

Version  
as at 1 April 2022



## Corrections Regulations 2005 (SR 2005/53)

Silvia Cartwright, Governor-General

### Order in Council

At Wellington this 7th day of March 2005

Present:

Her Excellency the Governor-General in Council

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

#### Contents

		Page
1	Title	11
2	Commencement	11

#### Part 1 Preliminary

3	Interpretation	11
4	Application	14

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**These regulations are administered by the Department of Corrections.**

**Part 2**  
**Administration of corrections system**

*Compliance with regulations*

5	Compliance with regulations	15
	<i>General duties of prison managers</i>	
6	General duties of prison managers	15
7	Duty of prison manager to report to chief executive	16
8	Reporting of deaths, serious illnesses and injuries, and transfers of prisoners	16
9	Reporting to prisoners of deaths and serious illnesses and injuries	17
	<i>General duties of security officers and staff members</i>	
10	General duties of security officers and staff members	17
	<i>General duties of controlling officers</i>	
11	Duty of controlling officer to report to chief executive	18
	<i>General duties of probation officers</i>	
12	General duties of probation officers	18
	<i>Other matters</i>	
13	Officers to obey lawful orders	18
14	Security officers and staff members not to receive money, gratuities, etc	19
15	Probation officers not to receive money, gratuities, etc	19
16	Visiting of security officers or staff members or probation officers	20
17	Officers to notify certain people if conflict of interest	20
18	Probation officers to notify certain people of conflict of interest	20
19	Requirements for staff members and security officers when entering prisons	21

**Part 3**  
**Movement of prisoners**

20	Reception and discharge times	21
21	Prisoner register	21
22	Procedure when prisoner released from prison	22
	<i>Control, supervision, and escorting of prisoners</i>	
23	Control of prisoners	22
24	Rules to be observed when escorting prisoners	22
25	Prisoners escorted to appeal proceedings	22
	<i>Temporary release and temporary removal from prison</i>	
26	Classes of prisoners who may be temporarily released under section 62	23

27	Purposes for which eligible prisoners may be temporarily released under section 62 <i>[Revoked]</i>	24
28	Classes of prisoners who may be temporarily removed under section 62	24
29	Purposes for which eligible prisoners may be temporarily released or temporarily removed under section 62	25

#### **Part 4**

#### **Property and prisoner finances**

##### *Prisoner property (general)*

30	Property register	26
31	Transfer and issue of items <i>[Revoked]</i>	26
32	Property on reception	26
32A	Tobacco and equipment used for smoking tobacco declared to be unauthorised items <i>[Revoked]</i>	27
33	Authorised property to be withheld from prisoners in certain circumstances	27
34	Property after reception	27
35	Property may be stored or removed	28
36	Access to and inspection of stored property	29
37	Property retained as evidence	29
38	Return of property	29
39	Transfer of property to another prison or place	30
40	Unclaimed property	30

##### *Prisoner finances*

41	Trust accounts in respect of prisoners	31
42	Trust account deposits and withdrawals	31
43	Prison earnings	32

#### **Part 5**

#### **Security classification of prisoners**

44	Principles of security classification	33
45	Assessment of risk	33
46	When security classification is assigned	33
47	When initial security classification to be completed	34
48	Assessment of risk when security classification reviewed	34
49	When review of security classification is completed	34
50	Exemption from section 47(3)(b) review requirement	35
51	Reconsideration of security classification	35
52	Duties of persons undertaking assignment, review, or reconsideration of security classification	35

#### **Part 5A**

#### **Prisoner placement system**

52A	Application	36
-----	-------------	----

52B	Interpretation	36
52C	Purpose of prisoner placement system	36
52D	Chief executive may designate prisons for prisoner placement system	37
52E	Minimum entitlements and provisions of Act relating to segregation not affected	37
52F	Initial placement	38
52G	Prisoner to be managed according to unit attributes	38
52H	Prisoner must be informed of matters relating to placement	38
52I	Review of prisoner's placement	38
52J	Criteria for review	39
52K	When placement is assigned	39
52L	Prisoner may seek reasons for and reconsideration of placement	40
52M	Reconsideration of placement	40
52N	Duties of persons undertaking placement assessment, or review or reconsideration of placement	40

### **Part 6**

#### **Segregation of prisoners**

53	Application	41
54	Chief executive to be notified of cells	41
55	Health centre manager to be notified of certain segregation directions	41
56	Visits to prisoner	41
	<i>Prescribed segregation and at-risk facilities</i>	
57	Mandatory items, features, and standards for segregation accommodation and at-risk cells	42
	<i>Additional segregation and at-risk facilities</i>	
58	Additional segregation and at-risk facilities	42
59	Additional segregation facilities for certain segregated prisoners	42
60	Cells for prisoners at risk of self-harm	43
61	Cells for the assessment of prisoners' mental health	43
62	Treatment of segregated prisoners	44
63	Prisoners at risk of self-harm	45
64	Prisoners suspected of concealing unauthorised items	45

### **Part 7**

#### **Prisoner treatment and welfare**

##### *Accommodation*

65	Accommodation of male and female prisoners	46
65A	Interpretation	47
65B	Prisoner may apply for review of determination as to sex	47
65C	Review of determination as to sex	48
65D	Further review where birth certificate inconclusive	49

65E	Expiry of determination	49
66	Individual cells and shared cells	50
67	Facilities for cells and self-care units	50
	<i>Grooming</i>	
68	Clothing	51
69	Cleanliness	51
70	Physical appearance of prisoners detained in prison	51
	<i>Health care</i>	
71	Prison to have health centre	52
72	Duties of chief executive	52
73	Duties of health centre manager	53
74	Chief executive to arrange for temporary replacement in certain cases	53
75	Medical officer may arrange for additional medical assistance	54
76	Certain prisoners at risk or seriously ill	54
77	Medical officer or health centre manager may refer prisoner to health service provider	54
78	Inspections by medical officers	55
79	Registered health professional, medical officer, or nurse may make recommendations	56
80	Health centre managers and chief executive must notify medical officers in certain cases	56
81	Dental services	56
	<i>Prisoner mail</i>	
82	All prisoner mail to be directed through manager	57
83	Writing materials and postage	57
84	Copying of correspondence	57
	<i>Telephone calls</i>	
85	Incoming telephone calls	59
86	Access to telephones generally	59
87	Telephone charges	59
	<b>Part 8</b>	
	<b>Visits to prisons</b>	
88	Permission to visit or view prison	60
	<i>Statutory visitors</i>	
89	Visits by statutory visitors	60
90	Statutory visitors not to receive money, gratuities, etc	60
	<i>Specified visitors</i>	
91	Specified visitors approved by manager	61
92	Specified visitors approved by chief executive	61

