

(f) Work credits may be awarded to Administrative Segregation inmates pursuant to N.J.A.C. 10A:5-3.19, Work opportunities.

Amended by R.1989 d.299, effective June 5, 1989.

See: 21 N.J.R. 664(a), 21 N.J.R. 1516(c).

Provision that sentence may not be reduced to a period less than the minimum judicial or statutory mandatory term added at (c); recodification of (c)-(d) as (d)-(e).

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised text.

Case Notes

Murder defendant's 30-year mandatory minimum term of imprisonment was not subject to reduction through application of commutation and work credits. *Merola v. Department of Corrections*, 285 N.J.Super. 501, 667 A.2d 702 (A.D.1995), certification denied.

10A:9-5.3 Forfeiture of commutation credits

(a) Commutation credits may be declared to be forfeited as a penalty for misconduct. See N.J.S.A. 30:4-140.

(b) Forfeitures shall be determined by the Disciplinary Hearing Officer or Adjustment Committee pursuant to N.J.A.C. 10A:4. All decisions shall be reviewed by the Superintendent or Acting Superintendent, who may approve or modify the amount of commutation credits forfeited.

(c) In no case shall more than 365 days of commutation credits be declared forfeited for any single disciplinary offense.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised section.

10A:9-5.4 Forfeiture of commutation credits by parolees

A parolee under the supervision of the State Parole Board is subject to forfeiture of commutation credits in the event the parolee violates a condition of parole.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised section.

10A:9-5.5 Restoration of forfeited commutation credits

(a) The following procedures for restoring forfeited commutation credits apply to all inmates who received charges for acts which occurred on or after May 24, 1979.

1. Up to 75 percent of the forfeited commutation credits may be restored to inmates over the three year period following the incident which resulted in the loss of commutation credits. The three years must run consecutively, calculated beginning with the date of the incident. Credits shall be restored at the rate of 25 percent for each year which is free of any disciplinary charges with a guilty finding, as follows:

i. If the inmate completes only one year without a charge which results in a guilty finding, he or she will have 25 percent of the forfeited credits restored at the completion of that year.

ii. If the inmate completes any two years of the three year period without a charge which results in a guilty finding, he or she will have 50 percent of the forfeited credits restored at the rate of 25 percent at the completion of each of the respective two years.

iii. If the inmate completes all three years without a charge which results in a guilty finding, the inmate will have 75 percent of the forfeited credits restored at the rate of 25 percent at the completion of each of the respective three years.

Example: An inmate commits a disciplinary infraction on January 1, 1985, and the sanction imposed includes a forfeiture of commutation credits. On January 25, 1985, the inmate commits another disciplinary infraction and is found "guilty." The inmate receives no disciplinary charge between January 25, 1985, to January 25, 1986. The inmate, therefore, has 25 percent of his or her commutation credits restored. The inmate is again free of guilty findings from January 24, 1986, to January 25, 1987, an additional 25 percent of his or her commutation credits is restored. From January 25, 1987, to January 25, 1988, the inmate is again free of guilty finding but is not eligible for an additional 25 percent restoration of commutation time because more than three years have elapsed since January 1, 1985, date which resulted in the loss of the commutation credits.

2. Credits will be restored to the above regardless of the inmate's housing assignment.

(b) An inmate who receives a parole date or will reach the expiration of his or her maximum sentence, at any point in the third one year period and has been charge free during both the first and second one year periods may, at the discretion of the Superintendent, have the commutation credits which the inmate could earn in the third year period restored on a prorated basis.

1. A grant of credits on a prorated basis is applicable only when the parole date or expiration of maximum sentence falls in the third one year period and only where the inmate has had 50 percent of the forfeited credits already restored.

2. Such action shall be taken only in exceptional cases for good cause shown.

(c) Any inmate who feels that he or she meets the qualifications for restoration must submit an application for restoration of commutation credits to the Institutional Classification Committee (I.C.C.) for consideration at the appropriate time intervals. The I.C.C. will not act unless an inmate submits an application. A recommendation on restoration shall be made in accordance with this subchapter by the I.C.C. and forwarded to the Superintendent, who shall then order the restoration.

Example: An inmate commits a disciplinary infraction on June 30, 1987. The sanction imposed includes a forfeiture of 160 commutation credits. The inmate receives no findings of guilty through the disciplinary process between June 30, 1987 and June 30, 1988. The inmate, therefore, has 40 credits restored on June 30, 1988. The inmate is again free of guilty findings from June 30, 1988 through June 30, 1989 and has another 40 credits restored. The inmate is to be paroled or will reach the expiration of his or her maximum sentence on March 30, 1990. Thus, he or she will only serve nine months (or $\frac{3}{4}$) of the third year. The Superintendent, in his or her discretion, may restore 75 percent of the 40 credits or 30 credits as of March 30, 1990.

