

# Draft Orders submitted to the Governor in Council by the Honourable the Minister for Corrections

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## Corrections Act 1986

Recommending to the Governor in Council, under section 112 of the **Corrections Act 1986**, that the Corrections Amendment Regulations 2025, be made.

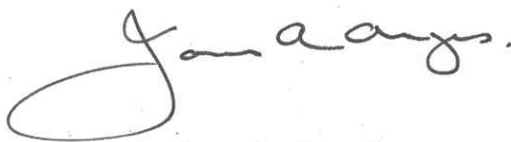
(Signature of Secretary or Authorised Delegate) .....

Emma Cassar, Secretary, Department of Justice and Community Safety

(Signature of Minister).....

The Hon. Enver Erdogan MLC, Minister for Corrections

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*For Executive Council*

18 NOV 2025



APPROVED BY THE  
GOVERNOR IN COUNCIL



*Clerk of the Executive Council*

## Corrections Act 1986

### CORRECTIONS AMENDMENT REGULATIONS 2025

#### EXPLANATORY MEMORANDUM

##### Summary

- The proposed regulations will amend the Corrections Regulations 2019 (Principal Regulations) to require instruments of restraint to be applied following certain staff assault incidents in prison and clarify the scope of directions which may be made by the Governor of a prison under regulation 14(1) of the Principal Regulations.
- The proposed regulations will also amend regulation 86(2) of the Principal Regulations to provide that the requirement to allow prisoners to dress in private immediately after a strip search is subject to the security and good order of the prison and the safe custody or welfare of the prisoner.
- The proposed regulations will also make minor technical amendments to the Principal Regulations consequential to the enactment of **Corrections Legislation Amendment Act 2025**.

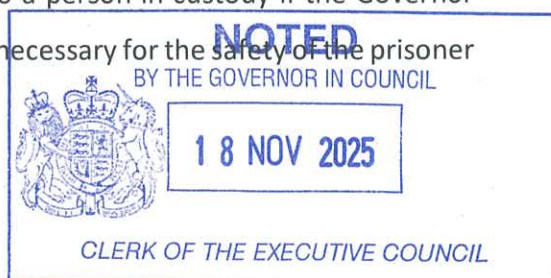
##### Recommendation

1. It is recommended to the Governor in Council that the Corrections Amendment Regulations 2025 be made.

##### Background to proposed regulations and their effect

###### Use of instruments of restraint

1. Regulation 14 in the Principal Regulations provides the circumstances in which the Governor may direct a prison officer to apply instruments of restraint to a prisoner, and the circumstances in which a prison officer may apply instruments of restraint without a Governor's direction. Regulation 14 also provides limitations and protections in relation to the application and use of instruments of restraint.
2. Regulation 14(1) in the Principal Regulations provides that the Governor may direct a prison officer to apply an instrument of restraint to a person in custody if the Governor believes that the use of restraints is reasonable and necessary for the safety of the prisoner



or any other person or for the security or good order of the prison.

3. The proposed regulations will amend regulation 14 to require instruments of restraint to be applied following certain staff assault incidents and clarify the scope of the directions which may be made by the Governor under regulation 14(1) in line with existing practice.
4. Regulation 5 will insert a new subregulation 14(1A) to provide that the Governor must direct a prison officer to apply an instrument of restraint to a person in custody in a prison if the Governor believes on reasonable grounds that the person has committed an assault against a prison officer or other person working in a prison which is prescribed by the Commissioner, unless the Governor is satisfied that exceptional circumstances exist. In line with existing practice and requirements under subregulation 14(1), new subregulation (1A) will only permit the use of instruments of restraint where it is necessary for the safety of the prisoner or any other person or for the security or good order of the prison.
5. Regulation 5 will insert a new subregulation 14(1C), to provide that the assaults that will attract the requirement to apply an instrument of restraint in proposed new regulation 14(1A) will be specified in an instrument by the Commissioner of Corrections Victoria. In accordance with current regulation 14(5) instruments of restraint must be used in the manner approved by the Commissioner.
6. Regulation 5 will also insert a new subregulation 14(1B) to make clear that a direction by the Governor under regulation 14(1) and proposed new 14(1A) may include a direction to apply restraints on a recurring basis in specific circumstances, for example when the prisoner is being moved within the prison. The inclusion of (1B) is intended to clarify the intended and existing operation of regulation 14 for the sake of clarity and ease of understanding.