93	Specified visitor approvals	61
94	Visits by specified visitors	62
95	Specified visitors not to receive money, gratuities, etc	62
	<i>Visits by inspectors</i>	
96	Access of inspectors	63
97	Orders of inspectors	63
	<i>Private visitors</i>	
98	Purpose of visits	63
99	Private visitors to be approved before visit	63
100	Prisons to have pre-approval system for private visitors	64
101	Denying approval of visitor or approving visitor subject to conditions or restrictions	64
102	Private visitors carrying medication	65
103	Regulations and rules relating to visits to be available to prisoners and visitors	65
104	Manager to determine visiting times	65
105	Visits to be within visiting times	66
106	Visitor under 18 years must be accompanied by adult	66
	<i>Information requirements for non-statutory visitors</i>	
106A	Visitors may be asked to provide information	66
106B	Additional information that may be required if visitor is under 18 years	67
	<i>Enforcement officers and interviews</i>	
107	Enforcement officer may visit prisoner	68
108	Restrictions on interviews and recordings	68
109	Approvals	69
	<i>General rules</i>	
110	Requirements when entering prisons	70
111	Information about searching	70
112	Visits to prisoners must be supervised	71
113	Visits not to be recorded without necessary approvals	71
	<i>Procedure if non-statutory visitor denied approval or conditions imposed</i>	
113A	Procedure if non-statutory visitor denied approval or conditions imposed	72
	<i>Exclusion of non-statutory visitors from prisons</i>	
114	Exclusion of non-statutory visitors from prisons	72
115	Procedure if non-statutory visitor excluded from prison	73
116	Prohibition orders	73

*Visits to prisoners under control of officer, staff member, or  
probation officer*

117	Prisoners under control of officer, staff member, or probation officer	74
-----	--	----

**Part 9**

**Use of force, non-lethal weapons, and mechanical restraints**

*Use of force*

118	Use of force	74
119	Conditions attached to use of physical hold	75

*Non-lethal weapons*

119A	When non-lethal weapons may be used	75
120	Meaning of baton	75
120A	Meaning of pepper spray <i>[Revoked]</i>	75
121	Restrictions on carrying batons	75
122	Issue and storage of batons	76
123	Use of batons	76
123A	Meaning of pepper spray	76
123B	Issue of pepper spray	77
123C	Drawing and use of pepper spray	77
123D	Keeping pepper spray secure	78

*Mechanical restraints*

124	Use of mechanical restraints	78
125	Additional circumstances for use of handcuffs and waist restraints	78
126	Extension of 24-hour period <i>[Revoked]</i>	79

*Reporting use of force, non-lethal weapon, or mechanical restraint*

127	Reporting use of mechanical restraint	79
128	Reporting use of force or non-lethal weapon	79
129	Minimum requirements	80

**Part 10**

**Drug and alcohol testing**

*Procedure for drug and alcohol testing: urine samples*

130	Urine sample may be required	80
131	Sample to be collected at reasonable time	81
132	Identifying prisoners	81
133	Information to be given to prisoner before sample provided	81
134	Privacy and supervision	81
135	Requirements in relation to provision of sample	82
136	Urine sample collection kit	82
137	Inspection of equipment by prisoners	83
138	Procedure if sample not provided immediately	83
139	Procedure immediately after provision of sample	84

140	Chain of evidence for urine sample	85
141	Certificate showing result of analysis	85
142	Copy of certificate containing result of sample analysis to be given to prisoner and others	86
143	Requirements before result of sample analysis can be used in proceedings	86
	<i>Procedure for drug and alcohol testing: hair samples</i>	
143A	Hair samples may be required	87
143B	When hair samples may be taken	87
143C	Hair samples to be taken at reasonable time	87
143D	Identifying prisoners	88
143E	Information to be given to prisoner before hair samples taken	88
143F	Taking of hair samples	88
143G	Hair sample collection kit	89
143H	Inspection of equipment by prisoner	89
143I	Procedure immediately after hair samples taken	89
143J	Chain of evidence for hair samples	90
143K	Certificate showing result of analysis	91
143L	Copy of certificate containing result of sample analysis to be given to prisoner and others	91
143M	Requirements before result of sample analysis can be used in proceedings	91
	<i>Random testing programmes</i>	
144	General random testing programme	92
145	Temporary release and removal programme	93
146	Identified drug user (IDU) programme	93
147	Requirements for random testing programmes	94
148	Random selection methodology	94
	<i>Record of drug and alcohol testing</i>	
149	Record of drug and alcohol testing to be kept	95
	<b>Part 11</b>	
	<b>Discipline and order</b>	
	<i>Maintenance of discipline</i>	
150	Maintenance of discipline	95
151	Prisoners not to exercise disciplinary powers	95
	<i>Disciplinary proceedings</i>	
152	Disciplinary proceedings	96
153	Role of security officers in disciplinary proceedings	96
	<i>Cell confinement</i>	
154	Manager to notify chief executive of certain cells	96
155	Notification of prisoner's cell confinement	96



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156	Daily visits to prisoner under cell confinement	96
157	Cells used for cell confinement	96
	<i>Forfeiture or postponement of privileges</i>	
158	Privileges	97
	<b>Part 12</b>	
	<b>Complaints</b>	
	<i>Corrections facilities</i>	
159	Information to be provided to persons under control or supervision	98
160	Complaints to manager of prison and controlling officer of community work centre or probation office to be in writing	99
161	Reasonable assistance to be provided	99
162	Complainant to be notified orally and in writing	100
163	Frivolous or vexatious complaints	100
164	Nature of complaint need not be disclosed	100
165	Complainants to be regularly informed of progress	100
166	Complaints system at each prison, community work centre, and probation office to be auditable	101
167	Procedure where inspector wishes to interview prisoners	101
	<i>Police jails</i>	
168	Internal complaints system for Police jails	102
	<b>Part 13</b>	
	<b>Special categories of prisoners</b>	
169	Effect of Part 13	102
	<i>Mothers with young children</i>	
170	Approval for placement of baby with mother <i>[Revoked]</i>	102
171	Extension of baby's placement with mother <i>[Revoked]</i>	102
172	Accommodation of baby with mother <i>[Revoked]</i>	102
173	Parenting agreement for placement with mother <i>[Revoked]</i>	102
174	Placement of child does not affect legal rights	102
	<i>Daily visits from child</i>	
175	Approval for daily visits from child	103
176	Parenting agreement for daily visits from child	104
177	Facilities for feeding and bonding with child	105
178	Extension of baby's daily visits <i>[Revoked]</i>	105
	<i>Young prisoners</i>	
179	Young and adult prisoners to be kept apart	105
179A	Young and adult prisoners not to be transported in same vehicle compartment	105
180	Chief executive may approve mixing of young and adult prisoners	106
181	Telephone calls	106

182	Visiting times for young prisoners	106
183	Prison to contact nominated person	106
	<i>Accused prisoners and Immigration Act 2009 detainees</i>	
184	Immigration Act 2009 detainees subject to same regime as accused prisoners	107
185	Treatment of accused prisoners	107
186	Separation of accused prisoners	107
187	Visiting times for accused prisoners	108
188	Physical appearance of prisoners awaiting trial	108
	<i>Prisoners detained for non-payment of money</i>	
189	Prisoners detained for non-payment of money	108
	<i>Transgender prisoners</i>	
	<i>[Revoked]</i>	
190	Accommodation of transgender prisoners who have completed gender reassignment surgery <i>[Revoked]</i>	109
	<i>Service prisoners</i>	
191	Request for information	109
192	Transfers and temporary removals of service prisoners	109
	<b>Part 14</b>	
	<b>Miscellaneous</b>	
193	Assistance with proceedings	109
194	Service of documents	110
195	Fees for Visiting Justices who are not District Court Judges	111
196	No legitimate expectation as to conditions, etc <i>[Revoked]</i>	111
197	Schedules	111
	<b>Schedule 1</b>	111
	<b>Authorised property</b>	
	<i>[Revoked]</i>	
	<b>Schedule 2</b>	112
	<b>Items and features of cells for segregated prisoners and prisoners at risk of self-harm</b>	
	<b>Schedule 3</b>	114
	<b>Items in cells and self-care units</b>	
	<b>Schedule 3A</b>	116
	<b>Decisions about approval to visit</b>	
	<b>Schedule 4</b>	118
	<b>Prohibition orders</b>	
	<b>Schedule 5</b>	121
	<b>Mechanical restraints</b>	

<b>Schedule 6</b>	126
<b>Items and features of cells used for penalty of cell confinement</b>	
<b>Schedule 7</b>	127
<b>Disciplinary proceedings</b>	
<b>Schedule 8</b>	135
<b>Drug and alcohol testing forms</b>	

## Regulations

### 1 Title

These regulations are the Corrections Regulations 2005.

