

ANNEXURE B

PENALTIES FOR DISCIPLINARY OFFENCES

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Legislative instruments referred to

	“Act”	“Regulation”
NSW	<i>Crimes (Administration of Sentences) Act 1999 (NSW)</i>	<i>Crimes (Administration of Sentences) Regulation 2014 (NSW)</i>
Vic	<i>Corrections Act 1986 (Vic)</i>	<i>Corrections Regulations 2019 (Vic)</i>
Qld	<i>Corrective Services Act 2006 (QLD)</i>	<i>Corrective Services Regulation 2017 (QLD)</i>
ACT	<i>Corrections Management Act 2007 (ACT)</i>	<i>Corrections Management Regulation 2010 (ACT)</i>
NZ	<i>Corrections Act 2004 (New Zealand)</i>	<i>Corrections Regulations 2005 (New Zealand)</i>

Penalties by jurisdiction

	NSW	VIC	ACT	QLD	NZ
ADR diversion	Not available	Trivial offence: disciplinary officer does not have to take further action (Act s 50(4)) NB no official minor/major breach designation but disciplinary officer can impose penalty without laying charge (Act s 50(5))	Not available	Not available	Minor or unintentional breach (if practical and appropriate): s 132(1) Officer must - (a) Stop breach and explain breach (b) Instruct prisoner to correct behaviour (c) Allow prisoner to make amends
Permissible combination of penalties	Breach heard by governor - only one penalty from the following (Act s 53(1)): • Reprimand & caution • Deprivation of privileges • Confinement • Cancellation of right to receive payments Visiting Magistrate: only one penalty from the following (Act s 56(1)) • Reprimand & caution • Deprivation of privileges • Confinement	Where charge not laid - Only one penalty from the following (Act s 50(5)): • Reprimand • Withdrawal of privileges Where charge laid - Only one penalty for each offence (Act s 53(6)) from the following (s 53(4)): • Reprimand • Fine • Withdrawal of privileges	One or more disciplinary actions from the following (Act s 183(1)): • Warning • Reprimand • 1 or more administrative penalties – withdrawal of privileges, financial penalty, extra work, confinement (s 184) • Reparations order	Only one penalty from the following (Act s 118(2)): • Reprimand • Forfeiture of privileges • Confinement	• Breach heard by hearing adjudicator - One or more penalties from the following (Act s 133(3)): ○ Forfeiture/postpone ment of all/any privileges ○ Forfeiture of earnings ○ Confinement in cell • Visiting Magistrate - One or more penalties from the following (Act s 137(3)):

	NSW	VIC	ACT	QLD	NZ
	• Cancellation of right to receive payments • Extension of sentence/non-parole period • Imprisonment				○ Forfeiture/postponement of all/any privileges ○ Forfeiture of earnings ○ Confinement in cell
Reprimand, caution, warning	Reprimand and caution (Act s 53(1)(a))	Reprimand (Act s 50(5)(a))	Warning about committing disciplinary breach (s 183(1)(a)) or reprimand (s 183(1)(b))	Reprimand without further punishment (Act s 118(2)(a))	Not available
Forfeiture of privileges	Deprivation of withdrawable privileges for up to 56 days (Act s 53(1)(b))	Where charge not laid: Withdrawal of one of the prisoner's privileges for less than 14 days (Act s 50(5)(b)) Where charge laid: Withdrawal of one or more of the prisoner's privileges for a period not exceeding 14 days for each prison offence committed, but not exceeding in total 30 days (Act s 53(4)(c))	Withdrawal of privileges for not longer than 180 days (Act s 184(b))	Forfeiture of privileges the prisoner may have otherwise received - • Minor breach: in the 24 hours (Act s 118(2)(b)(i)) ... • Major breach: in the 7 days (Act s 118(2)(b)(ii)) ... starting when the prisoner is advised of the decision.	Forfeiture or postponement of all or any privileges for– • Hearing adjudicator: period not exceeding 28 days (Act s 133(3)(a)) • Visiting Magistrate: period not exceeding 3 months (Act s 137(3)(a))
Financial penalties	Cancellation of any right to receive payments under s 7 of the Act for up to 14 days, but only to the extent to	Fine not exceeding 1 penalty unit (Act s 53(4)(b))	Financial penalty not exceeding \$500 (Act s 184(a))	Not available	Forfeiture of earnings – • Hearing adjudicator: for period not exceeding 7 days (Act s 133(3)(b))

	NSW	VIC	ACT	QLD	NZ
	which the payments are additional to the base rate (Governor: Act s 53(1)(d); Visiting Magistrate: s 56(1)((c)) Payments under s 7 include payments to inmates for work done (s 7(1))	The value of 1 penalty unit from 1 July 2023 to 30 June 2024 is \$192.31 ¹			Visiting Magistrate: for period not exceeding 3 months (Act s 137(3)(b))
Reparations	Not available	Deduction from prisoner trust account of an amount that is not more than the cost of replacing or repairing property (Regulations cl 48(5))	Direction to make reparation to the injured person under Act s 185 (s 183(1)(d)) If reparation is monetary, maximum reparation order is \$500 (Act s 185(3)(b), Regulations cl 49)	Not available	Not available
Extra work	Not available	Not available	Requirement to perform extra work (s 184(c))	Not available	Not available
Confinement	Confinement to a cell for - Governor: up to 7 days, with or without deprivation of withdrawable privileges (s 53(1)(c))	Not available	Separate confinement for - 3 days (Act s 184(d)(i)); 7 days (s 184(d)(ii)); or 28 days (s 184(d)(iii))	Separate confinement pursuant to s 121 (Act s 118(2)(c)) for not more than 7 days (s 121(2))	Confinement to a cell for - Hearing adjudicator: not exceeding 7 days (Act s 133(3)(c))

¹ Treasurer (Vic), 'Monetary Units Act 2004 – Notice Under Section 6' in State of Victoria, *Victoria Government Gazette*, No S256, 23 May 2023, 1 <<https://www.gazette.vic.gov.au/gazette/Gazettes2023/GG2023S256.pdf>>.