#### Strip searching requirements

7. Regulation 86 in the Principal Regulations sets out the general requirements for conducting a strip search on a prisoner. Regulation 86(2)(e) requires prison officers to ensure that prisoners are allowed to dress in private immediately after the strip search is finished. Regulation 86(5) requires the Governor to keep a register containing prescribed information relating to every strip search of a prisoner.
8. The proposed regulations will preserve the existing requirement in subregulation 86(2)(e) to allow a prisoner to dress immediately after a strip search is conducted, and insert a new subregulation 86(2)(ea) which provides that a prisoner must be allowed to dress in private,



except where doing so would threaten the safe custody or welfare of the prisoner or the security and good order of the prison. This amendment will enable prison officers to observe a person get dressed after a strip search if it is necessary for the security or good order of the prison or the safe custody or welfare of the prisoner.

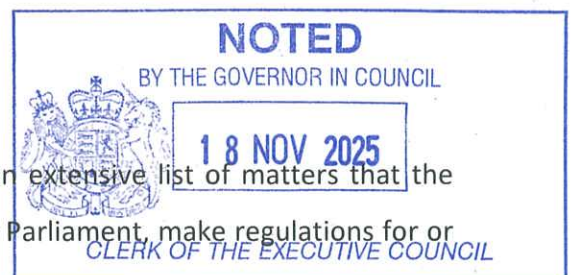
9. Regulation 6 will also insert a new paragraph 86(5)(da) into the Principal Regulations to require details of when a prisoner is not allowed to dress in private after a strip search to be recorded in the strip search register.

#### Other minor and technical amendments

10. Minor and technical amendments to the Principal Regulations are required to ensure consistency with legislative changes implemented by the **Corrections Legislation Amendment Act 2025** (Amendment Act).
11. The Amendment Act inserts a new section 77A(1A) into the **Corrections Act 1986** to allow the Adult Parole Board to revoke an automatic cancellation of parole under section 77(7A) if appropriate. Section 77(7A) provides that a person's parole is automatically cancelled if they are sentenced to a further term of imprisonment while on parole.
12. Currently, regulation 122 in the Principal Regulations requires the Adult Parole Board to send a notice (Form 18) to the relevant General Manager and Regional Manager if the Adult Parole Board revokes a cancellation of parole under section 77A(1) of the **Corrections Act 1986**.
13. The Amendment Regulations will make changes to regulation 122 to require the Adult Parole Board to send a notice (Form 18) if the Board revokes a cancellation of parole under section 77A(1), 77A(2) or the new section 77A(1A) inserted by the Amendment Act.
14. There will also be a minor change to Form 18 in Schedule 2 of the Principal Regulations to reflect that the form may be sent under sections 77A(1), 77A(2) and 77A(1A) of the **Corrections Act 1986**.

#### **Authorising legislation**

15. Section 112 of the **Corrections Act 1986** contains an extensive list of matters that the Governor in Council may, subject to disallowance by Parliament, make regulations for or with respect to.



#### **Certificates provided in accordance with the Subordinate Legislation Act 1994**

16. The following certificates are attached for the proposed Amendment Regulations in

accordance with the **Subordinate Legislation Act 1994**:

- A consultation certificate under section 6.
- An exemption certificate under section 8(1)(a), stating that a Regulatory Impact Statement is not required because the Amendment Regulations do not impose a significant economic or social burden on a sector of the public.
- A human rights certificate under section 12A.

### **National Competition Policy**

17. In accordance with the guidelines contained in the *Victorian Guide to Regulation* (published by the Office of the Commissioner for Better Regulation), the proposed Regulations are not required to be tested under competition policy assessment requirements as they are exempt from the Regulatory Impact Statement process.

