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| **Prisoner Monies**  |
| **Section** | 4. Prisoner Services |
| **CR Number** | 4.1.1 | **Current Issue Date** | March 2022 |
| **Legislation & Policy**  | Corrections Act 1986Corrections Regulations 2019Charter of Human Rights and Responsibilities Act 2006Gender Equality Act 2020 |
| **Standard** | Prisoner Administration Services – Prisoner Monies |
| **Attachments** | Scale of Prisoner Earnings (Schedule 1)Aboriginal Art Program - Prescribed Rates to be Retained on Behalf of the Prisoner as Approved by the Secretary (Schedule 2) |
| **Forms** | Application for Additional Private Monies (Schedule 3)Request to Place Aboriginal Art Program and Additional Funds in Compulsory Savings / Trust Account Form (Schedule 4) |

1. **PURPOSE**

To define a consistent practice for the management of prisoner monies across all correctional locations regarding:

* the scale of Prisoner Earnings, including the remuneration received from prisoners participating in the Aboriginal Art Program;
* the management of restricted spends, fines and restitution;
* prisoner access to their compulsory savings in specific circumstances; and
* the donation of monies to charity or non-profit organisations.
1. **REQUIREMENT**

General Managers must have systems in place for managing prisoner monies.

1. **GUIDING PRINCIPLE**
	1. Staff must properly consider the *Charter of Human Rights and Responsibilities Act* 2006 when making decisions concerning prisoner money, to ensure the rights of prisoners are not unfairly limited and to also consider in particular, the rights of children and families.
	2. The *Corrections Act* 1986 and *Corrections Regulations* 2019 legislate circumstances that permit restrictions on prisoner's expenditure.
	3. Regulation 49(1) requires the Governor ‘*to retain the following amounts in a prisoner’s prisoner trust account until the prisoner is released from prison –*
2. *20% of the remuneration paid to the prisoner for work done by the prisoner in a prison industry;*
3. *20% of remuneration paid to the prisoner for attendance at an educational, treatment or rehabilitation programme;*
4. *an amount determined by the Secretary under regulation 50(2).’*
	1. Regulation 49(2) states that ‘*a prisoner may apply to the Governor for some, or all, of the portion of remuneration that is retained in accordance with sub regulation (1) to be paid to a relative or person appointed under a power of attorney at any time prior to his or her release from prison, or used in the prisoner’s transition into the community’.*
	2. Regulation 49(3) provides that *‘The Governor may authorise the expenditure of money referred to in sub-regulation (2) after considering* –
5. *the welfare of the prisoner;*
6. *the prisoner’s sentence; and*
7. *the money he or she might require upon release from prison.’*
8. **CONTEXT**

Corrections Victoria recognises the importance of managing prisoner monies in an accountable and effective manner while allowing appropriate access by prisoners to their money.

1. **PRISONER PAY SCALE**
	1. Payments will be made to prisoners for:
* work undertaken in a work program;
* attendance at a prison program; or
* other purposes provided for at the Commissioner’s direction.
	1. Prisoners undertaking an approved program or full-time education will receive payment in accordance with the Scale of Prisoner Earnings (Schedule 1).
	2. Prisoners will be paid a minimum rate when on remand or unable to work due to illness, disability or age.
	3. The prisoner pay scale will be reviewed annually by the Secretary, Department of Justice & Community Safety and where pay levels are adjusted, the new rates will be paid in the next convenient pay period.
1. **REMUNERATION RECEIVED THROUGH THE SALE OR LICENSING OF ARTWORK FOR PRISONERS PARTICIPATING IN THE ABORIGINAL ART PROGRAM**
	1. In accordance with Commissioner’s Requirement 4.5.1 - Aboriginal Art Program and regulation 50 of the *Corrections Regulations 2019*, Aboriginal prisoners participating in the Aboriginal Art Program may exhibit their artwork for the purpose of selling and / or licensing their artwork. The remuneration received by prisoners for the sale or licencing of such artwork must be managed in accordance with legislative and policy requirements and is to be regarded as prisoner ‘earnings’ and not ‘private monies’. Regulation 50(1) of the Corrections Regulations 2019 prescribes that:

 “(1A) The Secretary may—

(a) enter into an agreement (an art program agreement) in writing with a prisoner that enables the prisoner to sell art and other things that have been made or produced by the prisoner at a prison in exchange for payment; and

(b) determine an amount to be retained on behalf of a prisoner in the prisoner’s trust account from any payment or remuneration received by a prisoner under an art program agreement.

