

The fund must take out liability insurance for the persons referred to in the fourth paragraph.

12. In the case of liquidation of a fund, one or three liquidators must be appointed by the board of directors which is deemed to continue to exist for the purpose of the liquidation.

The services of the liquidator or liquidators are free of charge unless their remuneration has been previously determined by the board of directors.

The property of the fund is distributed as follows:

(1) the debts of the fund and the liquidation costs are paid first;

(2) property from gifts or legacies is returned, where applicable, to the donor or testator or their legal representatives in accordance with the provisions of the act constituting the gift or legacy; and

(3) any remaining assets are then distributed to the central fund.

At the end of the liquidation, the liquidator or liquidators must file with the Minister a liquidation report, the financial statements of the fund and the activities report for the fiscal year ending on the date of closing of the facility.

13. The Minister may dispose of the property other than sums making up the assets devolved to the central fund during liquidation by giving or selling the property to the funds of other facilities depending on their respective financial situation and needs in relation to their program of activities.

The Minister may dispose of the property referred to in the first paragraph as the Minister sees fit if the property is of no use to other funds.

14. In addition to the sums referred to in section 104 of the Act, the Fonds central de soutien à la réinsertion sociale is made up of

(1) the sums transferred to the fund at the time of the liquidation of a fund;

(2) the proceeds from the sale of property acquired by the central fund or the property transferred to it at the time of the liquidation of a fund; and

(3) grants made to the central fund.

15. The percentage used to calculate the amount that a fund must deduct from the remuneration owed to an inmate under the program of activities of a fund, for the purposes of section 91 of the Act, is fixed at 10%.

The percentage is calculated on remuneration after the deductions referred to in section 91 of the Act have been made.

16. The allowance that the facility director must give to an inmate, according to the second paragraph of section 91 of the Act, is determined at 50% of the amount paid by the fund to the facility director.

With the allowance received, an inmate may purchase items from the canteen for personal use or materials necessary to produce goods and services under the program of activities, or pay the cost of participating in the program.

Any sum owed to a fund by an inmate on the date of his or her release must be repaid out of the inmate's allowances or, if that is not possible, from sums credited to the inmate's savings account held in trust by the director.

17. Each fund must pay annually to the central fund the assessment determined by the Minister, which may not be less than 5% or more than 25% of the net revenues of the fund established by subtracting the sums used for financing its program of activities from the sums used to make up the fund.

18. This Regulation replaces the Regulation respecting programs of activities for confined persons made by Order in Council 1471-88 dated 28 September 1988 and the Community Work Regulation made by Order in Council 148-86 dated 19 February 1986.

19. This Regulation comes into force on 5 February 2007.

7849

Draft Regulation

An Act respecting the Québec correctional system (2002, c. 24)

Regulation

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation under the Act respecting the Québec correctional system, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to implement the Act respecting the Québec correctional system which is to come into force on 5 February 2007. It governs in particular searches of inmates and visitors, and the processing of inmates' mail.

The draft Regulation has no impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Louise Lepage, Service du conseil à l'organisation, services correctionnels, Ministère de la Sécurité publique, 2525, boulevard Laurier, 11^e étage, Québec (Québec) G1V 2L2; telephone: 418 644-7754; fax: 418 644-5645.

Interested persons having comments to make on the draft Regulation are asked to send them in writing before the expiry of the 45-day period to Jacques P. Dupuis, Minister of Public Security, 2525, boulevard Laurier, 5^e étage, Québec (Québec) G1V 2L2.

JACQUES P. DUPUIS,
Minister of Public Security

Regulation under the Act respecting the Québec correctional system

An Act respecting the Québec correctional system (2002, c. 24, s. 67, 2nd par. and s. 193, 1st par., subpars. 1 and 3 to 12)

CHAPTER I GENERAL

DIVISION I APPLICATION

1. This Regulation applies to correctional facilities established under section 29 of the Act respecting the Québec correctional system (2002, c. 24). Working hours are between 8:30 a.m. and 4:30 p.m., excluding Saturday, Sunday and statutory holidays.