### 2 Commencement

These regulations come into force on 1 June 2005.

## Part 1 Preliminary

### 3 Interpretation

In these regulations, unless the context otherwise requires,—

**accused prisoner**—

- (a) means a prisoner detained only by reason of the fact that he or she is awaiting trial or is on remand in custody during the trial;
- (b) does not include a prisoner who is on remand awaiting sentence

**Act** means the Corrections Act 2004

**analyst** means—

- (a) the analyst in charge of a specified laboratory; or
- (b) a person working in a specified laboratory who is authorised by the analyst in charge of the laboratory to act as analyst for the purposes of these regulations; either generally or in any particular case

**cell confinement** means confinement in a cell as a penalty imposed under section 133(3)(c) or section 137(3)(c) of the Act

**commanding officer** means a commanding officer as defined in section 2(1) of the Armed Forces Discipline Act 1971

**consular representative**, in relation to any country, means a consular representative of that country who is recognised by the Government of New Zealand as being entitled to exercise jurisdiction in New Zealand or any part of New Zealand

**designated collection officer**, in relation to a prison, means an officer designated by the chief executive, Commissioner of Police, or contractor to undertake duties in respect of the taking of or dealing with urine samples and hair samples

**drinking water standards** means the standards made under section 47 of the Water Services Act 2021

**exclusion**, in relation to a non-statutory visitor, means a refusal to permit the visitor to enter the prison or the removal of the visitor from the prison

**existing cell** means a cell built before 1 July 1999

**existing self-care unit** means a self-care unit built before 1 July 1999

**hair sample** means a sample of hair that is—

- (a) at least 20 mm long; and
- (b) approximately 7 mm thick

**health centre** means an area set aside under regulation 71

**health service provider**—

- (a) includes a registered health professional and a person with skills and experience in health practices associated with a particular culture, religion, or belief; but
- (b) does not include a registered health professional appointed or engaged under section 11 or section 20 of the Act

**medical officer**—

- (a) means a person appointed or engaged as a medical officer under section 20 of the Act; and
- (b) includes a person carrying out his or her functions in accordance with arrangements approved by the chief executive under section 20(3)(b) of the Act; and
- (c) in relation to the manager of a prison, a staff member, or a prisoner, means a medical officer of the prison

**new cell** means a cell built on or after 1 July 1999

**new self-care unit** means a self-care unit built on or after 1 July 1999

**non-statutory visitor** means a visitor who is not a statutory visitor

**nurse** means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing whose scope of practice permits the performance of general nursing functions

**potable water** means water that—

- (a) is safe to drink; and

(b) complies with the drinking water standards

**PRN number** means the person record number of a prisoner

**prohibited visitor**—

- (a) means a person prohibited from visiting by a prohibition order; and
- (b) in relation to a prisoner, means a person prohibited by a prohibition order from visiting the prisoner, several prisoners including the prisoner, or the prison of which the prisoner is a prisoner

**prohibition order** means an order under Schedule 4

**psychiatric hospital** means a hospital within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992

**remand prisoner** means a prisoner detained only by reason of the fact that he or she is awaiting trial or is on remand in custody during the trial or before sentence

**rule** means a rule made by a manager of a prison under section 33 of the Act; and, in relation to a prison or a staff member or prisoner of a prison, means a rule made by the manager of a prison

**secure facility** has the same meaning as in section 9 of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003

**segregation direction** means a direction restricting or denying the opportunity of a prisoner to associate with other prisoners

**self-care unit** means accommodation of a residential style

**shared cell** means a cell shared by a prisoner with 1 or more other prisoners

**specified laboratory** means a facility that is—

- (a) a laboratory accredited under subpart 3 of Part 1 of the Standards and Accreditation Act 2015 for the purposes of analysing urine or hair for the detection and identification of drugs, alcohol, or both; or
- (b) a laboratory of the Institute of Environmental Science and Research Limited

**support person** means a person other than a legal adviser who attends a disciplinary hearing to be a support person for a prisoner as provided in Schedule 7

**transit cell** means a cell used for the temporary accommodation of a prisoner while the prisoner is being transferred from one prison to another

**urine sample** means a sample of urine of at least 30 mls

**visiting times**, in relation to a prison, means the visiting times determined by the manager of the prison under regulation 104

**young prisoner** means a prisoner who is under 18 years.

Regulation 3 **at risk**: revoked, on 17 September 2017, by regulation 4 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Regulation 3 **designated collection officer**: amended, on 22 September 2011, by regulation 4(2) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 3 **drinking water standards**: inserted, on 15 November 2021, by section 206(2) of the Water Services Act 2021 (2021 No 36).

Regulation 3 **hair sample**: inserted, on 22 September 2011, by regulation 4(1) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 3 **potable water**: inserted, on 15 November 2021, by section 206(2) of the Water Services Act 2021 (2021 No 36).

Regulation 3 **shared cell**: inserted, on 1 January 2010, by regulation 4 of the Corrections Amendment Regulations 2009 (SR 2009/374).

Regulation 3 **specified laboratory** paragraph (a): amended, on 21 October 2015, by section 45(2) of the Standards and Accreditation Act 2015 (2015 No 91).

Regulation 3 **specified laboratory** paragraph (a): amended, on 22 September 2011, by regulation 4(3) of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### 4 Application

- (1) These regulations apply in respect of every corrections prison, community work centre, and probation office, so far as they are applicable.
- (2) Except as provided in subclause (3) these regulations do not apply in respect of any Police jail.
- (3) The following regulations apply in respect of every Police jail:
  - (a) regulation 5:
  - (b) regulations—
    - (i) 26(1)(d) and (e), 28, and 29(2)(b) and (c); and
    - (ii) 29(1)(b), to the extent that it relates to temporary removal under section 62 of the Act:
  - (c) regulation 33:
  - (d) regulation 57 and Part A of Schedule 2:
  - (e) regulation 168.
- (4) In the case of a corrections prison that is a contract prison, any power, function, or duty of the chief executive described in regulations 59(2) and (3), 60(2) and (3), 61(2) and (3), 157(2) and (3), 180(1) and (2), and 186(3)—
  - (a) may be exercised by an approved employee to the extent of the approval given by the chief executive; but
  - (b) must be exercised by the chief executive if there is no approved employee to exercise that power, function, or duty, or the approved employee is absent or unable to exercise that power, function, or duty.
- (5) In subclause (4), an **approved employee** means a person who—
  - (a) is employed by a contractor but not as a staff member of any prison; and

- (b) has been given written approval by the chief executive to exercise any power, function, or duty of the chief executive in respect of 1 or more of the regulations referred to in subclause (4).

Regulation 4(3)(b): replaced, on 17 September 2017, by regulation 5 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Regulation 4(3)(c): amended, on 4 June 2013, by regulation 4 of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 4(4): inserted, on 22 September 2011, by regulation 5 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 4(5): inserted, on 22 September 2011, by regulation 5 of the Corrections Amendment Regulations 2011 (SR 2011/284).