(1B) If a prisoner has executed an art program agreement and despite subregulation (1), the Governor must retain an amount calculated in accordance with the Secretary’s determination under subregulation (1A) in the prisoner's trust account until the prisoner is released from prison.”

* 1. The funds earned by prisoners through the sale or licensing of their artwork must be retained in the prisoners’ trust account, in accordance with the rates prescribed by the Secretary, Department of Justice & Community Safety as per regulation 50(2). These rates are specified in Aboriginal Art Program - prescribed rates to be retained on behalf of the prisoner as approved by the secretary (Schedule 2).
	2. Prisoners participating in the Aboriginal Art Program may elect to place an amount greater than their earnings from the program than the minimum rate required, into their compulsory savings account. Prisoners will be required to complete Request to place Aboriginal Art Program and additional funds in compulsory savings / trust account form (Schedule 4) to authorise the prison to place additional funds in their trust account.
1. **PRISONER ACCESS TO COMPULSORY SAVINGS**
	1. **Purchase of Identification**

Prisoners may access their Compulsory Savings to purchase the following identification:

* Australian Birth Certificate;
* Proof of Age Card;
* Renewal or Victorian Driver’s Licence/Learners Permit; and
* Australian Citizenship/Residency Certificate.
	1. **Other Purchases**
		1. General Managers may approve applications from prisoners to access their Compulsory Savings for purchases, including but not limited to the following:
* accommodation, payment of bond, rent in advance, utility connections, furniture and household items;
* employment-related personal protection equipment, clothing, materials and equipment specific for the job;
* education requirements, enrolment fees, books and equipment;
* license renewal/restoration, court appearances, program or counselling costs;
* identification (other than that detailed in section 7.1); and/or
* costs for permit participation, travel, food or clothing.
* Genuine transitional needs:
* in the last 12 months of sentence - the purpose of this expenditure must relate to the prisoner’s imminent release, there must be at least $500 in compulsory savings and the expenditure must not cause the prisoner’s savings to fall below $500; or
* in the last 3 months of sentence - General Managers may approve requests to access Compulsory Savings under the $500 threshold if it meets a genuine transitional need. Such expenditure may include, for example, the cost of travel and expenses to enable the prisoner to participate in the Custodial Community Permit Program;
* Exceptional circumstances:
* the purpose of expenditure must relate to significant family, legal or community obligation or as deemed reasonable by the General Manager;
* there must be at least $1,000 in compulsory savings and the expenditure must not cause the prisoner’s savings to fall below $1,000. Such expenditure may include, a prisoner wishing to contribute to the cost of their child’s education or to assist their partner with special expenses such as the maintenance of the family home.
	+ 1. A prisoner who has been sentenced ‘life imprisonment with no prospect of parole’ may be given approval by the General Manager to spend compulsory savings for any reasonable request.
		2. Requests to use compulsory savings for any purpose outside these guidelines must be referred to the Deputy Commissioner, Custodial Operations.
	1. **Remand Prisoner Access to Compulsory Savings**
		1. In accordance with Commissioner’s Requirement 2.3.8 – Remand Prisoners, the presumption of innocence until proven guilty is a legal principle that is expected to be reflected in prison management practice. This is most likely expressed in the differentiated management of unconvicted prisoners.
		2. Access to compulsory savings is one area where remand prisoners are managed in accordance with their unconvicted status and therefore, different to sentenced prisoners.
		3. Prisoners on remand may apply to the prison General Manager for access to their compulsory savings in order to address genuine transitional needs or in exceptional circumstances, at any time while on remand.
		4. Prison General Managers will assess each remand prisoner’s request for access to compulsory savings on a case by case basis, taking into account the prisoner’s unconvicted status, as well as the impact the request is likely to have upon the prisoner’s transition back into the community or on family, legal or community obligations.
		5. Requests for remand prisoners’ access to compulsory savings outside these guidelines must be referred to the Deputy Commissioner, Custodial Operations.
	2. **Access to Compulsory Savings for Telephone Monies**
		1. Prisoners who require additional private money from their Compulsory Savings to facilitate international or standard (mobile or landline) telephone calls to key members of the prisoner’s family or social network are to apply via an Application for Additional Telephone Monies (Schedule 4).
		2. However applications to access Compulsory Savings for this purpose may only be approved by the General Manager on the basis of genuine transitional need, in line with the criteria and requirements outlined above.
		3. Approvals of additional phone monies should be granted for no more than six months at a time, after which the case should be reassessed by the General Manager.
1. **PRISONER PRIVATE MONIES**
	1. **Private Monies**
		1. The maximum amount of private money that a prisoner can have credited to their Private Monies Account is $140 per month.
		2. There is no limit to the amount that can be held in the prisoner’s Private Monies Account.
