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| **Smoke-Free Work Environment** | | | |
| **Section** | | 2. Prisoner Management | |
| **CR Number** | 2.3.7 | **Current Issue Date** | October 2020 |
| **Legislation & Policy** | | Corrections Act 1986  Tobacco Act 1987  Corrections Regulations 2019  Smoke-Free Work Environment Policy  Charter of Human Rights and Responsibilities Act 2006 | |
| **Standard** | | Safety and Security Services - Safety | |
| **Attachments** | | Nil | |
| **Forms** | | Nil | |

1. **PURPOSE**

To advise of the prohibition of smoking in Victorian prisons and the consequences of the possession of tobacco products and tobacco smoking accessories on prison grounds.

1. **REQUIREMENT**
   1. Smoking on the grounds of all prisons in Victoria is banned. For clarity, this includes car parks and farmlands etc.
   2. Tobacco and tobacco smoking accessories are also banned on prison property with the following exemptions, as per Commissioner’s Requirement 1.2.9 - Contraband and Controlled Items:

* a prison General Manager may grant permission for the possession and use of lighters/matches on prison grounds, provided they are required within prison industries/kitchens, for recreational, religious or educational purposes or for maintenance within a prison; and
* staff, visitors and contractors will be permitted to bring tobacco and tobacco smoking accessories onto prison property, provided these remain in their vehicle. If that is not possible, then a locker may be used (where authorised by a prison General Manager). Smoking is not permitted in vehicles on prison grounds.

1. **GUIDING PRINCIPLE**
   1. On 1 July 2015, Victorian legislation banned smoking in Victorian prisons. In addition, tobacco products and tobacco smoking accessories were also banned from entering prisons and sanctions were introduced to deter prisoners and visitors from introducing these items into prisons.
   2. Consideration has been given to the obligations under the *Charter of Human Rights and Responsibilities Act* 2006, by acknowledging the right to life (s 9) and discouraging prisoners from smoking, which causes health issues, leading to a range of illnesses resulting in significant long term issues or death.
2. **CONTEXT**
   1. This requirement ensures compliance with legislation and the Smoke-Free Work Environment policy across the Victorian prison system.
   2. Corrections Victoria promotes a safe and healthy living and work environment for staff and prisoners.

**5 INSTRUCTION**

**5.1 Protocol**

Each prison General Manager is responsible for the implementation of this Commissioner’s Requirement, including:

* ensuring that all staff and prisoners are informed about this requirement and its implications (particularly those relating to discipline);
* establishing disciplinary processes to deal with breaches of the law;
* referring serious breaches of the law to Victoria Police;
* ensuring that processes are in place to inform visitors to the prison of the smoking ban and requirements in relation to tobacco and tobacco smoking accessories, and to respond to incidents where visitors do not comply with these restrictions, such as refusing entry to the prison;
* ensuring that appropriate registers are maintained and available for audit including:
  + an Exemption Register that details when tobacco smoking accessories have been approved by the prison General Manager for use on prison grounds;
  + a Nicotine Replacement Therapy Register that details the supply of nicotine patches or similar to prisoners; and
  + a register detailing prisoner attendance at Quit programs.
* ensuring that where appropriate, lockers are available to prison staff and other prison contractors/visitors etc to store their tobacco and tobacco smoking accessories;
* ensuring that appropriate signage is displayed to clearly identify that the prison and its grounds are non smoking;
* providing access to smoking cessation programs and nicotine replacement therapy (NRT) for prisoners, when requested.

**5.2 Disciplinary Action – Prisoners**

5.2.1 In the event a prisoner is found to be smoking or is found to have tobacco or tobacco smoking accessories on their person, it is recommended that they be charged with a prison offence. The appropriate prison offences are “smoke tobacco” or “possession of tobacco smoking accessories”. Prisoner smoking related offences should be managed in accordance with Section 50(5) of the *Corrections Act* 1986 and Regulation 65(1)(j) and/or (e) - of the *Corrections Regulations* 2019.

5.2.2 On a finding of guilt or admission of the charge, the prison General Manager or delegate hearing the charge should impose an appropriate penalty in accordance with Section 53(4) of the *Corrections Act* 1986.

**5.3 Support / Assistance Provided to Prisoners and Staff**

Prison General Managers, or their delegate, can promote the benefits of a smoke-free work environment to staff and prisoners, including the provision of relevant information and smoking cessation support including access to nicotine replacement therapy for prisoners, access to the free-call QUITline for prisoners and other programs/resources as appropriate.

**5.4 Monitoring**

Prison General Managers are required to establish processes to monitor compliance with the smoking ban on prison grounds. Performance measures may include:

* + - complaints;
    - evidence that breaches of the smoke-free work are managed appropriately; and
    - the display of appropriate signage.

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| Larissa Strong  **Acting** **Commissioner** |

**Information below this point is administrative supporting detail**

**only and not subject to Commissioner’s review or approval.**

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| **Acronyms** | |
| NRT | Nicotine Replacement Therapy |

| **Definitions** | |
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| **Associated Commissioner’s Requirements** |
| 1.2.9 - Contraband and Controlled Items  1.3.1 - Incident Reporting  2.3.3 - Disciplinary Process and Prisoner Privileges |

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| Owner: | Manager, Operations Directorate |

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| V8 | Oct-20 | Update |
| V7 | Jul-15 | Update |
| V6 | Aug-14 | Update |
| V5 | Aug-12 | Update |
| V4 | Jun-09 | Update |
| V3 | May-09 | Update |
| V2 | Mar-06 | Update |
| V1 | Apr-04 | First Issue |