## Part 2

### Administration of corrections system

#### *Compliance with regulations*

#### **5 Compliance with regulations**

- (1) A person who enters any prison, or who exercises any powers, functions, or duties in relation to the prison or the management of prisoners, must comply with the provisions of these regulations, so far as those provisions are applicable to that person.
- (2) A probation officer who exercises any powers, functions, or duties in relation to offenders must comply with the provisions of these regulations, so far as those provisions are applicable to that probation officer.

Compare: SR 2000/81 r 6

#### *General duties of prison managers*

#### **6 General duties of prison managers**

- (1) Subject to the Act and to the control of the chief executive, the manager of a prison is responsible for its good management and the fair, safe, secure, orderly, and humane management and care of its prisoners.
- (2) The manager of a prison must ensure—
- (a) that staff members are fully instructed in respect of their duties, and that they perform their duties with diligence and competence:
- (b) that, if the manager is absent from the prison or is for any reason unable to perform his or her duties, an employee of the department to whom powers or functions may be delegated under section 13 of the Act is placed in charge of the prison:
- (c) that, if the manager is a person charged with performing the functions of the manager in relation to any site within a prison declared by the chief executive to be a discrete site for the purposes of the Act and is absent

from the site or is for any reason unable to perform his or her duties, a person to whom powers or functions may be delegated under section 13 of the Act is placed in charge of the site:

- (d) that adequate emergency procedures in respect of the prison are established, that the equipment for use in an emergency at the prison is maintained and is in working order at all times, and that staff members and prisoners are trained to deal with an emergency at the prison:
  - (e) that prisoners, staff members, and people who visit the prison are given the relevant information about their rights, duties, and responsibilities under the Act, these regulations, and the rules (including rules made under section 45A of the Act):
  - (f) that all persons who enter the prison comply with the Act, these regulations, and the rules (including rules made under section 45A of the Act):
  - (g) that all records to which any person is entitled to have access under the Act, these regulations, or on written authority from the chief executive, are produced to that person within the time limit set out in the relevant enactment or authority or, if there is no such time limit, reasonably promptly.
- (3) Subclause (2) does not limit any of the duties conferred or imposed on the manager by the Act, these regulations, any instructions issued under section 196 of the Act, any prison management contract, or any other enactment.

Compare: SR 2000/81 r 12

Regulation 6(2)(e): amended, on 4 June 2013, by regulation 5(1) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 6(2)(f): amended, on 4 June 2013, by regulation 5(2) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 6(3): amended, on 8 December 2009, by section 8(2) of the Corrections (Contract Management of Prisons) Amendment Act 2009 (2009 No 59).

## **7 Duty of prison manager to report to chief executive**

If the chief executive asks a prison manager to do so, the manager must report to the chief executive on any matter in respect of which the chief executive reasonably considers that information is necessary to enable the chief executive to carry out his or her responsibilities under the Act, these regulations, or any other enactment.

Compare: SR 2000/81 r 13

## **8 Reporting of deaths, serious illnesses and injuries, and transfers of prisoners**

- (1) Subject to subclause (3), this regulation applies to the following events:
- (a) the death of a prisoner:
  - (b) the serious illness of a prisoner:



- (c) a serious injury to a prisoner:
  - (d) the transfer of a prisoner from a prison to a hospital or psychiatric hospital or secure facility:
  - (e) the transfer of a prisoner from a hospital or psychiatric hospital or secure facility to a prison.
- (2) If any event to which this regulation applies occurs, the manager of the prison concerned must ensure that notice is given promptly to—
- (a) a person nominated by the prisoner as a contact person or, if the prisoner has not nominated any such person, the prisoner's next of kin; and
  - (b) if the prisoner is a service prisoner, the prisoner's commanding officer.
- (3) If a prisoner who is a citizen of another country dies, the manager of the prison concerned must ensure that notice is given promptly to a consular representative of that country.
- (4) If a prisoner asks the manager of the prison concerned not to notify his or her next of kin if any event to which this regulation applies (other than the prisoner's death) occurs, the manager must comply with the request.
- (5) Subclause (2) is subject to subclause (4).

Compare: SR 2000/81 r 14

## **9 Reporting to prisoners of deaths and serious illnesses and injuries**

Promptly after being notified of the death or serious illness of, or a serious injury to, a person known to a prison manager to be a family member, relative, or close friend of a prisoner, the manager must ensure that information about the death, illness, or injury is given to the prisoner.

Compare: SR 2000/81 r 15

### *General duties of security officers and staff members*

## **10 General duties of security officers and staff members**

- (1) Every security officer and staff member must perform his or her duties with diligence and competence and in accordance with the Act and these regulations.
- (2) In an emergency, every security officer and staff member is also expected to—
- (a) act promptly; and
  - (b) use sound judgement and initiative.
- (3) A security officer or staff member who believes a situation exists that affects or is likely to affect the health or safety of any person in a prison or the security of a prison must promptly notify the prison manager.
- (4) Every security officer and staff member must promptly notify the appropriate person if the security officer or staff member notices that a prisoner—

- (a) is not or does not appear to be in good physical or mental health; or
  - (b) is or appears to be depressed, at risk of self-harm, or requiring special attention or care of any kind.
- (5) For the purposes of subclause (4), the appropriate person is,—
- (a) if the prisoner is not detained in any prison and the person who notices the matter in question is a security officer, the person by whom the security officer is employed (the chief executive or the security contractor):
  - (b) in any other case, the manager of the prison concerned.
- (6) This regulation does not limit the duties imposed on staff members or security officers by the Act.

Compare: SR 2000/81 rr 20, 25

#### *General duties of controlling officers*

### **11 Duty of controlling officer to report to chief executive**

If the chief executive asks a controlling officer to do so, the controlling officer must report to the chief executive on any matter in respect of which the chief executive reasonably considers that information is necessary to enable the chief executive to carry out his or her responsibilities under the Act, these regulations, or any other enactment.

Compare: SR 2000/81 r 13

#### *General duties of probation officers*

### **12 General duties of probation officers**

- (1) Every probation officer must perform his or her duties with diligence and competence and in accordance with the Act and these regulations.
- (2) In an emergency, every probation officer is also expected to—
  - (a) act promptly; and
  - (b) use sound judgement and initiative.

#### *Other matters*

### **13 Officers to obey lawful orders**

Every officer must obey without question any lawful order given by his or her senior officer; but may later raise its validity—

- (a) with the manager of the prison concerned, if it was not given by the manager:
- (b) with the chief executive, if—
  - (i) it was given by the manager and the manager was appointed by the chief executive; or

- (ii) the person given the order is a security officer employed by the chief executive:
- (c) with the contractor concerned, if it was given by the manager and the manager was appointed by a contractor:
- (d) with the security contractor concerned, if the person given the order is a security officer employed by a security contractor.