	2. **Additional Private Monies**
		1. In exceptional circumstances, the General Manager may approve an amount exceeding $140 to be credited for a one-off purchase.
		2. The General Manager should not accept an amount exceeding $140 to be credited to the prisoner’s Private Monies Account to pay off a fine or restitution.
		3. Prisoners may apply to have additional private money credited to facilitate international or standard (mobile or landline) telephone calls to key members of the prisoner’s family or social network are to apply via an Application for Additional Private Monies (Schedule 4).
		4. Approvals of additional phone monies should be granted for no more than six months at a time, after which the case should be reassessed by the General Manager.
	3. **Money received via visitors**
		1. Persons leaving money for a prisoner must generally be recorded on that prisoner’s Valid Visitors List.
		2. However, money may be accepted from a person not on the prisoner’s Valid Visitors List in the following circumstances:
* where the prisoner has been in custody for seven days, or less; or
* where prior approval has been provided by the General Manager; or
* where the depositor is a representative of an accredited charitable organisation or a prison Chaplain.
	+ 1. All persons wishing to deposit money into a prisoner’s money account must satisfy prison identification requirements.
	1. **Money received via mail**
		1. All monies received via mail must be accompanied by the details of the sender’s name and address.
		2. Money will generally only be accepted from persons recorded on the receiving prisoner’s valid visitors list.
		3. However, the General Manager (or delegate) may approve the acceptance of monies from person’s not on the prisoner’s Valid Visitor’s List:
* where the prisoner has no persons recorded on their Valid Visitors’ List; or
* where monies are received from interstate or overseas; or
* where monies are received from a prisoner’s personal bank account (at the written request of the prisoner); or
* in other exceptional circumstances where prior approval has been provided by the General Manager, such as where the prisoner would be seriously disadvantaged if the monies were not accepted.
	+ 1. The General Manager (or delegate) may only approve the acceptance of such monies where the sender’s name, address and preferably a telephone number are clearly identifiable.
		2. Monies will not be deposited where the sender fails to provide their name and address, unless there are exceptional circumstances where the prisoner would be seriously disadvantaged if the monies were not accepted.
		3. The prisoner must be notified in all circumstances of monies being received on their behalf, including all monies deposited into their private monies account, placed in their property until discharge or returned to sender.
	1. **Money received via online secure payment services**
		1. SPS provides a platform for people to send money to prisoners electronically. Prison General Managers will ensure that information is made available to prisoners and visitors
		2. Money will generally only be accepted via SPS from persons recorded on the receiving prisoner’s valid visitors list.
		3. However, money may be excepted from a person not on the prisoner’s valid visitor’s list where:
* the prisoner has been in prison for seven days or less;
* the prisoner has no persons recorded on their valid visitors’ list; or
* the money is sent from interstate or overseas; or
* there are other exceptional circumstances and prior approval has been provided by the General Manager.
	+ 1. Depositors will be subject to various security checks before money can be transferred.
1. **RESTRICTED SPENDS, FINES AND RESTITUTION**
	1. **Restricted Spend**
		1. A restricted spend occurs when a prisoner's expenditure is restricted as a result of:
* the withdrawal of one or more of the prisoner's privileges as a result of a prison offence (*Corrections Act* 1986, section 50(5) and section 53(4)); or
* the deduction of money for the cost of replacement or repair of property damaged or lost as a result of a negligent or wilful act or omission of the prisoner (restitution) (*Corrections Regulations* 2019, regulation 48(5)).
	+ 1. The maximum total amount available to a prisoner whose expenditure is restricted is set at $12.60 per week. This amount is inclusive of money available for telephone calls.
	1. **Payment of Fines and Restitution**
		1. Fines and restitution are to be deducted from a prisoner’s spend/private monies account. If a prisoner does not have sufficient funds in their spend account to pay a fine or restitution, they must be placed on restricted spend until the fine or restitution is finalised unless there are exceptional circumstances.
		2. Compulsory savings should not ordinarily be used to pay prisoner fines and restitution.
		3. Outstanding restitution at the time of release cannot be deducted from a prisoner’s Compulsory Savings, except where specifically authorised by the General Manager based on a balance between transitional needs and responsibility for reparation.
		4. Prisoners are expected to pay their own fines and restitution. Prisoners should not ask someone to send them the funds to pay for fines and restitution, as it defeats the purpose of acting as a deterrent and addressing behaviour. It also places unreasonable demand on families.
		5. Consideration should be given to the financial impact of restitution on the prisoner. Where the actual repair or replacement cost of the item would be significant, it may be appropriate to order a more achievable amount of restitution alongside a non-financial penalty.
1. **PRISONER DONATIONS TO CHARITIES**

