



## Custodial Operations Practice Directive

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### Scope

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### 1. Human Rights

It is unlawful for corrective services officers and Queensland Corrective Services staff to act or make decisions in a way that is not compatible with human rights, or in making a decision, fail to give proper consideration to a human right relevant to the decision,

Giving proper consideration to human rights entails identifying human rights which may be relevant to a decision and considering whether the decision would be compatible with human rights.

A decision will be compatible with human rights when it does not limit a human right, or only limits a right to the extent that is reasonable and demonstrably justifiable.

The human rights engaged include:

- a) recognition and equality before the law, including the right to equal and effective protection against discrimination;
- b) freedom from forced work;
- c) cultural rights – generally and for Aboriginal peoples and Torres Strait Islander peoples; the right to humane treatment when deprived of liberty; and
- d) the right to education.

### 2. Limitation of Human Rights

In determining whether a limitation may be reasonable and demonstrably justified, the following factors are relevant to consider:

- a) The nature of the human right – this involves looking at the purpose and underlying value of the human right. For example, the right to freedom from forced work requires that a person must not be made to perform forced or compulsory labour.
- b) The nature and purpose of the limitation – this involves considering the actual purpose or legitimate aim/reason for limiting the human right. For example, this policy document ensures that there is a minimum standard of employment conditions for a prisoner employed in prison industries.
- c) The relationship between the limitation and its purpose – this involves considering the rational connection between the limitation and of the right, and whether this will actually help to achieve said purpose or legitimate aim. For example, the setting of employment standards in the prison industries ensures that right to freedom from forced work is balanced against the prisoner's access to employment.
- d) Whether there are any less restrictive and reasonably available ways to achieve the purpose – this involves a 'necessity analysis' where it is necessary to consider the purpose of the limitation and if it can be achieved in any other way.
- e) The importance between the purpose for the limitation and preserving the human right – this involves a balancing exercise of the benefits obtained by the limitation vs the harm caused to the human right. The greater the incursion of the right, the more important the purpose will need to be to justify the limitation.

A person's human rights should only be limited to the extent that is reasonably and demonstrably justified.





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### 3. Overview

The Chief Superintendent of a corrective services facility must ensure a facility's prison industries operate under a consistent commercial framework that is transparent and accountable through the use of auditing and accountability mechanisms.

The objective is to ensure prison industries operate under a consistent framework which upholds the primary purpose of prison industry activities, which is to facilitate the rehabilitation of prisoners.

Prison industries must:

- a) provide prisoners with meaningful work that meets community expectations;
- b) provide the opportunity for associated vocational education and training opportunities that will assist prisoners to obtain employment post release and contribute to the good order and effective management of a corrective services facility; and
- c) assist in reducing the cost of operating corrective services facilities.

#### 3.1 Approval of a prison industry

Only the Chief Superintendent of a corrective services facility may approve the establishment of a prison industry.

Any industry proposals from a Community Engagement Committee or Community Advisory Committee must be referred to the Chief Superintendent of a corrective services facility.

#### 3.2 Financial management of a prison industry

All financial aspects of prison industries' operations must be in accordance with the provisions of the Financial Management Practice Manual.

All profits resulting from the operation of prison industries must be applied to reducing the cost of the operation of the corrective services facility.

### 4. Prisoner Working Conditions

The Chief Superintendent of a corrective services facility must ensure:

- a) monitoring of prisoners' working conditions to ensure levels of noise, heat, physically demanding work and excessive, continuous hours do not have negative health or safety ramifications; and
- b) all relevant provisions of workplace health and safety legislation are complied with at all times.

Except when in response to exceptional circumstances, prisoners should not be permitted to work:

- a) double shifts; or
- b) more than seven shifts per week.

### 5. Employment Streams

The employment streams operating in corrective services facilities include:

- a) services (including prisoners participating in approved full-time educational programs);
- b) industries (including aged and infirm full-time carers);
- c) corrective services facility kitchens (not accommodation unit kitchens); and
- d) work camps (including prisoners participating in community service).

The employment streams have corresponding incentive payment rates. Refer to the Incentive Payments section of this COPD.





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### 6. Employment Profiles

The Chief Superintendent of a corrective services facility must have an approved employment profile for the facility that sets out the number of positions available in each area and the level of incentive payment that is applicable to each of those positions.

Only the Chief Superintendent of a corrective services facility may permanently alter a facility's employment profile.

Refer to the Appendix IND1 Employment Profile (Example).

#### 6.1 Prisoner haircutting

Each corrective services facility needs to evaluate the need for an external provider to comply with the *Public Health (Infection Control for Personal Appearance Services) Act 2003*. Refer to the *Public Health (Infection Control for Personal Appearance Services) Act 2003*.