DIVISION II POWERS OF THE FACILITY DIRECTOR

2. The facility director may exercise the following powers:

(1) conduct an investigation or have an investigation conducted, in particular in the case of death, attempted escape, assault or injury sustained by a personnel member or an inmate, or trade of goods, and report on the investigation to the Associate Deputy Minister of Correctional Services;

(2) interrupt or have the telephone conversation of an inmate interrupted if the facility director has reasonable grounds to believe that the inmate is committing an offence against a statute, is harassing a person or is making or receiving threats;

(3) authorize the giving or exchange of items among inmates;

(4) prepare and distribute a list of what constitutes authorized and unauthorized items and contraband within the facility;

(5) provide for the seizure of unauthorized items and contraband seized following searches in the correctional facility; and

(6) authorize the detention of a person without a warrant of committal in accordance with the Criminal Code (R.S.C. 1985, c. C-46) at the request of a peace officer.

DIVISION III INMATES' PROPERTY

3. When a person is admitted to a correctional facility, the clothing and items in the person's possession are summarily examined. The property that an inmate is not authorized to keep in his or her possession must be stored in a secure place and measures must be taken to keep the property in good condition.

4. If an inmate receives property from the outside, the property must be forwarded to the inmate, unless the inmate is not authorized to keep the property in his or her possession, in which case it is returned to the sender or to the person who brought it to the facility.

If that is not possible, the property is kept as provided in section 3 and given to the inmate at the time of the inmate's release.

DIVISION IV HYGIENE

5. An inmate must be able to shower or bathe at least twice a week and must have toiletries available for that purpose.

DIVISION V CLOTHING

6. Every inmate not authorized to wear personal clothing or who does not own appropriate clothing must receive clean clothes in the inmate's size and adapted to the climate.

7. Every inmate must have the possibility of washing his or her clothes and underwear or having them washed at least once a week.

8. When an inmate has been authorized to leave the facility, the inmate may wear personal clothing or receive other clothing that does not identify the person as an inmate.

DIVISION VI PHYSICAL EXERCISE

9. An inmate who is not working outdoors or who is not working outside the facility is entitled to go outdoors once a day for at least one hour, unless the inmate is confined in administrative segregation.

DIVISION VII HEALTH CARE

10. An inmate whose state of health so requires must be transferred to a hospital centre.

11. An inmate may not be subjected to medical or scientific experiments that could affect the inmate's physical or mental integrity.

12. A health professional at the facility must submit a report to the facility director each time the health professional believes that the physical or mental health of an inmate has been or will be affected by the conditions of detention or by their extension.

DIVISION VIII RELEASE

13. When an inmate is released and does not have any money, clothing or means of transportation to the inmate's domicile, the facility director is to provide money, clothing or transportation.

14. If an inmate does not have a domicile, the facility director must take the necessary measures to assist the inmate in finding one.

15. The facility director must give the inmate a written notice within seven days after the inmate is admitted to the facility informing the inmate of the term of imprisonment, the date on which the imprisonment ends, the remission the inmate may earn and, where applicable, the date of eligibility for temporary absence for reintegration purposes or in preparation for conditional release and for conditional release.

The facility director must also inform the inmate each time the discipline committee imposes a sanction consisting of non-allocation or forfeiture of days of remission.

16. A facility director who reexamines an inmate's record in accordance with section 67 of the Act has 16 working hours to maintain the decision to grant temporary absence and, if necessary, modify the conditions thereof, or cancel the decision to grant temporary absence. That time period begins on the date on which the facility director gives a notice to that effect to the inmate.

