

L.N. 15 of 2016**PRISONS ACT
(CAP. 260)****Prisons (Amendment) Regulations, 2016**

IN EXERCISE of the powers conferred by article 6 of the Prisons Act, the Minister for Home Affairs and National Security has made the following regulations:-

Citation.

S.L. 260.03

Amends
regulation 2 of
the principal
regulations.

1. The title of these regulations is the Prisons (Amendment) Regulations, 2016, and these regulations shall be read and construed as one with the Prisons Regulations hereinafter referred to as the "the principal regulations".

2. Regulation 2 of the principal regulations shall be amended as follows:

(a) in the definition "Board" for the words "Board of Visitors of the Prisons" there shall be substituted the words "Corradino Correctional Facility Monitoring Board"; and

(b) immediately after the definition "near relative" there shall be added the following new definition:

" "Secretary" means a member of the Board who shall:

(a) ensure meetings are effectively organised and minuted;

(b) maintain effective records and administration;

(c) maintain effective liaison with the Prison Administration with a view to receiving requests made by prisoners who wish to meet the Board or those who wish to make a complaint to the Board;

(d) carry out inspections and visits among the prisoners as prescribed by regulation 106(1) together with one member of the Board, as the case may be; and

(e) have all voting rights similar to any

other member, and shall be involved in the decision-making of the Board;"

3. In sub-regulation (7) of regulation 8 of the principal regulations for the words "approved by the Board" there shall be substituted the words "approved by the Director".

Amends regulation 8 of the principal regulations.

4. Sub-regulation (5) of regulation 11 of the principal regulations shall be deleted.

Amends regulation 11 of the principal regulations.

5. Sub-regulation (3) of regulation 17 of the principal regulations shall be substituted by the following:

Amends regulation 17 of the principal regulations.

"(3) Where a prisoner has asked to see the Board, or a member thereof, the Director shall ensure that the Secretary of the Board is informed of the request within a reasonable time."

6. Sub-regulation (2) of regulation 18 of the principal regulations shall be substituted by the following:

Amends regulation 18 of the principal regulations.

"(2) If a prisoner requests an interview with the Board, the Secretary and any two other members thereof may interview him without the Director or any other person being present."

7. Regulation 19 of the principal regulations shall be substituted by the following:

Substitutes regulation 19 of the principal regulations.

"19. (1) Where accommodation is shared it shall be occupied by prisoners suitable to associate with each other in those conditions.

(2) The accommodation provided for prisoners, and in particular all sleeping accommodation, shall meet the requirements of health and hygiene, due regard being had to climatic conditions and especially the cubic content of air, a reasonable amount of space, lighting and ventilation. Such accommodation shall also allow the prisoner to communicate at any time with a prison officer."

8. Sub-regulation (3) of regulation 26 of the principal regulations shall be substituted by the following:

Amends regulation 26 of the principal regulations.

"(3) In the carrying out of the duties under the last preceding sub-regulation, the Director and the Medical Officer shall, if the refusal of food persists beyond forty-eight hours, also seek the assistance of a competent professional or any other official who attends to welfare duties at the prison."

Amends
regulation 46 of
the principal
regulations.

9. In sub-regulation (1) of regulation 46 of the principal regulations for the words "the Prison Board and the Ministry of Education" there shall be substituted the words "the Board, the Ministry of Education and, or any other professional/s versed in the field of education and training".

Substitutes the
heading of Part
IV to the
principal
regulations.

10. In the heading of Part IV of the principal regulations, for the words "The Prison Board" there shall be substituted the words "The Corradino Correctional Facility Monitoring Board".

Amends
regulation 104
of the principal
regulations.

11. Regulation 104 of the principal regulations shall be amended as follows:

(a) paragraph (b) thereof shall be substituted by the following new paragraph:

"(b) monitor the administration of the prison disciplinary system and inform the Minister of its findings; this includes the authority to request the Director for a report from time to time on disciplinary hearings of prisoners;"

(b) paragraph (d) thereof shall be substituted by the following new paragraph:

"(d) to advise the Minister on matters relating to work, education and training activities to be performed by the prisoners;" and

(c) in paragraph (f) thereof for the words "to act as the person" there shall be substituted the words "to act as the body".

Adds a new
regulation to the
principal
regulations.

12. Immediately after regulation 104 of the principal regulations there shall be added the following new regulation:

"Composition
of the Board.