### **Gazettal**

18. The proposed regulations will be published in a Special Gazette on the day of their making.

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## The Hon. Enver Erdogan MLC

Minister for Casino, Gaming and Liquor Regulation  
Minister for Corrections  
Minister for Youth Justice

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### Corrections Act 1986

### CORRECTIONS AMENDMENT REGULATIONS 2025

#### RECOMMENDATION

It is recommended to the Governor in Council that, under section 112 of the **Corrections Act 1986**, the Corrections Amendment Regulations 2025 be made.

Advice from the Chief Parliamentary Counsel is submitted as required by section 13 of the **Subordinate Legislation Act 1994**.

A Regulatory Impact Statement for these Regulations has not been prepared. As the Minister responsible for the administration of the **Corrections Act 1986**, I have issued an exemption certificate under section 8 of the **Subordinate Legislation Act 1994**, and it is attached.

Under my hand, the following, additional, certificates are attached:

- a consultation certificate under section 6 of the **Subordinate Legislation Act 1994**, and
- a certificate regarding human rights under section 12A of the **Subordinate Legislation Act 1994**.

Dated: 13/11/2025

The Hon. Enver Erdogan MLC  
Minister for Corrections





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### Subordinate Legislation Act 1994

#### CONSULTATION CERTIFICATE

(Section 6)

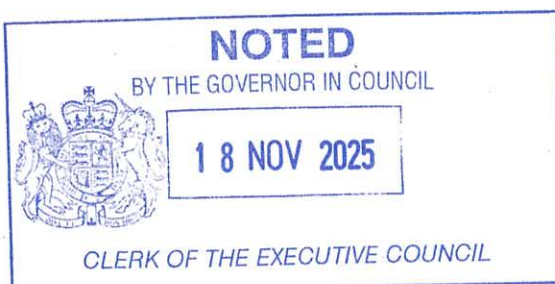
#### CORRECTIONS AMENDMENT REGULATIONS 2025

I, the Hon. Enver Erdogan, Minister for Corrections, and Minister responsible for administering the **Corrections Act 1986**, certify that in accordance with the guidelines made under the **Subordinate Legislation Act 1994** there has been consultation with:

- (a) every other Minister whose area of responsibility may be affected by the proposed Corrections Amendment Regulations 2025 and there is no overlap or conflict with any other existing or proposed statutory rule, legislation or stated government policy.
- (b) the need for and scope of the Corrections Amendment Regulations 2025 has been considered and, in accordance with the Subordinate Legislation Guidelines, there has been consultation with government business units with responsibilities and powers under the **Corrections Act 1986**, including the Adult Parole Board, Corrections Victoria and Parole Central Unit.

Dated: 13/11/2025

The Hon. Enver Erdogan MLC  
Minister for Corrections





The Hon. Enver Erdogan MLC

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**Subordinate Legislation Act 1994**

**EXEMPTION CERTIFICATE**

(Section 8)

**CORRECTIONS AMENDMENT REGULATIONS 2025**

I, the Hon. Enver Erdogan, Minister for Corrections, and Minister responsible for administering the **Corrections Act 1986**, certify under section 8(1)(a) and 8(1)(c) of the **Subordinate Legislation Act 1994** that in my opinion, the proposed Corrections Amendment Regulations 2025 are exempt from the requirement to prepare a Regulatory Impact Statement.

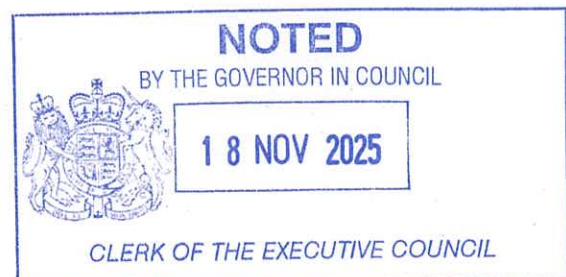
The reasons for forming this opinion are that the proposed amendments do not impose a significant economic or social burden on a sector of the public.

The purpose of the proposed Corrections Amendment Regulations 2025 is to codify when the use of restraints must be used following a staff assault incident, make changes to requirements regarding strip searches and make minor amendments consequential to changes made by the **Corrections Legislation Amendment Act 2025**.

