



Queensland

# Corrective Services (Searches and Testing) Amendment Regulation 2024

## Subordinate Legislation 2024 No. 187

made under the

*Corrective Services Act 2006*

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**1 Short title**

This regulation may be cited as the *Corrective Services (Searches and Testing) Amendment Regulation 2024*.

**2 Commencement**

This regulation commences on 16 September 2024.

**3 Regulation amended**

This regulation amends the *Corrective Services Regulation 2017*.

**4 Replacement of pt 2, div 4, hdg (Search of prisoners)**

Part 2, division 4, heading—

*omit, insert—*

**Division 4 Searches and test samples**

**5 Insertion of new ss 8A to 8C**

Before section 9—

*insert—*

**8A Meaning of terms used in division**

(1) In this division—

*men's corrective services facility* means a corrective services facility other than a women's corrective services facility.

*qualified corrective services officer* means a corrective services officer who has successfully completed training approved by the chief executive for the taking of a test sample of urine for analysis.

*women's corrective services facility—*

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- (a) means a corrective services facility, or part of a corrective services facility, established as a women's facility, centre or work camp; and
- (b) includes the following—
  - (i) Brisbane Women's Correctional Centre;
  - (ii) the women's facilities at the Townsville Correctional Complex;
  - (iii) the women's work camp at Bowen;
  - (iv) Numinbah Correctional Centre;
  - (v) the women's work camp at Warwick;
  - (vi) the women's facilities at the Southern Queensland Correctional Complex;
  - (vii) Helana Jones Community Corrections Centre.
- (2) A reference in this division to a female corrective services officer, female health practitioner or female helper is a reference to a person who—
  - (a) presents themselves in the relevant capacity as a female; or
  - (b) is designated by the chief executive as a person who may exercise powers for which, respectively, a female corrective services officer, female health practitioner or female helper is required.
- (3) A reference in this division to a male corrective services officer, male health practitioner or male helper is a reference to a person who—
  - (a) presents themselves in the relevant capacity as a male; or
  - (b) is designated by the chief executive as a person who may exercise powers for which, respectively, a male corrective services

officer, male health practitioner or male helper is required.

- (4) A reference in this division to a prisoner detained in a women’s corrective services facility includes a reference to a prisoner who—
- (a) is in the Princess Alexandra Hospital Secure Unit; and
  - (b) has—
    - (i) been transferred to the unit from a women’s corrective services facility; or
    - (ii) been designated by the chief executive as a prisoner who will be accommodated in a women’s corrective services facility.
- (5) A reference in this division to a prisoner detained in a corrective services facility includes a reference to the prisoner while the prisoner is, under the Act, lawfully outside the corrective services facility.

## **8B Modification of procedures to take account of needs of prisoner**

- (1) A prisoner may request the modification of the usual search or urine test sample procedures to take account of the special or diverse needs of the prisoner.

*Examples—*

- 1 To take account of needs associated with gender diversity, sexual orientation or a history of abuse, a prisoner may request a modification to enable powers to be exercised by a female or male corrective services officer, health practitioner or helper.
- 2 To take account of needs associated with cultural or religious practices, a prisoner may request a modification to enable a headdress to be searched in a particular way.

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- 3 To take account of needs associated with a disability, a prisoner may request a modification to enable a prosthesis to remain in place or be searched in a particular way.
- (2) The prisoner must be given an opportunity to make the request—
- (a) on admission to a corrective services facility or as soon as practicable after admission; and
- (b) within reasonable limits, at a later time.
- (3) The chief executive must decide whether to accept a modification requested by the prisoner as soon as practicable after the request is made.
- (4) For a modification of a procedure requiring the exercise of powers by a female or male corrective services officer, health practitioner or helper—
- (a) the modification is limited to enabling the powers to be exercised by a male rather than female, or a female rather than male, corrective services officer, health practitioner or helper; and
- Note—*
- See section 8A(2) and (3) in relation to the meaning of the terms female or male corrective services officer, health practitioner or helper.
- (b) the modification may, in the case of powers of search, be limited to the exercise of powers in relation to the upper body or lower body of the prisoner.
- (5) A modification requested by a prisoner must be accepted unless the chief executive reasonably believes—
- (a) the modification—
- (i) is not associated with the genuine needs of the prisoner; or