	NSW	VIC	ACT	QLD	NZ
	Visiting Magistrate: up to 28 days, with or without deprivation of withdrawable privileges (Act s 56(1)(c))			If minor breach - only available if prisoner (Act s 118(3)): - has “habitually committed” minor breaches, and; - was warned about the possibility of separate confinement after the last breach	Visiting Magistrate: not exceeding 15 days (Act s 137(3)(c))
<i>Non-parole period or imprisonment</i>	Visiting Magistrate only - Extension, by up to 6 months at a time, of (Act s 56(1)(e)): (i) the term of the inmate’s sentence, and (ii) the non-parole period (where offence committed during non-parole period) Visiting Magistrate only - Sentence of imprisonment not exceeding 6 months (Act s 56(1)(f))	Not available	Not available	Not available	Not available

Definitions of withdrawable privileges by jurisdiction

	NSW	VIC	ACT	QLD	NZ
Withdrawable privileges	Pursuant to Act s 51, withdrawable privileges are (Regulation cl 163): - attendance at the showing of films or videos or at concerts or other performances, - participation in or attendance at any other organised leisure time activity, - use of, or access to, films, video tapes, records, cassettes, CDs or DVDs, - use of, or access to, television, radio or video, cassette, CD or DVD players, whether for personal use or as a member of a group, - use of, or access to, a musical instrument, whether for personal	Pursuant to Regulations cl 33, the Commissioner must submit a list of prisoner privileges annually to the Secretary for approval. The approved privileges for 2023 are:² - Access to private monies. - Access to special spends. - Access to full canteen spends and canteen spend items other than essential toiletries. - Access to telephone calls (other than to the prisoner's legal representative(s); the Victoria Ombudsman; the Independent Broad-based Anti-corruption Commission (IBAC); the Victorian	Act s 154: A privilege, in relation to a detainee— - is any amenity, facility or opportunity the detainee may have the benefit of in detention; but - does not include anything that is, for this chapter, an entitlement for the detainee. Examples of privileges: - using common areas at a correctional centre for mixing with other detainees - participating in activities other than those forming part of a detainee's case management plan - using phones, email or the internet other than for entitled usage	Privileges under the Act are (Act Sch 4; Regulation cl 18): - participating in an activity, course or program; - making or receiving phone calls, other than phone calls to or from— - the prisoner's lawyer; or - the ombudsman; or - the inspector of detention services; - associating with a particular prisoner or group of prisoners; - using electronic media or an entertainment device; - using a musical instrument; - using library facilities;	Privileges that can be forfeited or postponed under Act s 133 (hearing adjudicators) and s 137 (Visiting Magistrates) are (Regulations cl 158): - the opportunity to be in common areas of the prison after the evening meal; - the opportunity to make telephone calls other than those to which a prisoner is entitled under the Act or these regulations; - participation in a recreational activity, course, or programme that is not part of the prisoner's management plan; - use of, or access to, films, videotapes,

² Corrections Victoria, *Deputy Commissioner's Instructions 1.16 - Disciplinary Process* (at 30 June 2023), Schedule 1.16(5) <https://files.corrections.vic.gov.au/2023-06/1.16_Disciplinary%20Process.docx>.

NSW	VIC	ACT	QLD	NZ
use or as a member of a group, f) use of library facilities, except in so far as use is necessary to enable study or research to be undertaken by an inmate in their capacity as a student enrolled in a course of study or training, g) ability to purchase goods, h) keeping of approved personal property, i) pursuit of a hobby, j) use of telephone, except for calls to legal practitioners and exempt bodies, k) participation in contact visits, l) permission to be absent from a correctional centre under a local leave permit/ interstate leave permit.	Inspectorate; the Commission for Children and Young Persons; the Victorian Equal Opportunity and Human Rights Commission; the Mental Health Complaints Commissioner; the Health Complaints Commissioner; a person authorised to act on behalf of that person or body; or any other free call number). e) Access to all in-cell electrical appliances (other than a jug/kettle, radio and fan, subject to note #3, below) f) Access to television, including DVD/videotapes where available. g) Access to shared unit computers and unit electronic games consoles.	• buying non-essential goods from money held in trust for a detainee • using a radio, television, CD or DVD player or other electronic equipment for recreational purposes • pursuing hobbies and crafts • keeping personal property in a cell	(g) buying anything other than essential toiletries, writing materials and stamps; (h) accessing the prisoner's property; (i) receiving a contact visit.	records, cassettes, or compact discs: (e) use of a television, radio, audio cassette player, compact disc player, or other electronic equipment used for recreational purposes: (f) use of a musical instrument, unless it is part of a prisoner's management plan: (g) pursuit of a hobby: (h) purchase of anything other than essential toiletries, writing materials, and stamps: (i) the opportunity for physical exercise beyond the minimum entitlement conferred by section 69(1)(a) of the Act: (j) the opportunity to receive private visitors beyond the minimum entitlement conferred by s 69(1)(d) of the Act

NSW	VIC	ACT	QLD	NZ
	h) Access to sporting and recreational activities. i) Access to hobby activities and items. j) Access to extended out-of-cell hours or night activities, where offered. k) Access to personal in-cell property in excess of 50 points. l) Association with other prisoners at the same prison location who are subject to the same regime. m) Access to full out-of-cell hours as approved for the prison.			