17. If a sentence to pay a fine or, failing payment, to serve a determined sentence has been imposed and the person serving the sentence decides to pay the fine after serving part of the sentence, the amount of the fine owing is calculated by

(1) dividing the total fine imposed by the total number of days of sentence;

(2) subtracting the number of days of sentence served and the number of days earned as remission from the total number of days of sentence;

(3) multiplying the number obtained under subparagraph 1 by the number obtained under subparagraph 2; and

(4) adding the total of the costs established in the warrant of committal to the number obtained pursuant to subparagraph 3.

Release is granted at the time the person serving a sentence pays the fine and the total of the costs.

CHAPTER II SEARCHES

DIVISION I TYPES OF BODY SEARCH

18. A non-intrusive search means a search of the clothed body by technical means, including the use of a walk-through metal detector, a portable detector or a sniffer dog. The search also includes a visual inspection of the open mouth and the insides of the nose and ears, the person running his or her fingers through his or her hair, and a manual search or a search by technical means of the items in the possession of the person searched who is requested to remove or surrender the items temporarily.

19. Frisk search means a search of the clothed body. It is a hand search carried out from head to foot, down front and rear of the body, around the legs and thighs, and inside the folds of the clothing, pockets and footwear. It also includes a visual inspection of the open mouth and the insides of the nose and ears, and the person running his or her fingers through his or her hair. The search may also include a search of the jacket or coat that the person has been requested to remove and the other effects the person has in his or her possession, such as a briefcase, a handbag and a wallet. If necessary, the person may be requested to lift, lower or open his or her outerwear for a visual inspection. There must be compliance with the following conditions:

(1) a frisk search of a female inmate must always be conducted by a female correctional officer;

(2) if, before or during a frisk search, a male inmate refuses to be searched by a female correctional officer, the search must be conducted by a male correctional officer to the extent possible and there is no urgency to act otherwise.

20. A strip search means a visual inspection of the naked body, the open mouth and the insides of the nose and ears. If necessary, the person must remove his or her dental prosthesis, hairpiece or other such device, display the soles of his or her feet, run his or her fingers through his or her hair, open hands, spread and lift arms, lift, in the case of women, the breasts, and in the case of men, the penis and testicles, and bend to allow the visual inspection of the rectum and vagina. The person being searched must allow visual inspection of all the folds of his or her body. All clothing and effects must also be searched.

Except in an emergency, the strip search must be conducted by a person of the same gender.

21. An inspection of body cavities is a search conducted by a physician that includes for a woman an inspection of the rectum and vagina and for a man an inspection of the rectum.

22. An x-ray is a search consisting of one or more x-rays of all or part of the human body taken by a member of the Ordre des technologues en radiologie du Québec to detect any foreign body.

DIVISION II SEARCH OF PERSONS AND PREMISES

23. The following persons may be searched, in the cases and in the manner established by this Regulation:

(1) inmates;

(2) visitors;

(3) a member of the correctional services personnel; and

(4) any other person authorized to enter a correctional facility.

The search of a person must be conducted in a manner that respects human dignity and minimizes intrusion.

Personnel members called on to conduct searches must have received the necessary training.

Searches that may be conducted by a correctional officer may also be carried out by a manager in charge, if necessary.

24. The facility director may also order searches of all or part of the correctional facility, including cells, areas, exercise yards, the grounds and any vehicles that enter upon the property.

DIVISION III SEARCHES OF INMATES

25. A correctional officer may frisk search an inmate in the following circumstances:

(1) the inmate is entering or leaving a correctional facility;

(2) the inmate is entering or leaving an institutional vehicle;

(3) the inmate is entering or leaving an area, workshop, activity room or exercise yard in the facility;

(4) the inmate is entering or leaving a solitary, administrative segregation or observation cell.

26. A correctional officer may strip search an inmate in the following circumstances:

(1) the inmate is entering or leaving a correctional facility;

(2) the inmate is entering or leaving an institutional vehicle;

(3) the inmate is entering or leaving a visiting area other than a secure area;

(4) the inmate is leaving an area, workshop, activity room or exercise yard in the facility where the inmate may have had access to contraband that the inmate could have hidden on his or her person;

(5) the inmate is entering or leaving a solitary, administrative segregation or observation cell.