(d) The following procedures for restoring forfeited commutation credits apply to all inmates who received guilty findings from charges for prohibited acts which occurred prior to May 24, 1979:

1. One hundred percent of the forfeited commutation credits may be restored to an inmate(s) during three consecutive years (one-third restoration per year) which the inmate(s) completes without a charge which results in a finding of guilt.

2. Any inmate who feels that he or she meets the qualifications for restoration of commutation credits lost prior to May 24, 1979, must submit an application for restoration of commutation credits to the Institutional Classification Committee (I.C.C.) of the correctional facility in which the inmate is currently housed. The I.C.C. will not consider any restoration of forfeited commutation credits lost prior to May 24, 1979, unless an inmate submits an application. A recommendation on restoration of credits by the I.C.C. shall be made in accordance with this subchapter and forwarded to the Superintendent, who shall order the restoration of credits.

3. Any inmate under the jurisdiction of the Office of Interstate Services or Bureau of Community and Professional Services must submit an application for restoration of commutation credits lost prior to May 24, 1979, to the Superintendent of the correctional facility at which the inmate was housed prior to transfer. The Institutional Classification Committee (I.C.C.) of that correctional facility shall review the application. A recommendation on restoration of credits by the I.C.C. shall be made in accordance with this subchapter and forwarded to the Superintendent, who shall order the restoration of credits.

4. Any inmate housed at a contract facility under the jurisdiction of the Bureau of Contract Administration must submit an application for restoration of commutation credits lost prior to May 24, 1979, to the Superintendent of the regional correctional facility with responsibility for the inmate. The I.C.C. of that correctional facility shall review the application. A recommendation on restoration of credits by the I.C.C. shall be made in accordance with this subchapter and forwarded to the Superintendent, who shall order the restoration of credits.

Amended by R.1991 d.346, effective July 1, 1991.

See: 23 N.J.R. 1261(a), 23 N.J.R. 2043(a).

Amended to permit an inmate, who has forfeited commutation time as a result of a disciplinary charge and will reach the expiration of his or her maximum sentence in the third year after the loss of commutation time and has been free of disciplinary charges for both the first and second years, to have the commutation credits which he or she could earn in the third year restored, on a prorated basis, at the discretion of the Superintendent.

Amended by R.1992 d.79, effective February 18, 1992.

See: 23 N.J.R. 3721(a), 24 N.J.R. 612(a).

Revised (a).

Amended by R.1993 d.636, effective December 6, 1993.

See: 25 N.J.R. 4553(a), 25 N.J.R. 5476(a).

10A:9-5.6 Work credits for inmates housed in county correctional facilities

(a) State sentenced inmates who are being housed in county correctional facilities shall be credited with one day work credit for every five days worked beginning on the sixteenth day after sentencing. All inmates confined in county correctional facilities are charged with the responsibility to keep their cells clean; such assignments shall be considered as five day per week jobs. Work credits prior to sentencing must be certified by county authorities.

(b) Inmates that are parole violators without additional charges who are held in a county correctional facility on a parole warrant will receive work credits beginning on the sixteenth day after they have been in custody.

(c) Inmates that are Intensive Supervision Program (I.S.P.) violators, who are in county correctional facilities, will receive work credits beginning on the 16th day after they have been in custody.

(d) Parolees housed in county correctional facilities on additional charges and sentenced on additional charges may receive work credits and wages beginning on the 16th day after sentencing. If an inmate's parole is revoked prior to sentencing, the effective date on which to begin wages and work credits shall be the date of the parole revocation.

(e) Parolees serving county jail sentences in conjunction with parole violations may receive wages and work credits beginning on the date of parole revocation.

(f) Inmates with approved parole dates who are transferred to county correctional facilities prior to parole shall receive work credits as if the inmates were still assigned to a five day or seven day per week job in a State correctional facility. Inmates in minimum custody status at the time of transfer shall continue to receive compensation for that status during their stay in the county correctional facility in accordance with N.J.S.A. 30:4-92.

Amended by R.1987 d.332, effective August 17, 1987.

See: 19 N.J.R. 843(a), 19 N.J.R. 1560(b).

Deleted text in (b) and substituted new; deleted text in (d) "upon completion of ... has been revoked" and substituted "on the date of parole revocation".

Amended by R.1988 d.332, effective July 18, 1988.

See: 20 N.J.R. 879(b), 20 N.J.R. 1716(a).