Compare: SR 2000/81 r 22

#### **14 Security officers and staff members not to receive money, gratuities, etc**

- (1) No security officer or staff member may receive any money, gratuity, reward, gift, or benefit of any kind from or on behalf of a prisoner except as provided in subclauses (3) and (4).
- (2) No security officer or staff member may trade with a prisoner, or enter into an arrangement with a prisoner that confers or is intended to confer a benefit of any kind on any person, except as provided in subclause (4).
- (3) The prison manager, or a staff member nominated by the manager for the purpose, may receive money from any person for the purpose of buying a gift for a prisoner, if the gift—
  - (a) is nominated by the person or the prisoner; and
  - (b) is an item of authorised property.
- (4) A staff member of a prison who first obtains the written approval of the appropriate person specified in subclause (5) may—
  - (a) receive from or on behalf of a prisoner a gift or benefit, other than a gift of money or a monetary benefit; or
  - (b) trade with or enter into an arrangement with a prisoner that confers or is intended to confer a benefit of any kind on any person.
- (5) The person who must first give written approval under subclause (4) is—
  - (a) the manager of the prison concerned, if the staff member is not the manager; or
  - (b) the chief executive, if the staff member is the manager and is appointed by the chief executive; or
  - (c) the contractor concerned, if the staff member is the manager and is appointed by a contractor.

Compare: SR 2000/81 rr 23, 27

#### **15 Probation officers not to receive money, gratuities, etc**

- (1) No probation officer may receive any money, gratuity, reward, gift, or benefit of any kind from or on behalf of an offender except as provided in subclause (3).

- (2) No probation officer may trade with an offender, or enter into an arrangement with an offender that confers or is intended to confer a benefit of any kind on any person, except as provided in subclause (3).
- (3) A probation officer who first obtains the written approval of the controlling officer of the probation area in which the probation officer works may—
  - (a) receive from or on behalf of an offender a gift or benefit, other than a gift of money or a monetary benefit; or
  - (b) trade with or enter into an arrangement with an offender that confers or is intended to confer a benefit of any kind on any person.

#### **16 Visiting of security officers or staff members or probation officers**

- (1) No security officer or staff member or probation officer who is carrying out escort duty or courtroom custodial duty may receive personal visitors.
- (2) No staff member who is carrying out duties at a prison may receive personal visitors without the prior approval of the prison manager.
- (3) Any approval given under subclause (2) may be the subject of conditions imposed by the prison manager.

Compare: SR 2000/81 rr 24, 28

#### **17 Officers to notify certain people if conflict of interest**

If there is or appears to be a conflict of interest between the exercise of the powers, functions, or duties of an officer in relation to a prisoner and the personal or business interests or dealings of that officer, the officer must, as soon as possible, notify—

- (a) the manager of the prison, if the officer works at a prison; or
- (b) the chief executive, if—
  - (i) the officer is a prison manager employed by the chief executive; or
  - (ii) the officer is a security officer employed by the chief executive; or
- (c) the contractor concerned, if the officer is a prison manager employed by the contractor; or
- (d) the security contractor concerned, if the officer is a security officer employed by the security contractor.

Compare: SR 2000/81 r 26

#### **18 Probation officers to notify certain people of conflict of interest**

If there is or appears to be a conflict of interest between the exercise of the powers or functions of a probation officer in relation to an offender and the personal or business interests or dealings of that probation officer, the probation officer must, as soon as possible, notify the controlling officer of the probation area in which the probation officer works.

**19 Requirements for staff members and security officers when entering prisons**

- (1) A staff member or security officer entering a prison may be required, by the staff member supervising entry, to verify his or her identity to the staff member's satisfaction.
- (2) A staff member or security officer entering a prison must declare any unauthorised item in his or her possession or in his or her vehicle to the staff member supervising entry.
- (3) The staff member supervising entry may inspect, seize, or otherwise deal with any unauthorised item declared under subclause (2).

Compare: SR 2000/81 r 89

**Part 3**  
**Movement of prisoners**

**20 Reception and discharge times**

No prisoner may be received in or discharged from a prison before 7 am or after 8 pm except—

- (a) under an arrangement between the prison manager and the Police, a Court Registrar, or a security contractor; or
- (b) in exceptional circumstances.

Compare: SR 2000/81 r 31

**21 Prisoner register**

The manager of a prison must ensure that a register of prisoners is maintained, on paper or in electronic or other similar form, and that the following particulars about each prisoner admitted to the prison are entered in it:

- (a) information about the identity of the prisoner:
- (b) the authority for the prisoner's reception, including details of the warrant of commitment or the order for committal:
- (c) the date and time of the prisoner's reception:
- (d) if applicable in the circumstances,—
  - (i) the offence in respect of which the prisoner has been committed to the prison:
  - (ii) the prison from which the prisoner has been transferred:
  - (iii) the period the prisoner was detained in a prison on remand and any subsequent amendment to that period:
- (e) the date and time of the prisoner's discharge from the prison or transfer to another prison:

(f) any other particulars the chief executive requires.

Compare: SR 2000/81 r 32

## **22 Procedure when prisoner released from prison**

(1) If a prisoner is entitled to be released from a prison on a particular date, he or she must be formally discharged on that date.

(2) This regulation is subject to section 52 of the Parole Act 2002.

Compare: SR 2000/81 r 38

### *Control, supervision, and escorting of prisoners*

## **23 Control of prisoners**

(1) Every officer, staff member, and probation officer must exercise the utmost care and vigilance in the control and supervision of any prisoner being escorted in his or her charge.

(2) No officer, staff member, or probation officer may relinquish the control of a prisoner when outside a prison except—

(a) if authorised as required by any enactment or orders:

(b) by handing control of the prisoner over to another officer, staff member, probation officer, or constable.

Compare: SR 2000/81 r 39

Regulation 23(2)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

## **24 Rules to be observed when escorting prisoners**

(1) Any officer, staff member, or probation officer who is carrying out escort duty must ensure—

(a) the safety and security of the prisoner or prisoners being escorted; and

(b) that male and female prisoners are escorted separately; and

(c) that the prisoner or prisoners being escorted—

(i) are exposed to public view as little as possible; and

(ii) as far as practicable in the circumstances, do not communicate with the public.

(2) Any person who is carrying out escort duty may, if necessary, separate prisoners from each other.

Compare: SR 2000/81 r 40

## **25 Prisoners escorted to appeal proceedings**

(1) A prisoner who is granted leave to attend proceedings before the Court of Appeal or the Supreme Court, wherever those proceedings might be, must—

(a) be escorted by an officer; and

- (b) unless his or her release is ordered by the Court of Appeal or the Supreme Court, remain in the control and supervision of the officer while he or she is absent from the prison.
- (2) A prisoner who is a service prisoner and is granted leave to attend proceedings before the Court Martial Appeal Court, wherever those proceedings might be, must—
  - (a) be escorted by a service escort appointed by the service prisoner's commanding officer for that purpose; and
  - (b) unless his or her release is ordered by the Court Martial Appeal Court, remain in the control and supervision of that service escort while he or she is absent from the prison.

Compare: SR 2000/81 r 41

Regulation 25(2): amended, on 1 July 2009, by section 35 of the Court Martial Appeals Amendment Act 2007 (2007 No 99).

Regulation 25(2)(b): amended, on 1 July 2009, by section 35 of the Court Martial Appeals Amendment Act 2007 (2007 No 99).