27. A correctional officer may also frisk or strip search an inmate if

(1) there are reasonable grounds to believe that the inmate has in his or her possession an unauthorized item, contraband or evidence relating to a criminal offence and that the search is necessary to find the contraband or evidence;

(2) an escape or hostage taking is feared, or after a riot; or

(3) a situation is likely to trigger an emergency measure or the presence of contraband constitutes a clear and substantial danger to human life or safety or to the security of the facility.

The search must be authorized by the manager in charge, except in an emergency where the search must be the subject of a report by the correctional officer who conducted it justifying its necessity and the reason for the urgency.

28. A body cavity search may be conducted provided that it is authorized by the facility director if a correctional officer is satisfied that there are reasonable grounds to believe that an inmate is carrying contraband in a body cavity or has ingested contraband.

The search is possible only if the measure is necessary to detect and seize the contraband and the written consent of the inmate has been obtained.

The search must be conducted by a physician of the same gender as the inmate, except if the inmate agrees to the search being conducted by a physician of the opposite gender. A witness of the same gender as the person searched must also be present.

29. An x-ray of an inmate may be taken provided that it is authorized by the facility director on the request of a correctional officer who is satisfied that there are reasonable grounds to believe that an inmate is carrying contraband in a body cavity or has ingested contraband.

An x-ray is possible only if the measure is necessary to detect and seize the contraband and the written consent of the inmate has been obtained.

DIVISION IV **ADMINISTRATIVE SEGREGATION**

30. If a correctional officer has reasonable grounds to believe that an inmate is in possession of contraband including drugs, weapons, narcotics or medicine not prescribed by a physician or a dentist, the officer may request that the manager in charge confine the inmate in administrative segregation.

31. The manager in charge must give the inmate an opportunity to make representations before confining the inmate in administrative segregation.

A manager in charge who decides to confine an inmate in administrative segregation must give the inmate the reasons for the decision in writing as soon as possible. The measure takes effect immediately.

32. The inmate may apply to the facility director for a review of the decision. The facility director must give the inmate an opportunity to make representations.

33. The facility director must confirm or set aside the decision of the manager in charge as soon as possible before the end of the administrative segregation.

If the facility director sets aside the decision, the administrative segregation ends immediately.

34. An inmate in administrative segregation must be placed in a cell where he or she remains alone and is not entitled during the administrative segregation to the minimum one hour per day outdoors.

35. Administrative segregation lasts 72 hours. It ends before that time if the inmate expels the contraband. It may also be extended once for a 24-hour period if the manager in charge has reasonable grounds to believe that the inmate has taken medicine to prevent expelling the contraband. In addition, a new administrative segregation measure may be imposed if an inmate has again ingested the contraband.

DIVISION V **SEARCHES OF VISITORS AND OTHER** **AUTHORIZED PERSONS**

36. A correctional officer may submit a visitor to a non-intrusive or frisk search when the visitor is entering or leaving a correctional facility.

A person authorized to enter a correctional facility is considered to be a visitor for the purposes of this Division.

37. A correctional officer may strip search a visitor with the authorization of the facility director if the officer has reasonable grounds to believe that the visitor is in possession of contraband or evidence relating to a criminal offence.

38. The correctional officer must give the visitor an opportunity to immediately leave the facility before the search commences. A visitor who refuses to be searched is informed that he or she will not have access to the facility unless the manager in charge authorizes a secure visit.

39. A minor under 14 years of age may not be strip searched unless the person having parental authority has given written authorization.

In the absence of that consent, the child will not have access to the facility unless the manager in charge authorizes a secure visit.

40. A conspicuous warning must be posted at the entrance to the security perimeter of the correctional facility, at the visitor control point and in the area reserved for visits, stating that all visitors, children accompanying them, their personal effects and their vehicle may be searched.

