



The Saskatchewan Gazette

PUBLISHED WEEKLY BY AUTHORITY OF THE QUEEN'S PRINTER/PUBLIÉE CHAQUE SEMAINE SOUS L'AUTORITÉ DE L'IMPRIMEUR DE LA REINE

PART II/PARTIE II

Volume 107

REGINA, FRIDAY, JUNE 17, 2011/REGINA, VENDREDI, 17 JUIN 2011

No. 24/n° 24

PART II/PARTIE II

REVISED REGULATIONS OF SASKATCHEWAN/ RÈGLEMENTS RÉVISÉS DE LA SASKATCHEWAN

TABLE OF CONTENTS/TABLE DES MATIÈRES

SR 42/2011	<i>The Correctional Services Administration, Discipline and Security Amendment Regulations, 2011</i>	163
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Revised Regulations of Saskatchewan 2011/ Règlements Révisés de la Saskatchewan 2011

June 3, 2011

<i>The Adult and Youth Group Homes Amendment Regulations, 2011</i>	SR 25/2011
<i>The Health Centres (Hospital Standards Adoption) Amendment Regulations, 2011</i>	SR 26/2011
<i>The Regional Health Services Administration Amendment Regulations, 2011</i>	SR 29/2011
<i>The Facility Designation Amendment Regulations, 2011</i>	SR 30/2011
<i>The Municipal Grants Amendment Regulations, 2011</i>	SR 31/2011
<i>The Northern Municipalities Amendment Regulations, 2011</i>	SR 32/2011

June 17, 2011

<i>The Correctional Services Administration, Discipline and Security Amendment Regulations, 2011</i>	SR 42/2011
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REVISED REGULATIONS OF SASKATCHEWAN

SASKATCHEWAN REGULATIONS 42/2011

The Correctional Services Act

Section 57

Order in Council 360/2011, dated June 9, 2011

(Filed June 9, 2011)

Title

1 These regulations may be cited as *The Correctional Services Administration, Discipline and Security Amendment Regulations, 2011*.

R.R.S. c.C-39.1 Reg 3, new sections 48 to 48.91

2 **Section 48 of *The Correctional Services Administration, Discipline and Security Regulations, 2003* is repealed and the following substituted:**

“Inmate communication

48(1) In this section and in sections 48.1 to 48.91:

- (a) **‘inmate communication’** means a communication made or intended to be made by oral, written or electronic means between an inmate and any other person, including another inmate;
- (b) **‘mail’** includes letters, packages, parcels, publications or any other form of written communication, including material stored on electronic or magnetic storage media;
- (c) **‘monitor’** means:
 - (i) to listen to or read a communication that:
 - (A) is made by telephone or other electronic means; or
 - (B) was made by telephone or other electronic means and recorded;
 - (ii) to open or read mail, electronic mail or any other form of written communication that is delivered to a correctional centre or sent from within a correctional centre; or
 - (iii) to listen to or watch an oral communication that:
 - (A) is made in the course of a visit; or
 - (B) was made in the course of a visit and recorded;and includes to intercept;
- (d) **‘privileged communication’** means an inmate communication between an inmate and any of the following persons, officers or entities:
 - (i) the inmate’s legal counsel;
 - (ii) if the inmate is detained or subject to a warrant for arrest and detention pursuant to the *Immigration and Refugee Protection Act* (Canada), a person designated as an officer pursuant to that Act;

- (iii) the Ombudsman appointed pursuant to *The Ombudsman and Children's Advocate Act*;
 - (iv) the Children's Advocate appointed pursuant to *The Ombudsman and Children's Advocate Act*;
 - (v) the Information and Privacy Commissioner appointed pursuant to *The Freedom of Information and Protection of Privacy Act*;
 - (vi) the Saskatchewan Human Rights Commission.
- (2) Subject to subsection 48.3(1), an inmate communication may be recorded at any time by electronic or other means.
- (3) Subject to subsection 48.3(1), an inmate communication may be monitored, censored or restricted if:
- (a) the executive director, a person appointed by the executive director or the director believes on reasonable grounds that the inmate communication contains or will contain evidence of:
 - (i) an act that would jeopardize the security of the correctional centre or the safety of inmates, employees or the public; or
 - (ii) a criminal offence or a plan to commit a criminal offence;
 - (b) the executive director, a person appointed by the executive director or the director believes on reasonable grounds that the monitoring, censoring or restricting of the inmate communication is otherwise necessary for the security of the correctional centre or the safety of inmates, employees or the public;
 - (c) the executive director or a person appointed by the executive director believes on reasonable grounds that the monitoring, censoring, or restricting of the inmate communication is necessary for the purposes of an investigation conducted pursuant to section 50 of the Act;
 - (d) a court order restricts or prohibits contact between the inmate and another person and the inmate communication is to that other person;
 - (e) another person has indicated to the director that he or she does not wish to communicate with the inmate and the inmate communication is to that other person; or
 - (f) the monitoring or restricting is necessary to maintain or repair the system used to record and monitor inmate communication and the monitoring or restricting is performed only for the length of time and to the extent that is necessary to effect the maintenance or repair.

