Corrections Amendment Regulations 2007

Preamble

At Wellington this 18th day of June 2007

Pursuant to section 200 of the Corrections Act 2004, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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1 Title

These regulations are the Corrections Amendment Regulations 2007.

2 Principal regulations amended

These regulations amend the Corrections Regulations 2005.

3 Commencement

These regulations come into force on 19 July 2007.

4 Principles of security classification

Regulation 44 is amended by revoking subclause (2) and substituting the following subclause:

"(2) A prisoner who has been assigned a security classification must be placed and managed within a facility and regime that is consistent with his or her security classification, to the extent that it is practicable (having regard to the availability of accommodation and other resources)."

5 New Part 5A inserted

The following Part is inserted after regulation 52:

"Part5A
"Prisoner placement system

"**52A Application**

This Part provides for the management of sentenced prisoners in designated prisons.

"**52B Interpretation**

In this Part, unless the context otherwise requires,—

"**attributes**, in relation to a unit, means the attributes of the prisoner management policy of that unit

"**designated prison** means a prison designated by the chief executive under regulation 52D

"**placement** means a prisoner's unit placement in a designated prison

"**rules** means rules made under section 33 of the Act

"**unit** means a unit that is used for the purposes of the prisoner placement system.

"**52C Purpose of prisoner placement system**

The purpose of the prisoner placement system is to provide a regime for the management of sentenced prisoners in designated prisons that—

"(a) reflects the level of risk posed by each prisoner while inside the prison; and

"(b) responds to the conduct of prisoners by—

"(i) encouraging the types of conduct in prisoners that would facilitate or contribute to their rehabilitation and reintegration into the community (low risk conduct); and

"(ii) discouraging the types of conduct in prisoners that do not assist in or are detrimental to their rehabilitation and reintegration into the community (high risk conduct); and

"(c) is consistent with the prisoner's security classification, and the requirements of the Act and these regulations.

"**52D Chief executive may designate prisons for prisoner placement system**

"(1) The chief executive may, in accordance with subclause (5), designate 1 or more prisons as prisons in which the prisoner placement system will operate.

"(2) A designation under subclause (1) may exclude any part or unit of the prison from the operation of the prisoner placement system.

"(3) The chief executive must keep and maintain a list of designated prisons on the department's website.

"(4) A designation under subclause (1) takes effect from the date it is listed on the department's website.

"(5) Before designating a prison under subclause (1), the chief executive must be satisfied that—

"(a) the prison is suitable for the operation of the prisoner placement system, and the staff are adequately trained to operate it; and

"(b) the attributes of each unit to be used for the purposes of the prisoner placement system—

"(i) are consistent with any relevant direction of the chief executive under section 196 of the Act; and

"(ii) are consistent with security considerations, and the requirements of the Act and these regulations; and

"(c) the attributes of each unit to be used for the purposes of the prisoner placement system specify—

"(i) the number of hours that the unit will be unlocked:

"(ii) the degree of a prisoner's freedom of movement within the prison, including the extent to which a prisoner is to be escorted within the prison:

"(iii) the amount or type of property that may be permitted in a cell:

"(iv) the type and frequency of visits to prisoners of that unit.

"(6) No changes may be made to the attributes of a unit of a designated prison unless approved by the chief executive.

"**52E Minimum entitlements and provisions of Act relating to segregation not affected**

For the avoidance of doubt, nothing in this Part—

"(a) authorises the denial of any of the minimum entitlements referred to in section 69 of the Act; and

"(b) affects or limits sections 58 to 60 of the Act (which relate to the denial or restriction of a prisoner's opportunity to associate with other prisoners).

"**52F Initial placement**

A prisoner's initial placement is determined by—

"(a) the outcome of the prisoner's initial security classification completed in accordance with regulations 45 to 47; and

"(b) a placement assessment undertaken in accordance with regulation 52N if relevant information exists to undertake that assessment.

"**52G Prisoner to be managed according to unit attributes**

A prisoner must be managed according to the attributes of the unit in which he or she is placed.

"**52H Prisoner must be informed of matters relating to placement**

The unit manager must ensure that,—

"(a) within 72 hours after a prisoner's placement is assigned, the prisoner is—

"(i) advised in writing of his or her placement; and

"(ii) given the reasons for his or her placement; and

"(iii) informed of the prisoner placement system (including the prisoner's rights under regulation 52L); and

"(b) at the start of a prisoner's placement, the prisoner is informed of the rules, and the extent to which compliance and non-compliance with the rules will affect the prisoner's placement; and

"(c) the matters referred to in paragraphs (a) and (b) are fully explained to each prisoner in the unit, and that each prisoner has had an opportunity to ask questions.