Accordingly, a Regulatory Impact Statement is not required for these Regulations.

Dated: 13/11/2025

The Hon. Enver Erdogan MLC  
Minister for Corrections





The Hon. Enver Erdogan MLC

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## Subordinate Legislation Act 1994

### HUMAN RIGHTS CERTIFICATE

(Section 12A)

### CORRECTIONS AMENDMENT REGULATIONS 2025

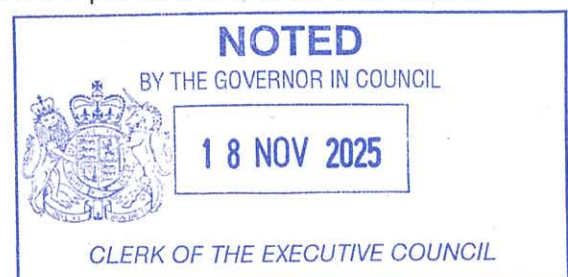
I, the Hon. Enver Erdogan, Minister for Corrections and Minister responsible for administering the **Corrections Act 1986** certify that, in my opinion the proposed Corrections Amendment Regulations 2025 (Amendment Regulations) do limit one or more human rights set out in the **Charter of Human Rights and Responsibilities Act 2006** (Charter). To the extent that the Amendment Regulations do limit rights, in my opinion these limitations are reasonable and demonstrably justified as per the discussion below.

#### Regulation 5 – use of instruments of restraint

Proposed regulation 5 will amend regulation 14 of the Corrections Regulations 2019 (Principal Regulations) to:

- require that the Governor must make a direction that an instrument of restraint be applied to a person in custody in a prison following certain assaults against staff in prison unless there are exceptional circumstances (proposed new regulation 14(1A) and 14(1C)),
- clarify that a direction made by the Governor to apply an instrument of restraint pursuant to the proposed new regulation 14(1A) and under the existing regulation 14(1) may include both a one off direction to apply an instrument of restraint to a prisoner on a specific occasion, or an ongoing direction to apply restraints on a recurring basis in specific circumstances, for example when the prisoner is being moved within the prison (proposed new regulation 14(1B)).

The proposed new regulation 14(1A) and existing regulation 14(1) allow instruments of restraint to be used to protect the safety of the prisoner or another prisoner and the security or good order of the prison. Importantly, this includes the protection of staff from violent incidents.



I consider that the Amendment Regulations will engage but not limit the right to protection from cruel, inhuman or degrading treatment (section 10(b)), and will lawfully limit the right to humane treatment when deprived of liberty (section 22(1)).

*Protection from cruel, inhuman or degrading treatment (section 10(b))*

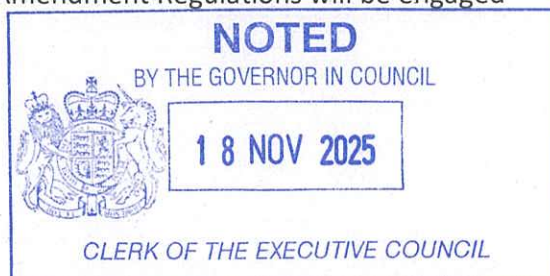
Section 10(b) of the Charter provides that a person must not be treated or punished in a cruel, inhuman or degrading way. The threshold for what amount of pain and suffering equates to cruel, inhuman or degrading treatment is dependent on the circumstances, including the duration of the treatment, the vulnerabilities of the person receiving the treatment, and whether that pain and suffering is necessary and proportionate to a legitimate purpose. The right under section 10(b) will be limited if the use of an instrument of restraint is disproportionate to the purposes it seeks to achieve, and results in physical or psychological pain and suffering beyond the minimum threshold of severity.

The Amendment Regulations have been drafted to ensure that instruments of restraint will only be used in a way that is proportionate to the intended purpose of ensuring safety, security and good order. First, restraints cannot be used punitively and may only be used under both proposed new regulation 14(1A) and existing 14(1) where necessary to protect a person's safety or the security or good order of the prison. In the case of the proposed new regulation 14(1A), a direction to apply an instrument of restraint is only required to be given if there has been an assault against staff of a kind which evidences a risk to safety, security and good order necessitating the use of restraints. Instruments of restraint must not be used for longer than is necessary to achieve this purpose (regulation 14(2)).