- 
- (ii) is requested for an improper purpose; or
  - (b) accommodating the modification—
    - (i) would not be practicable; or
    - (ii) would pose an unacceptable risk to the safety or welfare of corrective services officers or other persons; or
  - (c) for a modification of search procedures—accommodating the modification would reduce the effectiveness of the search to an unacceptable extent.
- (6) The chief executive may withdraw the acceptance of a modification—
- (a) at the request of the prisoner; or
  - (b) if the chief executive subsequently forms the opinion that the modification would not now be accepted if it were requested.
- (7) The chief executive must keep the following records—
- (a) a record of each accepted modification for a prisoner;
  - (b) a record of each decision not to accept a modification requested by a prisoner and the reasons for the decision;
  - (c) a record of the withdrawal of the acceptance of a modification for a prisoner and the reasons for the withdrawal.
- (8) The chief executive must, as soon as practicable after a record is made for a prisoner, inform the prisoner of the details of the record.

### **8C Carrying out personal search or search requiring removal of clothing—Act, s 39A**

- (1) This section applies to the following—

[s 5]

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- (a) a personal search of a prisoner;
  - (b) a search requiring the removal of clothing of a prisoner.
- (2) Subject to this section, the search must be carried out in accordance with administrative procedures made under section 265 of the Act.
- (3) Subject to subsection (4)—
- (a) a prisoner detained in a women’s corrective services facility must be searched by a female corrective services officer; and
  - (b) a prisoner detained in a men’s corrective services facility must be searched by a male corrective services officer.

*Note—*

For a personal search of a prisoner, whether a corrective services officer observing but not carrying out the search is a female or male corrective services officer is irrelevant.

For a search requiring the removal of clothing of a prisoner, only corrective services officers carrying out the search may be present—see section 9.

- (4) The usual procedure for the search is subject to modifications accepted under section 8B.
- (5) However, subsection (4) does not apply if the chief executive reasonably believes accommodating the modification—
- (a) would pose an unacceptable risk to—
    - (i) the security or good order of the place at which the search is carried out; or
    - (ii) the safety or welfare of the prisoner, a corrective services officer or other person; or
  - (b) is not practicable.



**6 Amendment of s 9 (Requirements for search requiring the removal of clothing—Act, s 38)**

(1) Section 9, heading—

*omit, insert—*

**9 Additional requirements for search requiring removal of clothing—Act, s 39A**

(2) Section 9(1), ‘who is not carrying out the search’—

*omit, insert—*

other than the corrective services officers carrying out the search

(3) Section 9(2) and (3)—

*omit, insert—*

(2) If the prisoner is detained in a women’s corrective services facility, steps must be taken to ensure that no male corrective services officer views the search through an electronic device that monitors the area in which the prisoner is searched.

(3) If the prisoner is detained in a men’s corrective services facility, steps must be taken to ensure that no female corrective services officer views the search through an electronic device that monitors the area in which the prisoner is searched.

(3A) However, subsections (2) and (3) do not apply if the chief executive reasonably believes—

(a) there is no suitable corrective services officer readily available to view the search through the electronic device that monitors the area in which the prisoner is searched; and

(b) the search is being conducted in circumstances of imminent risk to the life or safety of the prisoner or a corrective services officer.

(4) Section 9(5)—

[s 7]

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*omit.*

- (5) Section 9(3A) and (4)—  
*renumber* as section 9(4) and (5).