*Temporary release and temporary removal from prison*

**26 Classes of prisoners who may be temporarily released under section 62**

- (1) The following classes of prisoners may be temporarily released under section 62 of the Act:
  - (a) every prisoner (other than a service prisoner) sentenced to imprisonment for a term exceeding 24 months who has reached his or her parole eligibility date under section 20 of the Parole Act 2002; and—
    - (i) who is assigned a security classification that reflects the lowest level of risk category; or
    - (ii) who is assigned a security classification that reflects the second or third lowest level of risk category and who has been directed by the Parole Board to be released on parole under section 28 of the Parole Act 2002:
  - (b) every prisoner (other than a service prisoner) sentenced to imprisonment for a term of 24 months or less who is assigned a security classification that reflects the lowest level of risk category:
  - (c) every prisoner (other than a service prisoner) who, before 1 July 2002, was sentenced to imprisonment for a serious violent offence who—
    - (i) is not eligible for parole but whose final release date is within the next 12 months; and
    - (ii) is assigned a security classification that reflects the lowest level of risk category:
  - (d) every prisoner whose release is required for the purpose specified in regulation 29(2)(b) and who consents to being released for that purpose:

- (e) every prisoner whose release is required for the purpose specified in regulation 29(2)(c).
- (2) In this regulation, **serious violent offence** means an offence against any of the following provisions of the Crimes Act 1961 in respect of which a determinate sentence of more than 2 years' imprisonment is imposed on the offender:
  - (a) section 128 (sexual violation):
  - (b) section 171 (manslaughter):
  - (c) section 173 (attempt to murder):
  - (d) section 188(1) (wounding with intent to cause grievous bodily harm):
  - (e) section 188(2) (wounding with intent to injure):
  - (f) section 189(1) (injuring with intent to cause grievous bodily harm):
  - (g) section 189(2) (injuring with intent to injure):
  - (h) section 198A (using a firearm against law enforcement officer, etc):
  - (i) section 198B (commission of crime with firearm):
  - (j) section 234 (robbery):
  - (k) section 235 (aggravated robbery).

Regulation 26(1)(a)(ii): amended, on 22 September 2011, by regulation 6 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 26(1)(d): amended, on 17 September 2017, by regulation 6(1) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Regulation 26(1)(e): amended, on 17 September 2017, by regulation 6(2) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Regulation 26(2): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **27 Purposes for which eligible prisoners may be temporarily released under section 62**

*[Revoked]*

Regulation 27: revoked, on 17 September 2017, by regulation 7 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

## **28 Classes of prisoners who may be temporarily removed under section 62**

The following classes of prisoners may be temporarily removed under section 62 of the Act:

- (a) every prisoner sentenced to imprisonment:
- (b) every prisoner on remand:
- (c) every prisoner detained under an order that is not a sentence of imprisonment.



**29 Purposes for which eligible prisoners may be temporarily released or temporarily removed under section 62**

- (1) A prisoner who is eligible for temporary release, or temporary removal, under section 62 may be temporarily released or temporarily removed (as the case may be) for any of the following purposes that the chief executive considers will facilitate 1 or more of the objectives specified in section 62(2)(a) of the Act (subject to the considerations in section 62(3)):
- (a) to recognise or maintain a family relationship or a friendship (for example, attending a funeral or tangi):
  - (b) to obtain medical, or other, assessment or treatment:
  - (c) to give birth, or attend the birth of the prisoner's child, or visit the prisoner's newborn child:
  - (d) to engage with, take part in, or attend a religious, community, cultural, educational, recreational, service, or sporting group, activity, or event:
  - (e) to undertake an activity that supports the rehabilitative or reintegrative needs of the prisoner by, for example,—
    - (i) attending a family group conference or restorative justice conference:
    - (ii) attending a programme:
    - (iii) seeking paid employment:
    - (iv) seeking or receiving vocational training:
  - (f) to prepare for the possibility of release by, for example,—
    - (i) engaging with a person or agency that will support the prisoner on release:
    - (ii) purchasing equipment or possessions needed on release.
- (2) A prisoner who is eligible for temporary release under section 62 of the Act may be temporarily released for any of the following additional purposes that the chief executive considers will facilitate 1 or more of the objectives specified in section 62(2)(a) of the Act (subject to the considerations in section 62(3)):
- (a) to undertake paid employment (including self-employment):
  - (b) to assist the Police in relation to the prevention, investigation, and detection of offences:
  - (c) to enable the Police to exercise powers under section 32 or 33 of the Policing Act 2008.

Regulation 29: replaced, on 17 September 2017, by regulation 8 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

## Part 4

### Property and prisoner finances

#### *Prisoner property (general)*

#### **30 Property register**

- (1) The manager of a prison must ensure that a register of prisoners' property is maintained, on paper or in electronic or other similar form, and that there is entered in it, in relation to each prisoner received into the prison, a full description of—
  - (a) all items of property (whether it is authorised property or an unauthorised item)—
    - (i) brought when received into the prison; or
    - (ii) acquired while in the prison; or
    - (iii) received by a staff member of a prison on behalf of the prisoner; and
  - (b) all items of property—
    - (i) issued to the prisoner; or
    - (ii) transferred under section 44(1)(c) of the Act; or
    - (iii) withheld under section 43(3) of the Act; or
    - (iv) stored or removed under regulation 35; or
    - (v) destroyed or disposed of under section 45 of the Act; or
    - (vi) returned under regulation 38.
- (2) The prisoner concerned must be asked for written acknowledgement of any entry in, or amendment to any existing entry in, the register.
- (3) This regulation does not apply to prison property.

Regulation 30: replaced, on 4 June 2013, by regulation 6 of the Corrections Amendment Regulations 2013 (SR 2013/197).

#### **31 Transfer and issue of items**

*[Revoked]*

Regulation 31: revoked, on 4 June 2013, by regulation 7 of the Corrections Amendment Regulations 2013 (SR 2013/197).

#### **32 Property on reception**

- (1) All items of property received from or found on a prisoner, or received by a staff member on behalf of a prisoner, while that prisoner is being received in a prison, must be thoroughly searched in the presence of the prisoner to enable—
  - (a) the identification of unauthorised items; and
  - (b) the separation of authorised property from unauthorised items.

- (2) All items of property to which subclause (1) applies (whether authorised property or an unauthorised item) must be taken from the prisoner or retained (as the case may be) by a staff member, and—
  - (a) receipted; and
  - (b) recorded in the property register; and
  - (c) issued to the prisoner, or dealt with under any of regulations 33, 35, or 37, or under section 45 of the Act, or as the manager of the prison thinks fit.
- (3) If any item of jewellery that is to be taken from a prisoner cannot otherwise be removed, it may be cut from the prisoner.
- (4) A prisoner who is issued with authorised property may ask the manager of the prison to store it.

Compare: SR 2000/81 r 116

### **32A Tobacco and equipment used for smoking tobacco declared to be unauthorised items**

*[Revoked]*

Regulation 32A: revoked, on 4 June 2013, by regulation 8 of the Corrections Amendment Regulations 2013 (SR 2013/197).

### **33 Authorised property to be withheld from prisoners in certain circumstances**

- (1) A manager of a prison may refuse, under section 43(3)(c) of the Act, to issue or allow a prisoner to keep any item of authorised property in the following circumstances:
  - (a) following an emergency in the prison (for example, a riot or serious incident):
  - (b) if, in the opinion of the manager, the security of the prison is threatened:
    - (ba) if, in the opinion of the manager, the presence of the item in a shared cell threatens the safety or welfare of any prisoner in that cell:
  - (c) if the prisoner is detained in a temporary corrections prison (within the meaning of section 32(4) of the Act).
- (2) Any item of property to which this regulation applies must, if practicable, be placed in the charge of the manager of a prison.

Regulation 33(1)(ba): inserted, on 1 January 2010, by regulation 5 of the Corrections Amendment Regulations 2009 (SR 2009/374).