In addition, Corrections Victoria policies only permit the use of restraints where necessary and proportionate. The nature of the restraints used (i.e. when restraints will be applied and for how long), is determined by the Governor based upon an individualised assessment of the person in prison's risk and is reviewed at regular intervals to ensure that a person in prison is not kept in restraints for longer than necessary for the safety of the prisoner or any other person or the security or good order of the prison. In addition, Corrections Victoria policies require records and registers to be maintained for all incidents where instruments of restraint are used, and compliance processes must be in place to review these instances.

The protections and oversight mechanisms set out in existing regulation 14, which ensure that a person must not be kept in restraints for longer than is necessary, require the restraints to be applied in a manner approved by the Commissioner of Corrections, and empower the Secretary to order the removal of an instrument of restraint at any time, will continue to apply to the Amendment Regulations.

Given the above safeguards, I consider that any physical or psychological suffering which results from the use of instruments of restraint in accordance with the Amendment Regulations will not be disproportionate to the purpose of safeguarding the safety, security and good order of the prison. Consequently, the section 10(b) rights of any person who has instruments of restraint applied to them under the Amendment Regulations will be engaged but not limited.



*Right to humane treatment when deprived of liberty (section 22(1))*

People in prison have the right to be treated with humanity and with respect for the inherent dignity of the human person. Similarly to section 10(b), whether the right is limited depends on whether physical or psychological harm is imposed for a legitimate purpose. However, there is a lower threshold for conduct which will be considered to limit section 22(1) compared to section 10(b), due to the vulnerability of a person in custody and their lack of control, which gives rise to a positive onus on the state to safeguard their health and wellbeing.

I consider that any limit rights in section 22(1) will be reasonable and demonstrably justifiable in accordance with section 7(2). Under the Amendment Regulations and the Corrections Victoria policies instruments of restraint are only used where this is appropriate and necessary for security and safety reasons. The main purpose of instruments of restraint is to prevent injuries to people in prison or staff, as well as significantly reducing the need for other forms of force. Further the powers to use an instrument of restraint are subject to the various measures set out in existing Regulation 14 and Corrections Victoria policies discussed above to guard against inappropriate use. I therefore consider any limit imposed on the right in section 22(1) of the Charter to be reasonably justified.

**Regulation 6 – strip searches of prisoners—general requirements**

Proposed regulation 6 will amend regulation 86(2) of the Principal Regulations to provide an exception to the requirement that prison officers must allow people to dress in private following a strip search, in circumstances where complying with this requirement may threaten the safety and security of staff and/or people in custody. The proposed amendment is expected to improve safety and security, and reduce the risks associated with contraband in prison for both staff and people in prison.

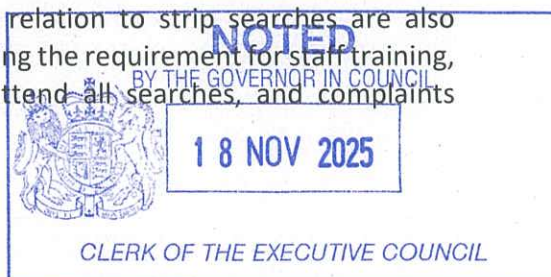
I consider that the Amendment Regulations will lawfully limit the following rights:

- the right not to have one's privacy unlawfully or arbitrarily interfered with (section 13(a))
- the right to protection from cruel, inhuman or degrading treatment (section 10(b))
- the right to humane treatment when deprived of liberty (section 22(1)).

*Right not to have a person's privacy unlawfully or arbitrarily interfered with (section 13(a))*

I consider that any limitation of section 13(a) is likely to be justified by the potential to keep staff and people in custody safe by reducing the number of moves required for high-risk individuals and reducing the risks of a concealed weapon being used during a move, of contraband circulating through the prison, and of people in custody harming themselves.