### 7. Job Descriptions

The rate of incentive payment for each position must be determined by the development and analysis of a job description and evaluation in terms of:

- a) experience and knowledge required;
- b) standard of behaviour required;
- c) level of responsibility/trust/initiative required;
- d) level of skill and ability required;
- e) level of supervision; and
- f) requirement to complete essential programs.

Refer to the Appendix IND2 Prisoner Standard Job Description.

The Work Area Supervisor is responsible for the above.

The job description for which remuneration is to be paid must be approved by the Chief Superintendent of a corrective services facility. The setting of the associated rate of incentive payment may be approved by the Superintendent of a corrective services facility. Refer to section 316(1) of the *Corrective Services Act 2006* (CSA) and Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

A prisoner may only be promoted or transferred into a higher level of incentive payment if the prisoner meets the requirements of the job description and when an appropriately classified position becomes available.

The Work Area Supervisor is responsible for the above.

### 8. Duty Statements

The Chief Superintendent of a corrective services facility or nominee must develop duty statements for each position in their employment profile. Duty statements must detail how some or all of the key tasks as outlined in the standard job descriptions will be performed in the particular corrective services facility.





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Duty statements are essential to justify a particular job being classified at a particular level in a corrective services facility's employment profile. Duty statements are to be approved by the Chief Superintendent of a corrective services facility or nominee and reflected in the job details in IOMS.

Refer to the Appendix IND3 Duty Statement (Example).

## 9. Incentive Payments

Employment incentives are provided to prisoners to ensure they are actively involved in rehabilitation and reparation activities.

Refer to section 316 of the CSA and the Appendix IND4 Incentive Payment Streams and Rates.

### 9.1 Attendance sheets

The Work Area Supervisor must complete an attendance sheet for each prisoner as directed by the Chief Superintendent of a corrective services facility to record movement in and out of work areas. Such timesheets must be utilised to calculate payments to prisoners.

### 9.2 Frequency of payments

Incentive payments must be paid weekly to all prisoners entitled to its receipt.

Payments must be authorised by the relevant financial delegate and processed in accordance with the COPD Prisoner Entitlements: Prisoner Finances.

### 9.3 Public holiday

Prisoners must not be paid the incentive payment rates for a public holiday if they do not work on that day.

If the corrective services facility closes a work area for a public holiday, prisoners working in that area will receive the support allowance.

### 9.4 Industrial action

Prisoners must not be paid for shifts if they participate in prisoner strikes involving withdrawal of labour.

Incentive payments must be paid if:

- a) a prisoner's work is affected by industrial action by corrective services officers or other employees of QCS;
- b) corrective services officers are diverted to other custodial duties and unable to supervise the prisoner's employment;
- c) machinery is not operational; or
- d) work is not available due to unsafe conditions outside the prisoner's control.

### 9.5 Prisoner health, sick leave and absenteeism

If a prisoner is deemed unfit for work after examination by Queensland Health staff, the prisoner must present their Work Area Supervisor with a medical certificate on the next working day.

If medically unfit for work the prisoner will, on presentation of a medical certificate, be paid the support allowance for that day.





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When a prisoner fails to obtain a medical certificate for absent days they must not be paid and must not receive support allowance for that day/s. The Work Area Supervisor may also consider the prisoner for suspension/termination from employment. Refer to the COPD Prisoner Employment and the Administrative Form 139 Employment Suspension/Termination Report.

If the prisoner is deemed medically unfit to work for an extended period of time, the prisoner's employment must be reviewed by referring the matter to the multidisciplinary team.

Work Area Supervisors may consider other absenteeism from work on a case-by-case basis, taking into account the relevant human rights of the prisoner.

### 9.6 Hygiene allowance

The hygiene allowance is not payable in the first two weeks to a prisoner on remand or on initial reception. However, the prisoner must receive an amenities pack in accordance with the COPD Reception Processes: Admission and Assessments. The hygiene allowance is a weekly allowance and may not be granted on a pro-rata basis.

### 9.7 Unemployment allowance

The unemployment allowance is only paid on a Monday to Friday working week basis and must only be paid to prisoners who engage in employment and rehabilitative programs (if applicable) and:

- a) who are temporarily or permanently medically unfit for employment (a medical certificate or medical officer's opinion must be provided); or
- b) for whom a work position is not available including those on safety orders or 'at-risk' (refer to the COPD At Risk Management: At Risk).

Prisoners on remand are not required to be employed and must be paid unemployment allowance if they choose not to work.

### 9.8 Support allowance

A support allowance is paid to employed prisoners who cannot work for an acceptable reason. Refer to the Appendix IND5 Payment for Absent Employed Prisoners.

### 9.9 Employment statements

If requested by a prisoner, a staff member may complete an Administrative Form 135 Employment Statement for the prisoner.