### **34 Property after reception**

- (1) All property acquired by a prisoner detained in a prison, or received by a staff member on the prisoner's behalf (whether authorised property or an unauthorised item), or required to be placed in the charge of the manager of the prison

under regulation 33 must be taken from the prisoner or retained (as the case may be) by a staff member, and—

- (a) receipted; and
  - (b) recorded in the property register; and
  - (c) issued to the prisoner, or dealt with under regulation 35, or regulation 37, or section 45 of the Act, or as the manager of the prison thinks fit.
- (2) A prisoner who acquires or is issued with any authorised property may ask the manager to store it.

Compare: SR 2000/81 r 117

### **35 Property may be stored or removed**

- (1) This regulation applies to any property of a prisoner received in a prison if—
  - (a) the prison manager has agreed to store it; or
  - (b) it has been placed in the prison manager's charge and the manager has decided to store it.
- (2) If any property of a prisoner received in a prison is placed in the manager's charge, the manager must decide reasonably promptly whether or not to store the property.
- (3) All property that the manager agrees to store must be labelled, packaged, and stored in a safe and secure facility.
- (4) Every manager of a prison must ensure that property to which subclause (1) applies is labelled, packaged, and stored in such a way that it—
  - (a) does not deteriorate; and
  - (b) is not damaged, lost, or mislaid; and
  - (c) can promptly be identified and retrieved for the purpose of inspection, issue, return, or any other lawful purpose.
- (5) The manager of a prison may require a prisoner, at the prisoner's own expense, to arrange for any item of the prisoner's property to be removed from the prison if—
  - (a) the prisoner refuses to sign an acknowledgement that the liability of the Crown for any loss of, or damage to, that item of property is limited to a maximum amount of \$400; or
  - (b) there is more of the prisoner's property in the prison than can reasonably be stored there; or
  - (c) its size, shape, or nature makes it unsuitable for storing there; or
  - (d) for any other reason, the manager believes that the property cannot reasonably be stored in the prison.
- (6) An article of clothing that is to be placed in storage must be in a clean condition before being stored.

- (7) Valuable personal items such as money, jewellery, and banking instruments must be stored separately from other items.
- (8) The maximum liability of the Crown for any loss of, or damage to, an item of prisoner property is \$400.

Compare: SR 2000/81 r 118

### **36 Access to and inspection of stored property**

- (1) Access to the area of a prison where prisoner property is stored must be restricted to staff members authorised for the purpose by the prison manager.
- (2) A prisoner may inspect his or her items of stored property at the following times:
  - (a) after transfer:
  - (b) within 1 month of his or her release:
  - (c) at any other time, with the approval of the manager.

Compare: SR 2000/81 r 119

### **37 Property retained as evidence**

If any prisoner property in a prison is or may be evidence of a disciplinary or criminal offence, the manager of the prison may seize it, but must then—

- (a) retain it until it is decided whether the prisoner is to be charged with a disciplinary or criminal offence; or
- (b) deliver it to the appropriate enforcement officer.

Compare: SR 2000/81 r 121

### **38 Return of property**

- (1) The manager of a prison must take all practicable steps to ensure that a prisoner's property is returned to the prisoner on the day on which the prisoner is discharged or released, but—
  - (a) the prisoner's property must first be checked against the property register; and
  - (b) the prisoner must then be asked to check the relevant entries in the register maintained under regulation 30, and sign a written receipt for the property to be returned; and
  - (c) no property may be returned unless the prisoner has signed an appropriate receipt for it.
- (2) If, on a check of property conducted under subclause (1)(a), it is found that a prisoner's property does not correspond with the relevant entries in the property register, the matter must be—
  - (a) referred to the manager; and
  - (b) resolved by the manager reasonably promptly.

- (3) The manager of a prison must take all practicable steps to ensure that, if a prisoner dies while under the manager's control, either the person notified of the prisoner's death under regulation 8(2) or the executor or administrator of the prisoner's estate is consulted on what is to be done with the prisoner's property.
- (4) To avoid doubt, this regulation does not apply to a prisoner who—
  - (a) is released from custody under section 62 of the Act; or
  - (b) is to be transferred from one prison to another prison or place.

Compare: SR 2000/81 r 122

### **39 Transfer of property to another prison or place**

- (1) If a prisoner is to be transferred from one prison (the **first prison**) to another prison or place, the manager of the first prison must take all practicable steps to ensure that before the transfer takes place,—
  - (a) the prisoner's property is checked against the property register maintained under regulation 30; and
  - (b) the prisoner is asked to check the relevant entries in the property register, and sign a written acknowledgment of the property to be transferred.
- (2) If, on a check of property conducted under subclause (1)(a), it is found that a prisoner's property does not correspond with the relevant entries in the property register, the matter must be—
  - (a) referred to the manager; and
  - (b) resolved by the manager reasonably promptly.
- (3) If a prisoner is transferred from one prison to another, the prisoner's property (if any) that is held or stored at the prison from which the prisoner was transferred must, at the same time as, or reasonably promptly after, the prisoner is transferred, be—
  - (a) forwarded to the manager of the prison to which the prisoner is transferred; and
  - (b) receipted and recorded in the property register maintained in accordance with regulation 30; and
  - (c) dealt with subsequently in accordance with regulations 32 to 40, which apply with any necessary modifications, and any applicable rules made under section 45A of the Act.

Compare: SR 2000/81 rr 35(5), 123

Regulation 39(3)(c): replaced, on 4 June 2013, by regulation 9 of the Corrections Amendment Regulations 2013 (SR 2013/197).

### **40 Unclaimed property**

- (1) If a former prisoner leaves any property at any prison,—

- (a) the manager of that prison must take all reasonable steps to give the former prisoner written notice that he or she must collect it from the prison; and
  - (b) it is forfeited to the Crown unless the former prisoner collects it within 3 months after the notice was given.
- (2) Property in a prison whose ownership is uncertain or unknown—
- (a) must be placed in the manager's charge; and
  - (b) is forfeited to the Crown unless its ownership is established within 3 months after it was placed there.

Compare: SR 2000/81 r 124

### *Prisoner finances*

#### **41 Trust accounts in respect of prisoners**

- (1) The chief executive must ensure that accurate and up-to-date records of each trust account are maintained on paper or in electronic or other similar form that show—
- (a) the amount of money deposited into the trust account, the date on which that money was deposited, the name of the prisoner concerned, and the name of the person who deposited that money; and
  - (b) the amount of money withdrawn from the trust account, the date on which that money was withdrawn, the name of the prisoner concerned, and the name of the person who withdrew that money.
- (2) The manager of a prison must ensure that the amount of money held for a particular prisoner within any trust account does not exceed the maximum amount (if any) permitted to be held for a particular prisoner in the trust account by a rule, unless—
- (a) an amount of money greater than that amount is required by the Act or another enactment to be held on behalf of a prisoner in that account; or
  - (b) the manager is satisfied that there are special circumstances justifying the holding of a greater amount in that account on behalf of a prisoner.
- (3) A prisoner may request a statement in respect of the money held exclusively for him or her in the trust account, and the manager of a prison must ensure the statement is produced within 1 week of that request.

Compare: SR 2000/81 r 125

#### **42 Trust account deposits and withdrawals**

- (1) Subject to regulation 43(1), no money may be deposited into a trust account in respect of a particular prisoner detained in a prison unless the manager of a prison gives written approval for the deposit.
- (2) No money may be withdrawn from the trust account unless—

- (a) it has been wrongly credited to the account; or
- (b) it is withdrawn in respect of a prisoner with the prisoner's written approval; or
- (c) it is withdrawn under regulation 43(2) or section 46(3) or section 68 of the Act.