## **7 Amendment of s 10 (Dealing with recording of search)**

- (1) Section 10, heading, after ‘search’—

*insert—*

**requiring removal of clothing**

- (2) Section 10, ‘under section 9’—

*omit, insert—*

requiring the removal of clothing

## **8 Insertion of new s 10A**

After section 10—

*insert—*

### **10A Conduct of body search—Act, s 39A**

- (1) This section applies to a body search of a prisoner.
- (2) Subject to this section, the search must be conducted in accordance with administrative procedures made under section 265 of the Act.
- (3) Subject to this section—
  - (a) if the prisoner is detained in a women’s corrective services facility—
    - (i) at least 1 of the health practitioners present at the search must be a female health practitioner; and
    - (ii) a person helping to conduct the search must be a female helper; and
  - (b) if the prisoner is detained in a men’s corrective services facility—

- (i) at least 1 of the health practitioners present at the search must be a male health practitioner; and
  - (ii) a person helping to conduct the search must be a male helper.
- (4) The usual procedure for the search is subject to modifications accepted under section 8B.
- (5) However, subsections (3) and (4) do not apply in an emergency.

**9 Omission of pt 2, div 5, hdg (Test samples)**

Part 2, division 5, heading—

*omit.*

**10 Replacement of s 11 (Giving or taking test sample—Act, s 42)**

Section 11—

*omit, insert—*

**11 Urinalysis—Act, s 42**

- (1) This section applies to the giving of a test sample of urine by an offender.
- (2) The purpose of observation of an offender while the test sample is being given is to confirm the test sample belongs to the offender and is not tampered with.
- (3) Subject to this section, the testing process must be carried out in accordance with administrative procedures made under section 265 of the Act.
- (4) At least 2 qualified corrective services officers must be present during the giving of the test sample.
- (5) A corrective services officer who is not a qualified corrective services officer must not be

present during the giving of the test sample.

- (6) If the offender is detained—
  - (a) at least 1 of the corrective services officers must observe the offender while the test sample is being given; and
  - (b) subject to paragraph (c)—
    - (i) for an offender detained in a women’s corrective services facility—the officer observing must be a female corrective services officer; and
    - (ii) for an offender detained in a men’s corrective services facility—the officer observing must be a male corrective services officer; and
  - (c) the usual procedure is subject to modifications accepted under section 8B unless the chief executive reasonably believes accommodating the modification—
    - (i) would pose an unacceptable risk to the safety or welfare of the observer; or
    - (ii) is not practicable.
- (7) If the offender is not detained, observation of the offender while the test sample is being given is at the discretion of the chief executive.
- (8) If the offender is not detained and a corrective services officer is to observe the offender while the test sample is being given—
  - (a) the offender must be given a reasonable opportunity to request that the observer be a female corrective services officer or a male corrective services officer; and
  - (b) the request must be accommodated unless the chief executive reasonably believes—
    - (i) the request is made for an improper purpose; or

- (ii) accommodating the request—
  - (A) would pose an unacceptable risk to the safety or welfare of the observer; or
  - (B) is not practicable.
- (9) A corrective services officer who is present during the test but who is not to observe the offender while the test sample is being given must be able to see the observer.

**11 Amendment of s 12 (How test sample must be given or taken)**

- (1) Section 12, heading, ‘given or taken’—

*omit, insert—*

**taken—Act, s 42**

- (2) Section 12(3), ‘the corrective services officer who observed the giving of the test sample’—

*omit, insert—*

a corrective services officer

**12 Renumbering of pt 2, divs 6 and 7**

Part 2, divisions 6 and 7—

*renumber* as part 2, divisions 5 and 6.

**13 Amendment of s 22 (Visitor identification—Act, s 160)**

Section 22(3), ‘himself or herself’—

*omit, insert—*

the visitor

[s 14]

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**14 Amendment of s 43 (Keeping property in corrective services facility—Act, s 317(5))**

Section 43(2)(d), ‘the prisoner is a female and has a child accommodated with her’—

*omit, insert—*

a child is accommodated with a prisoner

**15 Insertion of new pt 6**

After part 5—

*insert—*

**Part 6**

**Transitional provision  
for Corrective Services  
(Searches and Testing)  
Amendment Regulation  
2024**

**48 Request to modify procedures to take account of needs of existing prisoner**

Section 8B applies to a person who is a prisoner immediately before the commencement as if subsection (1) of that section required the prisoner to be given the opportunity to make a request as soon as practicable after the commencement.

ENDNOTES

- 1 Made by the Governor in Council on 29 August 2024.
- 2 Notified on the Queensland legislation website on 30 August 2024.
- 3 The administering agency is Queensland Corrective Services.

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