—

“(x) fails to comply with an order to provide a sample in terms of regulation 69A;

(y) without prejudice to any other liability at law, takes drugs referred to regulation 69A:

Provided that it shall be a defence for a prisoner charged with an offence under this paragraph to prove that –

(i) the 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;

(ii) the drug was administered by or to him in circumstances in which he proves to the satisfaction of the Director that he did not know and had no reason to suspect that such drug was being administered;

(z) fails to comply with any condition upon which he is granted prison leave; and

(aa) attempts to commit, or incites another prisoner to commit, or assists another prisoner to commit or to attempt to commit any of the foregoing offences.”.

5. Regulation 78 of the principal regulations shall be amended as follows: Amends regulation 78 of the principal regulations.

(a) in paragraph (1) thereof, there shall be added the following words at the end of the paragraph: “The Minister may also appoint supplementary members who will substitute the Chairman or a member of the Tribunal whenever the said Chairman or member cannot attend sittings for any valid reason, provided that the Chairman shall, as far as practicable, ensure that the same members hear and conclude the same case.”.

(b) paragraph (2) thereof shall be renumbered as paragraph (3); and

(c) immediately after paragraph (1) thereof, there shall be added the following new paragraph:

“(2) (a) The Minister may also appoint persons of integrity who in his opinion have the necessary qualifications, experience and knowledge to represent and assist prisoners during the hearings by the Tribunal of the reviews of disciplinary cases.

(b) It shall be the duty of the person appointed as aforesaid—

(i) to act in the best interests of the prisoner;

(ii) to be present when the case of the prisoner is being heard by the Tribunal;

(iii) to make the necessary submissions and pleadings on behalf of the prisoner as circumstances require during the hearings of the Tribunal;

(iv) to take all necessary measures to safeguard the prisoner's rights.”.

Amends regulation
79 of the principal
regulations.

6. Regulation 79 of the principal regulations shall be amended as follows:—

(a) in sub-paragraph (b) of paragraph (2) thereof, for the words “shall be informed” there shall be substituted the words “shall be informed in writing”;

(b) in paragraph (5) thereof, for the words “one (1)”, there shall be substituted the words “four (4)”; and

(c) immediately after paragraph (6) thereof, there shall be added the following new paragraph:

“(7) In paragraph (3), other than in the first proviso thereto, and in paragraph (5) of this regulation the word “days” shall not include Saturdays, Sundays and public holidays.”.