DIVISION VI SEARCH OF PERSONNEL MEMBERS

41. A correctional officer designated by the facility director may submit a personnel member to a non-intrusive search or frisk search when the personnel member is entering or leaving the correctional facility.

42. A personnel member designated by the facility director may submit another personnel member to a strip search if the facility director is satisfied that there are reasonable grounds to believe that the employee is carrying contraband or evidence relating to a criminal offence.

43. Access to the facility is prohibited to a personnel member who refuses to be searched.

DIVISION VII SEARCHES OF CELLS

44. As part of a search program established by the facility director, correctional officers may search all or any part of the cells in the facility or in a particular area of the facility. The searches may be conducted at any time and as often as necessary.

The presence of two personnel members is required.

45. If a correctional officer believes on reasonable grounds that unauthorized items, contraband or evidence relating to an offence are in an inmate's cell, the officer, with the authorization of the manager in charge, may conduct a search of the cell and its contents.

46. Despite section 45, if a correctional officer believes on reasonable grounds that the time necessary to obtain the authorization would endanger human life or safety or the security of the facility or could result in the loss of evidence, the officer may search the cell without prior authorization. The officer must so inform the manager in charge as soon as possible and be able to justify the reasons for the decision.

47. The manager in charge may at any time request the search of a certain number of cells determined at random to detect the presence of unauthorized items or contraband and to counter trafficking.

48. A search of cells may be conducted if an emergency occurs in the facility or in any part of the facility.

DIVISION VIII SEARCHES OF AREAS AND VEHICLES

49. The facility director may also order a correctional officer to conduct a search of areas, workshops, recreational areas such as sports areas, training rooms and other areas inside the facility. The director may also order the search of any other location or item that could conceal contraband, such as exercise yards and the facility grounds, and vehicles inside the facility's security perimeter. The searches may be conducted at any time and as often as necessary.

CHAPTER III MAIL AND VISITS

DIVISION I MAIL PROCESSING

50. The facility director or a personnel member designated by the facility director opens, inspects and may read mail sent to or by an inmate to determine whether its content could endanger the safety of a person or the security of the facility, interfere with the administration of justice or be used to commit an offence, or to ensure that it does not contain contraband or any other thing the inmate is prohibited or restricted from possessing in the facility.

Despite the foregoing, the facility director or personnel member may not open, inspect or read mail between an inmate and his or her attorney, a member of the National Assembly, a member of a legislative assembly, a member

of the House of Commons, the Commission des droits de la personne et des droits de la jeunesse, the Public Protector or the Police Ethics Commissioner.

51. Despite the second paragraph of section 50, the facility director or a personnel member designated by the facility director may,

(1) in the presence of the inmate and a personnel member, open the mail between the inmate and a person or a body referred to in the second paragraph of section 50 to determine whether its content could endanger the safety of a person or the security of the facility, interfere with the administration of justice or be used to commit an offence, or to ensure that it does not contain contraband or any other thing the inmate is prohibited or restricted from possessing in the facility;

(2) if the facility director or personnel member believes on reasonable grounds that the mail does not come from a person or a body referred to in the second paragraph of section 50, read the mail between an inmate and such a person to the extent necessary to ascertain the identity of the sender; and

(3) if the facility director or personnel member believes on reasonable grounds that the mail contains elements not protected by professional secrecy, read the mail between an inmate and his or her attorney to the extent necessary to examine those elements.

In the cases in subparagraphs 2 and 3 of the first paragraph, the facility director or personnel member may retain the mail until it is established that it comes from a person or a body referred to in the second paragraph of section 50 or that it is protected by professional secrecy.

52. The facility director or personnel member may refuse to forward mail to the addressee, and delete or seize the mail in whole or in part if the facility director believes on reasonable grounds that the content is likely to constitute a threat to a person or the facility, interfere with the administration of justice, be used in the commission of an offence or constitute a confession of crimes committed, or contains contraband or any other thing the inmate is prohibited or restricted from possessing in the facility.