Prisoners may donate money to a charity or non-profit organisation from their spend/ private monies account but not from their withheld/compulsory savings accounts.

1. **PURCHASING OF GIFT CARDS**

A prison General Manager can approve the purchase of an appropriate gift card via a special spend request, where a prisoner wants to provide a gift to a family member for special occasions, such as birthdays and Christmas, or other significant events. The decision by the General Manager is made on a case-by-case assessment and following a risk assessment.

1. **RECEIPTS**

Prisoners and persons approved to provide prisoners with money via the approved means, will be provided with a receipt and as requested.

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| Larissa Strong ACM**Commissioner** |

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

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

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| **Acronyms** |
|  | Nil |

| **Definitions** |
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| **Associated Commissioner’s Requirements** |
| 2.3.3 - Disciplinary Process and Prisoner Privileges 2.3.8 - Remand Prisoners4.2.1 - Prisoner Telephone System4.5.1 - Aboriginal Art Program |

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| V2 | Apr-15 | Update |
| V1 | Aug-14 | Amalgamation of Prisoner Pay Scale, Prisoner Access to Compulsory Savings, Restricted Spends, Fines and Restitution and Donating to Charities |

# SCHEDULE 1 - SCALE OF PRISONER EARNINGS

(Effective 28 April 2015)

1. Employed Prisoners

Prisoners may be paid at one of 3 levels depending upon the degree of responsibility, the complexity and demands of the task, the skills required and / or the hours of duty:

|  |  |
| --- | --- |
| **Level** | **Pay Rate** |
| Level 1 | $8.95 per day |
| Level 2 | $7.75 per day |
| Level 3 | $6.50 per day |

**2. Unemployed / Unavailable Prisoners**

**Dismissed or refusing to work** (however, must ensure access to essential toiletries):

Nil

**Prisoners classified as Long Term Management**

$5.70 per week day

**Remand Prisoners / prisoners with short-term illnesses** (short term illness is less than 4 weeks):

$3.30 per week day

**Prisoners aged over 65 years**:

$6.00 per week day

**Prisoners suffering a long term certified illness** (including a psychiatric illness and disabled prisoners (long term illness is greater than 4 weeks):

$6.00 per week day

**Persons subject to a Detention Order**

$6.00 per week day unless otherwise engaged in employment

**Police custody** (prisoners who, subsequent to reception at the prison, are transferred to police custody while in transit to and from court or who are under police protection):

$3.30 per week day

**3. Approved Full-Time Programs or Education**

Those prisoners participating in approved full-time programs or education:

$7.15 per day attended

This rate only applies during the school term or the duration of the program. During **term holidays** the rate of pay will be:

$3.30 per week day, unless employed

Schedule 2 - aboriginal art program – prescribed rates to be retained on behalf of the prisoner as APPROVED BY the secretary

CORRECTIONS ACT 1986

REGULATION 50 (2) CORRECTIONS REGULATIONS 2019

The Secretary, Department of Justice and Community Safety, has determined that, if a prisoner receives payment or remuneration as a result of the sale of artworks under an art program agreement of an amount set out in column one of the table, the percentage of payment or remuneration set out in column two of the table must be retained on behalf of a prisoner in the prisoner’s trust account.