104A. (1) The Board shall consist of:

(a) a Chairperson; and

(b) at least six other members to be appointed by the President of Malta, from amongst persons who are experienced in the criminal justice or social science field including members of non-governmental organisations;

(2) A Secretary shall be nominated from amongst the members and shall be responsible for the administrative support to the Board as well as having other responsibilities as defined in regulation 2.

Cap. 12.

(3) A member of the Board shall be disqualified in such circumstances as would disqualify a judge in terms of Sub-Title II of Title II of Book Third of the Code of Organization and Civil Procedure; and in such case that member shall be substituted by another member appointed for the purpose by the Minister.

(4) The members of the Board shall be eligible for re-appointment every two years."

13. Regulation 105 of the principal regulations shall be amended as follows:

Amends
regulation 105
of the principal
regulations.

(a) in sub-regulation (1) thereof for the word "Prison" there shall be substituted the words "Correctional Facility";

(b) sub-regulation (5) thereof shall be substituted by the following:

"(5) All monthly meetings of the Board and its meetings with the prisoners shall be minuted. A note shall also be kept of any subsequent action taken:

Provided that it shall be the responsibility of the Board to retain all relevant information, including minutes of meetings and of interviews with inmates, reports of visits and inspections and any other records in order that they are made available to the Committees established by the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment."; and

(c) immediately after sub-regulation (5) thereof there shall be added the following new sub-regulation:

"(5A) The Board shall hold regular meetings with the Minister responsible for Prisons."

14. Regulation 106 of the principal regulations shall be amended as follows:

Amends
regulation 106
of the principal
regulations.

(a) sub-regulation (1) thereof shall be substituted by the following:

"(1) The Secretary of the Board together with any other member shall visit and inspect the prison between the monthly meetings of the Board and meet prisoners either at their place of work or study or place of confinement or in such other manner as the Board deems convenient:

Provided that any record kept by the members carrying out such a visit or inspection and any complaint received by such members shall be referred to the Board at its next meeting and entered in the minutes.";

(b) in sub-regulation (4) thereof, for the words "of ricer" there shall be substituted the word "officer";

(c) sub-regulation (5) thereof shall be substituted by the following:

"(5) The Board shall keep a record of all complaints made to it by prisoners and its decision thereon, and shall, if it deems necessary, take evidence of the complainant and of such prison officer and other prisoners or other persons as the Board may deem relevant.";

(d) in sub-regulation (6) thereof the word "promptly" shall be deleted; and

(e) sub-regulation (7) thereof shall be substituted by the following:

"(7) (a) Where it is not considered practicable by the Board to carry out a visit or an inspection under the foregoing provisions of this regulation by all the members of the Board, a visit or an inspection may be carried out by not less than two members designated for such purpose by the Board.

(7) (b) Such visit shall be deemed a visit or an inspection carried out by the Board, and the foregoing provisions shall apply to any such visit or inspection in the same manner and to the like effect as to one carried out by the Board. Any record kept by the members carrying out such a visit or inspection and any complaint received by such members shall be referred to the Board at its next meeting and entered in the minutes.".

15. Regulation 107 of the principal regulations shall be substituted by the following:

Substitutes regulation 107 of the principal regulations.

"107. It shall also be the duty of the Board to hear and decide upon, as soon as practicable, any request or complaint made to it by a prisoner directly to the Secretary or to any of its members during the course of a visit or inspection."

16. In regulation 108 of the principal regulations for the word "Chairman", whenever it occurs, there shall be substituted the word "Chairperson".

Amends regulation 108 of the principal regulations.

17. Regulation 109 of the principal regulations shall be amended as follows:

Amends regulation 109 of the principal regulations.

(a) in sub-regulation (1) thereof for the words "The members of the Board" there shall be substituted the words "The Secretary and the members of the Board"; and

(b) in sub-regulation (2) thereof for the words "and at such other times" there shall be substituted the words "or at such other times".

18. Regulation 110 shall be substituted by the following:

Substitutes regulation 110 of the principal regulations.

"110. (1) If any issue concerning a particular prisoner that is to be discussed or decided by the Board involves potential conflict of interest for any Board member, it shall be the responsibility of the Board member to:

(a) declare the potential conflict of interest;

(b) not participate in any discussion concerning the issue or the prisoner or any other matter related thereto; and

(c) not vote on the issue of the prisoner or any other matter related thereto.

(2) A member who absents himself without valid reason for more than three consecutive meetings shall be considered as having resigned his post."

19. In sub-regulation (1) of regulation 115 of the principal regulations immediately after the words "every part of the prison" there shall be added the words "including divisions outside the Corradino Facility".

Amends regulation 115 of the principal regulations.