(4) The director may restrict or prohibit access by the inmate to any communication system if the director believes on reasonable grounds that:

- (a) the system is being misused or abused by the inmate;
- (b) the restriction or prohibition is necessary to maintain the security of the correctional centre or the safety of inmates, employees or the public; or
- (c) the restriction or prohibition is necessary for the purpose of rehabilitation of an inmate.

“Interception and examination of mail

48.1 In addition to the powers set out in section 48, an inmate communication in the form of mail that is delivered to a correctional centre or sent from within a correctional centre may be intercepted, opened and examined at any time by the director to determine if the mail contains contraband.

“Three-way calls

48.2(1) In this section, **‘three-way call’** means a telephone call where:

- (a) a third party is added to an already connected call; or
 - (b) a recipient number is used to transfer a telephone call to another telephone number.
- (2) Subject to subsection 48.3(1), the director may authorize that an inmate communication by telephone be monitored at any time if it is suspected on reasonable grounds that an inmate communication involves or will involve a three-way call.
- (3) The director may restrict or prohibit access by an inmate to any communication system if:
- (a) an inmate communication by the inmate is being monitored or has been monitored in accordance with subsection (2); and
 - (b) as a result of the monitoring mentioned in clause (a), it is determined that the inmate is involved or has been involved in a three-way call.

“Privileged communication

48.3(1) Notwithstanding sections 48 and 48.2, privileged communications must not be recorded or monitored.

(2) If a privileged communication is inadvertently recorded during repair and maintenance of a communication system or for any other reason:

- (a) the communication must not be monitored; and
- (b) the record of the communication must be destroyed as soon as is practicable after the director or any employee or agent of the correctional centre is notified or becomes aware that the communication was recorded.

“Identifiers of institution

48.4 The director may do one or both of the following:

- (a) attach the name of the correctional centre to an inmate communication that is directed to recipients outside of the correctional centre;
- (b) at the beginning of an inmate communication made by telephone or other electronic means to a place outside the correctional centre, play a recorded announcement identifying that the inmate communication comes from an inmate of the correctional centre.

“Notice of recording or monitoring

48.5(1) Before recording or monitoring an inmate communication that is made by telephone or other electronic means, the director must give reasonable notice to the inmate that the communication may be recorded or monitored.

(2) Notice may be given pursuant to subsection (1) by means of:

- (a) a recorded announcement played at the beginning of any inmate communication that is made by telephone or any other electronic means that includes audio transmission;
- (b) posting notices on all telephones used by inmates indicating that inmate communications may be recorded or monitored; or
- (c) any other method by which the notice of the recording or monitoring of the communication may reasonably be expected to come to the inmate's attention.

“Retention of inmate communication

48.6 A recording of an inmate communication that is made by telephone or other electronic means may be retained for a period not longer than 90 days after the date of the recording, unless there are reasonable grounds to believe that the inmate is:

- (a) involved in illegal activities;
- (b) harassing or causing harm to others; or
- (c) participating in an activity that may jeopardize the security of the correctional centre or the safety of inmates, employees or the public.

“Application of sections 48.5 and 48.6

48.7 Sections 48.5 and 48.6 do not apply to:

- (a) a video or surveillance recording that is made for the purpose of ensuring the security and good order of the correctional centre or the safety of inmates, employees or the public; or
- (b) data associated with the inmate communication, including information respecting:
 - (i) the date of the communication;
 - (ii) the inmate's name;
 - (iii) the telephone number to which the communication was made; and
 - (iv) the length of the communication.

“Notice of restriction, censorship or prohibition

48.8(1) Subject to subsections (2) and (3), if inmate communication has been restricted, censored or prohibited, the director must:

- (a) as soon as is practicable, inform the inmate, in writing, of the reasons for the restriction, censorship or prohibition; and
 - (b) give the inmate an opportunity to make representations to the director.
- (2) Subsection (1) does not apply if giving the inmate an opportunity to make representations would adversely affect an ongoing investigation.
- (3) In the circumstances mentioned in subsection (2), the director must on the completion of the investigation:
- (a) inform the inmate, in writing, of the reasons for the restriction, censorship or prohibition; and
 - (b) give the inmate an opportunity to make representations to the director.

“Supervision of inmate’s visits

48.9 An inmate’s visit may be supervised if the director believes on reasonable grounds that the supervision is necessary or desirable:

- (a) for the purpose of rehabilitation of an inmate;
- (b) to ensure the security and good order of the correctional centre or the safety of inmates, employees or the public.

“Use and disclosure of information

48.91 Any information obtained from inmate communication, including information obtained as a result of the monitoring of inmate communication or the interception, opening or examination of mail, may be used or disclosed:

- (a) for the purposes of protecting the security of the correctional centre or the safety of inmates, employees or the public;
- (b) for the purposes of the investigation of or prevention of the commission of an offence;
- (c) for the purposes of any investigation being conducted pursuant to the Act; or
- (d) for any purpose for which personal information may be used or disclosed by a government institution pursuant to *The Freedom of Information and Protection of Privacy Act*”.

Coming into force

3(1) Subject to subsection (2), these regulations come into force on the day on which section 1 of *The Correctional Services Amendment Act, 2011* comes into force.

(2) If these regulations are filed with the Registrar of Regulations after the day on which section 1 of *The Correctional Services Amendment Act, 2011* comes into force, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