Amendments to introduce an oversight mechanism will ensure appropriate use of the exception. Prison officers will be required to record details of when a person is not allowed to dress in private in the strip search register. This will also enable Corrections Victoria to review the use of the exception and the effectiveness and appropriateness of its policies on how the exception ought to be used. Additional safeguards in relation to strip searches are also currently in place in Corrections Victoria's policies, including the requirement for staff training, the requirement for at least two prison officers to attend all searches, and complaints



mechanisms.

I consider that there are no less restrictive alternatives reasonably available to reduce arbitrary interferences with privacy while also addressing the safety risks. Proposed regulation 6 aims to address the safety and security issues which arise when either transporting a person to a sterile location or searching them in a non-sterile location and then leaving them to dress privately. Alternative search methods, such as pat down searches, millimetre wave scans or x-ray scans are either not as effective as strip searches or rely on scanning machines which are not always available. Further, moving the person to an x-ray scan machine poses the same risks as moving them to a sterile area.

Given the important purpose for which proposed regulation 6 will be implemented, the mitigation and oversight mechanisms in place, and the lack of reasonable alternatives, I consider that any limitation of section 13(a) is likely to be reasonable and demonstrably justifiable.

*Protection from cruel, inhuman or degrading treatment (section 10(b))*

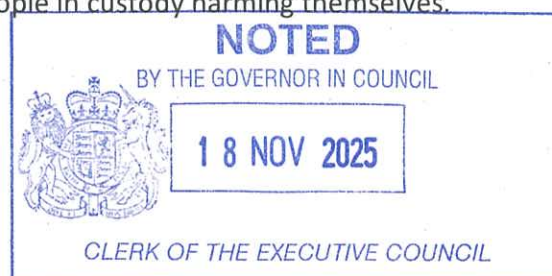
I note that the Courts have held that strip searches are not inherently degrading, and that whether or not they are degrading depends on specific circumstances. The purpose of the requirement that a person be allowed to dress privately immediately after a strip search is to preserve the person's dignity and mitigate the extent to which a strip search is a degrading experience. Any change to that requirement therefore engages the right to be protected from cruel, inhuman or degrading treatment.

When implemented as intended, proposed regulation 6 would not reach the minimum threshold of severity to be considered cruel, inhuman or degrading treatment because:

- the suffering or humiliation associated with being watched while getting dressed does not go beyond the suffering and humiliation associated with strip searches in general, noting that the regulations and Corrections Victoria's policies already provide for strip searches to be conducted in a manner that minimises its intrusiveness as far as possible (for example, by conducting it as expeditiously as possible, in a private place, by officers of the same gender, and without touching the person)
- the purpose of observing the person getting dressed in the exceptional circumstances allowed by the proposed regulation and policy is for the safety, security and good order of the prison, and not to harm, humiliate or debase.

However, there is a risk that proposed regulation 6 could limit section 10(b) if the provisions were to be misused.

Any limitation of section 10(b) is likely to be demonstrably justified by the potential to keep staff and people in custody safe by reducing the number of moves required for high-risk individuals and reducing the risks of a concealed weapon being used during a move, of contraband circulating through the prison, and of people in custody harming themselves.



As detailed above, there are no reasonably available alternatives which can fully eliminate the risk of a person in custody's section 10(b) rights being limited. The potential limitation is also proportionate and tailored to the risks the reform is trying to address.

As noted, this limitation of section 10(b) would only arise where the exception provided in proposed regulation 6 is misused by a prison officer to justify observing a person in custody getting dressed for the purpose of degrading that person. The risk of misuse will be mitigated by the safeguards detailed above.

*Right to humane treatment when deprived of liberty (section 22(1))*

As noted above, the purpose of the requirement that a person in custody be allowed to dress privately following a strip search is to preserve that person's dignity. Any change to that requirement therefore engages the right for the person in custody to be treated humanely and in a way that respects their inherent dignity.

For the reasons outlined above with respect to section 10(b), where it is operating as intended, proposed regulation 6 would not breach the right to humane treatment when deprived of liberty. However, there is an inherent risk that proposed regulation 6 could be misused by a prison officer. Misuse of the exception would limit the person's right to be treated with humanity and respect for their inherent dignity while deprived of liberty.