"**52I Review of prisoner's placement**

"(1) A prisoner's placement must be reviewed—

"(a) every 3 months, unless the prisoner is serving a sentence of less than 26 weeks, in which case placement must be reviewed every 2 months; and

"(b) whenever the prisoner's security classification is reviewed.

"(2) A prisoner's placement must also be reviewed if—

"(a) the prisoner has, within a 6-month period, received 3 formal warnings for failing to comply with the rules; or

"(b) in the opinion of the prison manager, the prisoner has demonstrated through his or her actions that he or she represents a serious risk to the good order or security of the unit or the safety of any person.

"(3) For the purposes of subclause (2)(b), a prisoner's actions represent a serious risk to the good order or security of the unit or the safety of any person if the prisoner—

"(a) tests positive for any Class A controlled drug, Class B controlled drug, or Class C controlled drug; or

"(b) is found in possession of an unauthorised item; or

"(c) assaults any person or behaves in a threatening manner to any person.

"(4) Subclause (3) does not limit the generality of subclause (2)(b).

"**52J Criteria for review**

A staff member must take the following factors into account when undertaking a review of a prisoner's placement:

"(a) whether the prisoner has, during his or her placement,—

"(i) displayed motivation to achieve the objectives set out in his or her management plan; and

"(ii) achieved those objectives:

"(b) whether the prisoner has co-operated with staff members during his or her placement:

"(c) whether the prisoner has engaged in any misconduct during his or her placement:

"(d) whether the prisoner has been involved in any reported incidents during his or her placement.

"**52K When placement is assigned**

A prisoner's placement is assigned once all of the following steps have been completed:

"(a) a review of placement has been undertaken:

"(b) the staff member undertaking the review has notified the chief executive of the placement that, in his or her opinion, ought to be assigned to the prisoner:

"(c) the chief executive has decided whether the placement recommended under paragraph (b) is appropriate and either—

"(i) has approved the recommended placement for the prisoner; or

"(ii) has assigned a different placement for the prisoner.

"52L Prisoner may seek reasons for and reconsideration of placement

"(1) A prisoner is entitled to ask a staff member for the reasons for his or her placement.

"(2) If the prisoner is not satisfied with the reasons given for his or her placement, the prisoner may, subject to subclause (3), apply to the chief executive for a reconsideration of the placement decision.

"(3) A prisoner may not apply for a reconsideration if the prisoner's current placement was reviewed as a consequence of an earlier application for reconsideration made—

"(a) within the last 3 months; or

"(b) in the case of a prisoner serving a sentence of less than 26 weeks, within the last 2 months.

"52M Reconsideration of placement

If an application is made to the chief executive for a reconsideration of a placement decision, the chief executive must—

"(a) ensure that the process that was followed in the most recent review of placement is reviewed; and

"(b) decide whether or not the prisoner's current placement is appropriate and either—

"(i) confirm the placement; or

"(ii) assign a different placement to the prisoner.

"52N Duties of persons undertaking placement assessment, or review or reconsideration of placement

Any person undertaking a placement assessment, or a review or reconsideration of a prisoner's placement, must—

"(a) be given access to the prisoner's file kept by the department; and

"(b) take into account any instructions or guidelines under section 196 of the Act that relate to the prisoner placement system; and

"(c) take into account any other relevant information in any form that is readily available to the person; and

"(d) record in writing the person's recommendation or decision and the reasons for it."

Rebecca Kitteridge,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 19 July 2007, amend the Corrections Regulations 2005 to establish the prisoner placement system.

The prisoner placement system provides for the management of sentenced prisoners in prisons designated by the chief executive of the Department of Corrections (**designated prisons**).

The key aspects of the prisoner placement system are as follows:

- the prisoner placement system will operate within the current security classification system:
- each unit of a designated prison will have a prisoner management policy for prisoners of that unit:
- before the chief executive designates a prison for the prisoner placement system, he or she must be satisfied that the attributes of the prisoner management policy (**attributes**) of each unit are consistent with specified criteria (those attributes will vary from unit to unit):
- a prisoner's initial placement will be determined by the prisoner's initial security classification assessment, and a placement assessment if there is relevant information to make that assessment:
- a prisoner's placement must be reviewed every 3 months (or 2 months if the prisoner is serving a sentence of less than 26 weeks), and whenever the prisoner's security classification is reviewed:
- a prisoner's placement must also be reviewed in response to specified circumstances (for example, where the prisoner's actions represent a serious risk to the safety of any person):

- the outcome of a placement review may lead to placement in a unit with attributes that are less or more restrictive than those of the previous unit, or may lead to no change in placement:
- a prisoner who is dissatisfied with a placement decision may apply to the chief executive for a reconsideration of the decision.

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