

Tasmania Prison Service

Director's Standing Order

DSO – 4.11 Prisoner Marriage

Table of Contents

1. Statement of Purpose	2
2. Desired Outcome	2
3. Scope	2
4. References (including Legislation, Policy, Forms and Other Documents)	2
5. Definitions and Abbreviations	2
6. Mandatory Policy	2
7. Responsibilities	3
8. Marriage Applications	3
9. Application to Marry	3
9.1. Legal requirements	3
9.2. Public protection	3
9.3. Pre-marriage education	4
9.4. Application process.....	4
9.4.1. Timeframes.....	4
9.4.2. Matters to be considered	4
9.4.3. Decision and notifications	5
10. Marriage	5
10.1. Notice of intended marriage.....	5
10.2. Marriage ceremony.....	5
11. Change of Name	5
12. Responsibility for Costs	6
13. Record Keeping	6
14. Document History and Access.....	6

1. Statement of Purpose

The purpose of this Standing Order is to enable prisoners / detainees to marry while in custody and, where appropriate, to assist with the arrangements.

Marriage may provide stability in a prisoner's / detainee's life and assist his or her reintegration into society.

This Standing Order outlines the circumstances in which a prisoner / detainee may marry and the arrangements and conditions that will apply.

2. Desired Outcome

Prisoners / detainees are not deprived of the opportunity to marry while in custody.

Where approval is given to marry, every effort is made to ensure the ceremony is a meaningful and memorable experience.

3. Scope

This Standing Order does not apply to watch-house detainees.

4. References (including Legislation, Policy, Forms and Other Documents)

[Corrections Act 1997, sections 6\(3\) and 41](#)

[Marriage Act 1961](#)

[Marriage Regulations 1963](#)

[Director's Standing Order 1.12 \(Searching Visitors\)](#)

[Director's Standing Order 1.33 \(Protective Orders, Banned Visitors and Prohibited Contacts\)](#)

[Director's Standing Order 2.04 \(Classification\)](#)

[Director's Standing Order 3.08 \(Section 42 Leave Program\)](#)

[Director's Standing Order 4.04 \(Visits - Personal\)](#)

[Request Form \[Form 6K\]](#)

[Request for Section 42 Leave \[Form 6AH\]](#)

5. Definitions and Abbreviations

CIS – means Custodial Information System

Civil Celebrant – is a person recognised by law as having authority to solemnise marriages.

Dangerous Criminal - means an offender in respect of whom a declaration under [section 19\(1\)](#) of the *Sentencing Act 1997* is in force

Detainee – means a person, other than a prisoner, who is subject to an order of a court by which he or she is remanded or otherwise committed to prison.

Minister of Religion – is a person recognised by a religious body or a religious organisation as having authority to solemnise marriages in accordance with the rites or customs of the body or organisation.

Prisoner – means a person who is subject to an order of a court by which he or she is sentenced to a term of imprisonment and includes a person declared as a dangerous criminal under section 19 of the *Sentencing Act 1997*

6. Mandatory Policy

6.1. Approval may be given for a prisoner / detainee to marry provided there are no legal impediments to the marriage.

- 6.2. A prisoner / detainee may only apply to marry if they are expected to be in custody for more than 6 months from the date of the application.
- 6.3. Marriage ceremonies are to be held in private, without any media publicity.
- 6.4. It is a legal requirement for marriages in Tasmania to be registered.

7. Responsibilities

7.1. Senior Manager, Sentence Management and Industries

The Senior Manager, Sentence Management and Industries is responsible for making decisions regarding prisoners' / detainees' marriage applications in consultation with the relevant Superintendent.

7.2. Superintendents

Superintendents are responsible for providing advice on matters relevant to safety, security and the good order of the prison, and for facilitating approved marriage ceremonies in accordance with any applicable conditions.

7.3. Prison Chaplain

The Prison Chaplain is responsible for providing or arranging pre-marriage education sessions for prisoners / detainees wishing to marry while in custody.

8. Marriage Applications

- 8.1. A prisoner / detainee who wishes to marry while in custody must apply to the Senior Manager, Sentence Management and Industries at least 6 months prior to the date of the proposed marriage ceremony.
- 8.2. Detainees will not be permitted to marry outside a prison.
- 8.3. Prisoners may apply for a marriage ceremony to be held within a prison or outside a prison.
- 8.4. If a prisoner wishes to marry outside a prison he / she must be eligible for and apply for leave under section 42 of the *Corrections Act 1997*. A prisoner will not be permitted to marry outside a prison if Section 42 leave is not granted. A prisoner may not be released on their own recognisance for this purpose.

9. Application to Marry

9.1. Legal requirements

To be legally married in Australia, a man and woman must:

- not be married to someone else
- not be marrying a parent, grandparent, child, grandchild, brother or sister
- be at least eighteen years old, unless a court has approved a marriage where one party is aged between sixteen and eighteen years old
- understand what marriage means and freely consent to becoming husband and wife
- use specific words during the ceremony
- give written notice of their intention to marry to their authorised celebrant

9.2. Public protection

Where an application to marry is received from a prisoner / detainee who is declared a dangerous criminal, is charged or convicted of a child sex offence or is the subject of an active family violence or restraint order, the Senior Manager, Sentence Management and Industries must consult those responsible for the risk management of the prisoner / detainee. At a minimum, this will include:

- the Superintendent responsible for the prisoner / detainee
- the Superintendent, Drug Strategy Group

- the Senior Psychologist
- the Prison Chaplain
- a representative of Child Protection Services
- a representative of Tasmania Police
- a representative of the Correctional Primary Health Service, if required
- a representative of the Victims Assistance Unit, if required
- any other relevant person

It may be necessary to disclose information about the risks to the prisoner's / detainee's intended spouse or a third party. Written consent must be obtained from the prisoner before any such disclosure takes place. If the prisoner / detainee does not consent to the disclosure, the Senior Manager, Sentence Management and Industries may decide not to approve the application.