53. The mail must be kept within the correctional facility in such manner that only authorized persons have access to it.

54. In the cases in the second paragraph of section 50 and in subparagraphs 2 and 3 of the first paragraph of section 51, the inmate must be informed as soon as

possible in writing of the reasons justifying the reading of his or her mail or the refusal to forward it, or of the deletion or seizure of any part of the mail, and be given an opportunity to make representations, unless the notice is likely to adversely affect an on-going investigation, in which case the notice must be given to the inmate at the end of the investigation at which time the inmate must be given an opportunity to make representations.

Seized mail must be stored in a secure manner and be given to the inmate when the inmate is released.

DIVISION II VISITS

55. An inmate is entitled to receive a visit from the inmate's

- (1) spouse, including de facto spouse;
- (2) father;
- (3) mother;
- (4) child;
- (5) brother;
- (6) sister; and
- (7) attorney.

Other persons may also visit an inmate if authorized by the facility director when the visit is necessary or useful to settle urgent business, for a social or family reason or to facilitate the inmate's reintegration.

56. The following persons are authorized to visit an inmate or a correctional facility:

- (1) the Minister of Public Security and the Deputy Minister of Public Security;
- (2) the Associate Deputy Minister of correctional services;
- (3) the Public Protector or his or her representative;
- (4) a member of the Commission des droits de la personne et des droits de la jeunesse or his or her representative;
- (5) the consul or ambassador of a foreign country with regard to a national of that country;

(6) a peace officer, probation officer, parole officer or immigration officer in the exercise of his or her functions;

(7) an employee or a member of the Commission québécoise des libérations conditionnelles; and

(8) a person duly authorized by the Associate Deputy Minister of correctional services or the facility director.

57. A visit may be refused in the following cases:

(1) an order of a Court or other administrative authority prohibits contact between the inmate and the visitor even if the order is to take effect only on the date of the inmate's release;

(2) the visitor refuses to submit to the rules of the facility or has refused to do so in the past;

(3) there are reasonable grounds to believe that the presence of the visitor in the facility will adversely affect the safety of the visitor, the security of the facility or the safety of persons in the facility;

(4) there are reasonable grounds to believe that a visit from the person will have a negative impact on the inmate's reintegration;

(5) there are reasonable grounds to believe that the purpose of the visit is related to the preparation or commission of a criminal offence or an offence against a statute in force in Québec;

(6) the inmate is the subject of disciplinary confinement or solitary confinement precluding visits, or of administrative segregation; or

(7) access to the correctional facility is not possible owing to an emergency.

58. Except if authorized by the facility director, a minor under 14 years of age may visit only one parent and must have a written authorization from the person having parental authority.

59. An inmate may not have more than one visitor at a time, except on request and adequate premises and a sufficient number of personnel members are available.

60. An authorized visitor must agree to comply with the rules of the facility, otherwise the visitor may be refused access. A visitor may be removed if the visitor does not comply with the rules of the facility or the visitor's conduct is not appropriate.

CHAPTER IV COMPLAINT PROCESSING PROCEDURE

DIVISION I RECEIPT OF COMPLAINTS

61. An inmate may file a written complaint on the form provided for that purpose by the facility on any issue that is not the subject of another remedy or review or appeal mechanism.

62. The complaint is examined by a manager designated by the facility director who, within two working days, must reply in writing to the inmate unless the correctional services have resolved the inmate's complaint. Reasons must be given with the reply.

If the manager dealing with the complaint believes on reasonable grounds that the complaint is frivolous or vexatious, the manager must inform the inmate in writing that the complaint is dismissed and that no review is possible.

DIVISION II REEXAMINATION AND REVIEW

63. In all other cases, an inmate who is not satisfied with the reply received may apply for a reexamination to the facility director who must reply within five working days.