*Table 1: Sliding financial rating scale for remuneration received by prisoners as part of the Aboriginal Art Program*

|  |  |
| --- | --- |
| Payment scale for purchased or licensed artwork | Minimum percentage of payment to be placed in prisoner **‘Compulsory Savings / Trust’** account |
| **COLUMN 1**  | **COLUMN 2** |
| ≤ $500 | 40% |
| ≥ $501 and ≤$1,000 | 70% |
| ≥ $1,001 and ≤ $2,500 | 75% |
| ≥ $ 2,501 and ≤ $4,000 | 80% |
| > $ 4,001 | 90% |

**SCHEDULE 3 - APPLICATION FOR ADDITIONAL TELEPHONE MONIES**

The General Manager may approve the receipt by prisoners of additional private money to facilitate international or standard (mobile or landline) telephone calls to key members of the prisoner’s family or social network or on the grounds of genuine transitional need. The need for additional funds and the amount allowed is to be determined on a case by case basis. Operations Managers must ensure that such funds are expended only on approved telephone calls.

The General Manager or their delegate shall determine any application for an increase of up to $50.00 to a prisoner’s private money taking into account the following considerations:

* whether there is a need for the additional funds;
* the principle that prisoners should not be disadvantaged with regard to the level of their access to family solely on the basis of their family’s capacity to provide additional monies;
* the relative needs of the prisoner (e.g. to maintain ties with family) and their family (e.g. to maintain the household, general living expenses etc) for the requested funds;
* the degree to which any additional monies have been used in the past for the purpose for which they were intended;
* the prison placement of the prisoner and location of the person to whom the call is to be made (i.e. reliance on international or standard / local call structure); or
* the need for supplementary funds to maintain an appropriate level of contact with their legal representative(s).

**To be completed by prisoner:**

I am applying for additional private monies as per the below request:

|  |  |
| --- | --- |
| STD phone calls to ……………………………..… (location) | 🞏 |
| ISD / IDD phone calls to …………………………….(country) | 🞏 |
| Calls to legal representatives | 🞏 |
| Exceptional circumstances (specify) ……………………………………… | 🞏 |
| Other (specify) …………………………………………………………….. | 🞏 |
| Additional funds sought per month (*circle one*): **$10 $20 $30 $40 $50** |
| Length of time additional funds sought: (*specify between 1-6 months*): | Month commencing: |
| Money to be accessed from (*tick one*): 🞏 Deposited by visitor 🞏 Compulsory Savings\*  |

\**Access to compulsory savings for additional private monies to make telephone calls will only be granted with approval from the General Manager where genuine transitional need can be demonstrated and relevant requirements are met.*

Prisoner’s given name and surname : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CRN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Location: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_/ 20\_\_\_

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| **For internal use only - General Manager or Delegate’s decision:****Is the application supported**?Yes ⬜ No ⬜**If application supported, funds approved:****$\_\_\_\_\_** *(maximum $50)* **for \_\_\_\_\_\_ months** *(maximum 6 months)***Commencing** (*month*): \_\_\_\_\_\_\_\_**Money to be accessed from** (*tick one)*: 🞏 Deposited by visitor 🞏 Prisoner’s Compulsory Savings\* *\*Access to compulsory savings for additional private monies to make telephone calls may only be granted with approval from the General Manager where genuine transitional need can be demonstrated and relevant requirements are met.*  **Comments:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature:Designation:Date: |

**Schedule 4 - request to place ABoriginal ART Program and additional funds in compulsory savings / Trust account form**

I, *insert given name and surname*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ CRN \_\_\_\_\_\_\_\_\_\_\_\_\_\_ request that as part of remuneration I have received through the sale or licensing of my artwork, that the attached funds be retained by the prison in accordance with the minimum amounts set out in the table below and consistent with Schedule 1.

|  |  |
| --- | --- |
| *Payment scale for purchased or licensed artwork* | *Minimum percentage of payment to be placed in prisoner* ***‘Compulsory Savings / Trust’*** *account* |
| ≤ $500 | 40% |
| ≥ $501 and ≤$1,000 | 70% |
| ≥ $1,001 and ≤ $2,500 | 75% |
| ≥ $ 2,501 and ≤ $ 4,000 | 80% |
| > $ 4,001 | 90% |

Additionally, I request that the following additional funds received or earned through my participation in the *Aboriginal Art Program*, be placed in my compulsory savings / trust account.

Amount: $\_\_\_\_\_\_\_\_\_\_ or %\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I understand that by placing these additional funds in my compulsory savings / trust account, that I will have restricted access to these savings and will need to obtain the approval of the General Manager in order to access these funds for approved purposes.