9.3. Pre-marriage education

If the Senior Manager, Sentence Management and Industries supports the application in principle, the prisoner / detainee will be required to attend pre-marriage education sessions. These sessions will be delivered by the Prison Chaplain or another suitably qualified person.

The purpose of pre-marriage education is not to change the prisoner's / detainee's mind or to impose views on how a relationship should be, but to provide an opportunity for the prisoner / detainee and his / her intended spouse to discuss their future goals, expectations of the marriage and to acquire tools for sustaining a long and healthy relationship.

Visits facilitated for the purpose of pre-marriage education will not be counted as personal visits.

9.4. Application process

9.4.1. Timeframes

An application may be deferred until such time as the prisoner / detainee completes pre-marriage education.

Once the prisoner / detainee completes pre-marriage education a decision must be made regarding the application within 14 calendar days.

9.4.2. Matters to be considered

When deciding whether or not to approve an application to marry, the Senior Manager, Sentence Management and Industries must consider the following:

- If the prisoner / detainee is legally entitled to marry.
- The length of time the prisoner / detainee is expected to remain in custody.
- If the prisoner's / detainee's intended spouse has confirmed his or her intention to marry the prisoner / detainee.
- Potential threats to the prisoner / detainee, his or her spouse or any of their children (refer paragraph 9.2).
- Whether the prisoner has completed pre-marriage education and any relevant issues arising from those sessions (refer paragraph 9.3).
- If the ceremony will pose a threat to the good order, safety or security of the prison, or to the protection of the public.
- The availability of staff to supervise the wedding.
- The availability of a suitable venue.

In deciding whether a prisoner / detainee will be permitted to marry, the Senior Manager, Sentence Management and Industries must consult with the Superintendent responsible for the prisoner / detainee and may seek the advice of any other relevant person, as required.

9.4.3. Decision and notifications

The Senior Manager, Sentence Management and Industries must inform the prisoner / detainee of the progress and outcome of the application. Where an application is deferred or not approved, reasons must be provided in writing.

The Senior Manager, Sentence Management and Industries may impose any conditions reasonable and necessary to ensure the safe, secure conduct of the marriage. The prisoner / detainee must be advised in writing and in advance of any conditions or specific security arrangements that will apply.

The prisoner / detainee must be advised in writing that the Tasmania Prison Service will not accept responsibility for any costs associated with the prisoner's / detainee's marriage.

10. Marriage

10.1. Notice of intended marriage

Before the marriage ceremony can go ahead, the prisoner / detainee will need to complete a Notice of Intended Marriage. This form is available from the marriage celebrant or may be downloaded from the [Commonwealth Attorney-General's website](#).

The Notice of Intended Marriage form must be lodged with the proposed celebrant at least one calendar month before the date of the marriage ceremony. The prisoner / detainee and his / her partner will need to provide the marriage celebrant with:

- A birth certificate
- Evidence of the termination of any previous marriages in the form of a decree absolute, if divorced, or a full death certificate if widowed
- Any other information the celebrant may require

10.2. Marriage ceremony

Marriage ceremonies must be conducted by a minister of religion or civil celebrant qualified under the *Marriage Act 1961*.

If a prisoner or detainee requests a particular minister or celebrant conduct the marriage ceremony, the Tasmania Prison Service will try to facilitate this wherever possible. Contact details for authorised ministers of religion and civil marriage celebrants can be obtained from the [Commonwealth Attorney-General's website](#).

Subject to security considerations and availability of staff, the couple will be able to decide, within reason, the date and time of the ceremony.

Where approval is given for a prisoner / detainee to marry, the ceremony must be private and only a reasonable number of guests will be allowed to attend. The number of guests will be determined by the Superintendent of the prison, taking into account security implications and availability of staff.

The prisoner / detainee will be required to provide full details for all guests at least four weeks in advance of the proposed date to enable sufficient time for the security checks to be conducted.

Photographs may be taken at the ceremony by a person nominated or approved by the Superintendent. Where the ceremony is held within a prison, all photographs must be vetted by the Superintendent or his or her delegate before leaving the prison.

Once the ceremony has taken place and the celebrant has lodged the documents required to register the marriage, the prisoner / detainee can apply to the Registry of Births, Deaths and Marriages for a certified copy of the marriage certificate.

11. Change of Name

Prisoners / detainees who marry while in custody and wish to have a change of name recognised by the Tasmania Prison Service will need to apply in writing to the Director of Prisons. A change of name request will not be considered until all of the prisoner's / detainee's outstanding charges are finalised.

If a change of name is approved, the Manager, Directorate Office will notify the Correctional Supervisor (Hobart Supreme Court), Head of Central Records and, where a victim is registered, the Manager, Victims Support Services.

The Correctional Supervisor, Hobart Supreme Court must ensure the prisoner's former name is registered as an alias in CIS.

12. Responsibility for Costs

The Tasmania Prison Service will not accept responsibility for any costs associated with a prisoner's / detainee's marriage or change of name. The prisoner / detainee and his / her spouse are responsible for those expenses.

13. Record Keeping

Copies of documentation and correspondence relating to a prisoner's / detainee's application to marry and change of name must be sent to Records to be placed on the prisoner's / detainee's file.

14. Document History and Access

Implementation Date	14/11/2014
Version Number	2.0
Date of First Issue	23/10/2006
Date of Further Amendments	
Additional Information	
Next Review Date	Five years from date of implementation
Access to this DSO	Routine Disclosure

Approved by:

Brian Edwards

Director of Prisons