Any limitation of section 22(1) is likely to be reasonably and demonstrably justified by the potential to keep staff and people in custody safe by reducing the number of moves required for high-risk individuals and reducing the risks of a concealed weapon being used during a move, of contraband circulating through the prison, and of people in custody harming themselves.

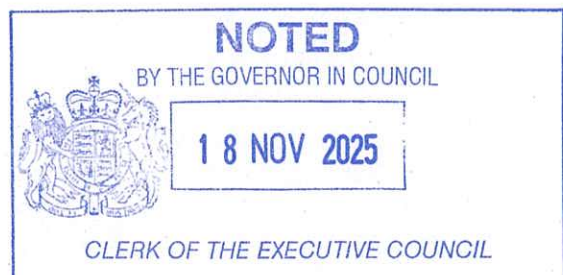
As outlined above, there are no reasonably available alternatives which can fully eliminate the risk of a person in custody's section 22(1) rights being limited. The potential limitation is also proportionate and tailored to the risks the reform is trying to address.

As noted, this limitation of section 22(1) would only arise where the 'security and good order' exception is misused by a prison officer to justify a person in custody getting dressed for the purpose of degrading that person. The risk of misuse will be mitigated by the safeguards detailed above.

Dated: 13/11/2025



**The Hon. Enver Erdogan MLC**  
**Minister for Corrections**





# PARLIAMENTARY COUNSEL VICTORIA

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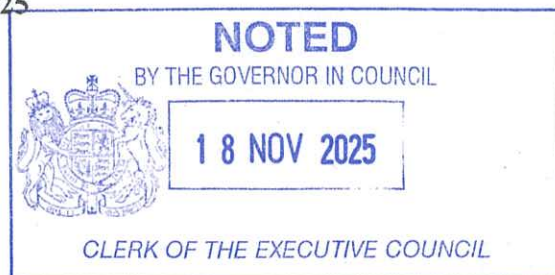
## SUBORDINATE LEGISLATION ACT 1994 SECTION 13 CERTIFICATE

Proposed statutory rule : **Corrections Amendment Regulations 2025**

Authorising Act : **Corrections Act 1986**

Date of print of proposed statutory rule : **21 October 2025**

*A proposed statutory rule that is to be made by, or with the consent or approval of, the Governor in Council must be submitted to the Chief Parliamentary Counsel for the issue of a certificate by the Chief Parliamentary Counsel specifying whether the proposed statutory rule —*



- |   |  |
|---|--|
| (a) <i>appears to be within the powers conferred by the authorising Act;</i>                    | (a) so appears;  |
| (b) <i>appears without clear and express authority being conferred by the authorising Act —</i> | (b)  |
| (i) <i>to have a retrospective effect; or</i>   | (i) if made on or before 18 November 2025, does not so appear; |
| (ii) <i>to impose a tax, fee, fine, imprisonment or other penalty; or</i>                       | (ii) does not so appear;                                       |
| (iii) <i>to shift the legal burden of proof to a person accused of an offence; or</i>           | (iii) does not so appear;                                      |
| (iv) <i>to sub-delegate powers delegated by the authorising Act;</i>                            | (iv) does not so appear;                                       |
| (c) <i>appears to be consistent with the general objectives of the authorising Act;</i>         | (c) so appears;  |

- (d) *appears to be consistent with and to achieve the objectives set out in the proposed statutory rule and, if the proposed statutory rule is to amend an existing statutory rule, appears to be consistent with the objectives set out in the existing statutory rule;* (d) so appears;
- (e) *appears to be inconsistent with principles of justice and fairness;* (e) does not so appear;
- (f) *appears significantly or substantially to overlap or conflict with any other statutory rule or legislation;* (f) does not so appear;
- (g) *is expressed as clearly and unambiguously as is reasonably possible.* (g) is so expressed.

  
JAYNE ATKINS

Chief Parliamentary Counsel

Date : 21 October 2025



This certificate relates to the circumstances as at the date of the certificate.