64. If the inmate is still not satisfied with the reply received from the facility director, the inmate may apply for a review to the person designated by the Associate Deputy Minister of correctional services who must reply within seven working days.

DIVISION III TIME LIMITS

65. The time limits in this Chapter may be extended with the inmate's consent.

If a complaint is related to an emergency in which the inmate's life is in danger, the person dealing with the complaint must reply as soon as possible.

In the case of a collective complaint, only one case is examined and only one reply with reasons is given to all the complainants.

66. If the inmate who filed a complaint is transferred or released, an assessment is made by the person dealing with the complaint to determine whether the complaint is no longer necessary, in which case the file is closed.

CHAPTER V DISCIPLINE

DIVISION I RESPONSIBILITY OF INMATES

67. An inmate must act in a manner that is respectful towards other inmates and the personnel members, their property and the property of the facility.

An inmate breaches his or her responsibilities and commits a disciplinary offence if the inmate

(1) uses physical violence or insulting or threatening language or gestures aimed at other inmates, personnel members or any other person;

(2) alters or damages property of the facility, the reintegration support fund, an inmate, a personnel member or any other person;

(3) refuses to participate in mandatory activities;

(4) interferes with the conduct of activities, including the activities of the reintegration support fund, by purposely performing unsatisfactorily, creating conflicts with other inmates, personnel members or persons in charge of the activities or mocking, harassing, provoking or disturbing them in their work;

(5) is in possession of or uses or trades in unauthorized items or contraband, including alcoholic beverages, drugs, narcotics, non-prescription medicine, keys or any other item that may be considered as an offensive weapon such as a piece of glass, metal, wood or plastic;

(6) gives or exchanges items without the authorization of the facility director;

(7) commits an indecent act, including masturbating in public or soliciting, offering or engaging in sexual relations in public; or

(8) refuses to comply with the rules or directives of the facility.

DIVISION II DISCIPLINARY OFFENCE REPORT

68. A correctional officer who becomes aware of a disciplinary offence or who is informed of such an offence must

(1) take the immediate measures necessary to rectify the situation, if possible;

(2) taking into consideration the criteria listed in section 72,

i. give a warning consisting of notifying the inmate that he or she has breached a rule or directive of the facility and commanding the inmate not to do so again; and

ii. complete a disciplinary offence report containing the inmate's name and date of birth, information on the offence and the names of witnesses;

(3) if the correctional officer believes that temporary measures in addition to the offence report must also be taken, inform the manager in charge so that he or she may take the necessary measures;

(4) record in the offence report any temporary measures taken; and

(5) sign and date the report.

The manager in charge must ensure that a copy of the report is immediately given to the inmate and that the name of the person who gave it to the inmate is on the report.

69. Temporary measures may include the loss of privileges, confinement or solitary confinement as described in subparagraphs 2 to 4 of the first paragraph of section 73, but may not be imposed for longer than 24 hours.

DIVISION III DISCIPLINE COMMITTEE

70. The following rules apply to the discipline committee established in a correctional facility pursuant to section 40 of the Act:

(1) each offence must be examined in a fair and impartial manner;

(2) if a member of the committee has been involved in an offence, the member may not sit on the discipline committee that is to examine the offence and the facility director designates another person to replace the member;

(3) the discipline committee examines on a priority basis the situation of an inmate who is the subject of temporary measures;

(4) if the inmate refuses to appear before the discipline committee, the committee proceeds as usual, except for what cannot be done in the absence of the inmate; and

(5) if the members of the committee cannot reach a unanimous decision, a new sitting is held before a committee composed of two new members appointed by the facility director; the new sitting must be held within 16 working hours after the facility director has been informed that a decision cannot be reached. In the case of disagreement, the decision is made by the member to whom the facility director has given a casting vote.

71. In the exercise of its functions, the discipline committee must

- (1) verify that the procedure established in this Regulation has been followed;
- (2) convene the inmate in whose respect the disciplinary offence report was completed;
- (3) explain the contents of the report to the inmate;
- (4) hear the inmate's explanations;
- (5) convene and hear any witness;
- (6) permit the inmate to examine any witness;
- (7) inform the inmate of its decision and, where applicable, of the sanction imposed;
- (8) give a copy of the report of the sitting to the inmate within eight working hours after the sitting; and
- (9) inform the person serving a sentence that the person will receive a notice of remission in the case of a sanction relating to remission or forfeiture.

The discipline committee's report must contain the inmate's name and date of birth, a summary of the sitting, the decision and reasons, the sanction and the time allowed to apply for a review.

A notice of remission must indicate the inmate's name, date of birth and record number, the total length of the sentence and the number of days of remission the inmate may earn.

72. In determining the sanction, the discipline committee must take into consideration

- (1) the seriousness of the offence;
- (2) the degree of premeditation;
- (3) the inmate's awareness of committing an offence;

(4) the inmate's conduct since the beginning of imprisonment;

(5) the circumstances surrounding the offence, in particular the fact that there was provocation;

(6) the repetitive nature of the offence;

(7) the possible effects of the sanction on the inmate's subsequent behaviour; and

(8) the temporary measures taken following the offence.

73. If the discipline committee concludes that an offence was committed, it may impose one or a combination of the following sanctions:

- (1) a reprimand consisting in the inmate being rebuked;
- (2) loss of privilege consisting in the loss of a privilege the inmate had including television, radio or telephone privileges or participation in socio-cultural or sports activities, for up to a maximum of 15 days;
- (3) confinement consisting in the obligation for the inmate to remain in a cell for up to a maximum of five days;
- (4) solitary confinement consisting in the obligation for the inmate to remain in a cell in a separate area for up to a maximum of seven days;
- (5) loss of remission days that the person serving a sentence could have earned for the month of imprisonment;
- (6) forfeiture of days of remission standing to the person's credit.

In imposing any of those sanctions, the discipline committee may take into account the inmate's restitution for or repair of the damage caused to property of the facility, the reintegration support fund or a third person.

The discipline committee may also impose any of those sanctions as a suspended sanction which consists in determining the nature of the sanction but making its execution conditional on the commission of any offence within 30 days following the decision.

74. A sanction becomes enforceable at the time determined by the discipline committee.

DIVISION IV RIGHT OF REVIEW

75. An inmate may, within eight working hours after receiving the report of the sitting before the discipline committee, apply to the facility director for a review of the decision or sanction.

If the decision of the discipline committee consists in forfeiture of more than 15 days of remission standing to the inmate's credit, the review application must be made to the person designated by the Minister pursuant to section 41 of the Act.

76. The application for review of the discipline committee's decision must indicate the inmate's name and date of birth, the date and nature of the disciplinary offence, the date and nature of the sanction and the reasons for the application.

77. On receiving a review application, the facility director or the person designated by the Minister must

(1) examine the application and the discipline committee's report;

(2) maintain, vary or cancel the discipline committee's decision or sanction; and

(3) give the inmate a copy of the decision with reasons within eight working hours after the day on which the review application is made.

78. For the purposes of the decision, the facility director or the person designated by the Minister may hear the inmate, a member of the discipline committee or any other person. The inmate must be heard if

(1) the sanction seems disproportionate to the offence or the supporting facts;

(2) the discipline committee did not comply with any of sections 70 to 73;

(3) there is an error in the discipline committee's report; or

(4) there is a new fact likely to modify the discipline committee's decision or sanction.

79. The procedure referred to in sections 70 to 78 must take place before the day or time scheduled for release.

CHAPTER V FINAL

80. This Regulation replaces the Regulation respecting houses of detention (R.R.Q., 1981, c. P-26, r.1).

81. This Regulation comes into force on 5 February 2007.

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