Compare: SR 2000/81 r 126

#### **43 Prison earnings**

- (1) Earnings paid to a prisoner under section 66(3) of the Act must be deposited into the trust account.
- (2) The manager of a prison may withdraw or withhold from a trust account earnings of a specified kind and credited to a prisoner, or later due to a prisoner, if, and only if,—
  - (a) the prisoner has been sentenced under section 133(3)(b) or section 137(3)(b) of the Act to forfeit his or her earnings; or
  - (b) an order has been made under section 133(4)(b) or section 137(4)(b) of the Act that a specified amount be withdrawn or withheld from the earnings payable under section 66 or section 67 of the Act and credited to the prisoner; or
  - (c) an order has been made under section 133(4)(c) or section 137(4)(c) of the Act that a specified amount be forfeited to the Crown from earnings payable under section 67 of the Act and credited to the prisoner.
- (3) The amount of earnings that may be withdrawn or withheld,—
  - (a) in any case to which subclause (2)(a) applies, is the amount that is imposed as a penalty:
  - (b) in any case to which subclause (2)(b) or (c) applies, is the amount specified in the order.
- (4) Nothing in subclause (2) or subclause (3) prevents the rectification of any error.
- (5) This regulation does not affect section 68 of the Act.
- (6) For the purposes of this regulation **earnings of a specified kind** means—
  - (a) in relation to subclause (2)(a), the earnings payable under section 66(3) of the Act:
  - (b) in relation to subclause (2)(b), the earnings payable under section 66(3) or section 67 of the Act and credited to the prisoner:
  - (c) in relation to subclause (2)(c), the earnings payable under section 67 of the Act and credited to the prisoner.

Compare: SR 2000/81 r 127



## **Part 5**

### **Security classification of prisoners**

#### **44 Principles of security classification**

- (1) A prisoner should be assigned the lowest level of security classification at which the prisoner can safely and securely be managed given the assessment of the level of risk posed by a prisoner.
- (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).

Regulation 44(2): replaced, on 19 July 2007, by regulation 4 of the Corrections Amendment Regulations 2007 (SR 2007/168).

#### **45 Assessment of risk**

Any staff member conducting an assessment under section 47(1) of the Act of the level of risk posed by a prisoner for the purposes of undertaking a security classification, must take into account—

- (a) the seriousness of the offence for which the prisoner is serving a sentence of imprisonment or, in the case of a prisoner serving sentences of imprisonment for 2 or more offences, the seriousness of the most serious of those offences;
- (b) the duration of the sentence or sentences being served by the prisoner;
- (c) any history of escapes or attempted escapes from custody by the prisoner;
- (d) any history of violent behaviour by the prisoner;
- (e) any history of mental ill health;
- (f) whether the prisoner is awaiting trial or sentencing on any further charges and, if so, the nature of those charges;
- (g) any additional matter specified in writing by the chief executive as a matter to be taken into account in conducting a risk assessment under section 47(1) of the Act.

#### **46 When security classification is assigned**

A security classification is assigned to a prisoner once all of the following steps have been completed:

- (a) a risk assessment has been undertaken under section 47(1) of the Act in accordance with regulation 45; and
- (b) the staff member undertaking the risk assessment has notified the chief executive or prison manager of the security classification that, in his or her opinion, ought to be assigned to the prisoner; and

- (c) the chief executive or prison manager has decided whether the security classification recommended under paragraph (b) is appropriate and either—
  - (i) has approved that recommended classification as the security classification assigned to the prisoner; or
  - (ii) has assigned a different security classification to the prisoner.

Regulation 46(b): amended, on 22 September 2011, by regulation 7 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 46(c): amended, on 22 September 2011, by regulation 7 of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### **47 When initial security classification to be completed**

The chief executive must ensure that a prisoner received in a prison after being sentenced to imprisonment for a term exceeding 3 months or recalled under a final recall order to serve such a sentence is assigned a security classification within 14 days of the date of his or her reception into that prison.

#### **48 Assessment of risk when security classification reviewed**

Any staff member conducting a review of a security classification under section 47(3) of the Act must, in conducting an assessment under section 47(1) of the Act of the level of risk posed by the prisoner for the purposes of that review, take into account the matters specified in regulation 45 and in addition—

- (a) the duration of the period that the prisoner has left to serve under his or her sentence:
- (b) the current state of the prisoner's mental health:
- (c) whether the prisoner has co-operated with staff members while serving his or her sentence:
- (d) whether the prisoner has engaged in any misconduct while serving his or her sentence or has been involved in any reported incidents:
- (e) whether the prisoner has—
  - (i) displayed motivation to achieve the objectives set out in his or her management plan; and
  - (ii) achieved those objectives:
- (f) any additional matter specified in writing by the chief executive as a matter to be taken into account in conducting a review of a security classification under section 47(3) of the Act.

#### **49 When review of security classification is completed**

The review of a prisoner's security classification is completed once all of the following steps have been completed:

- (a) a risk assessment has been undertaken under section 47(1) of the Act taking into account the matters specified in regulation 45 and regulation 48; and
- (b) the staff member undertaking the risk assessment has notified the chief executive or prison manager that in his or her opinion, either the existing security classification ought to be retained or another security classification recommended by that staff member ought to be assigned; and
- (c) the chief executive or prison manager has decided whether the security classification recommended under paragraph (b) (whether the existing security classification or another) is appropriate and either—
  - (i) has approved the recommended classification as the security classification assigned to the prisoner; or
  - (ii) has assigned a security classification to the prisoner that is different from the recommended classification.

Regulation 49(b): amended, on 22 September 2011, by regulation 8 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 49(c): amended, on 22 September 2011, by regulation 8 of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### **50 Exemption from section 47(3)(b) review requirement**

An exemption from the requirements of section 47(3)(b)(i) of the Act applies in respect of any prisoner who has been assigned the lowest security classification.

#### **51 Reconsideration of security classification**

If an application is made to the chief executive for the reconsideration of a security classification under section 48(2) of the Act, the chief executive must—

- (a) ensure that the process that was followed in assigning or most recently reviewing that classification as the case requires, is reviewed; and
- (b) decide whether or not the prisoner's current security classification is appropriate and either—
  - (i) confirm that classification as the appropriate security classification; or
  - (ii) assign a different security classification to the prisoner.

#### **52 Duties of persons undertaking assignment, review, or reconsideration of security classification**

Any person undertaking the assignment, review, or reconsideration of a prisoner's security classification must—

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

- (b) take into account any relevant information in any form that is readily available to the person; and
- (c) record in writing the person's recommendation or decision and the reasons for it.

## Part 5A

### Prisoner placement system

Part 5A: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

#### 52A Application

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

Regulation 52A: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

#### 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.

Regulation 52B: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

#### 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.

Regulation 52C: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

**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.

Regulation 52D: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

**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).

Regulation 52E: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

#### **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.

Regulation 52F: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

#### **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.

Regulation 52G: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

#### **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.

Regulation 52H: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

#### **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).

Regulation 52I: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

#### **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.

Regulation 52J: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

#### **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.

Regulation 52K: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

### **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.

Regulation 52L: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

### **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.

Regulation 52M: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

### **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.

Regulation 52N: inserted, on 19 July 2007, by regulation 5 of the Corrections Amendment Regulations 2007 (SR 2007/168).

## **Part 6**

### **Segregation of prisoners**

#### **53 Application**

Nothing in this Part authorises the denial or restriction of a prisoner's opportunity to associate with other prisoners except under a segregation direction made under any of sections 58 to 60 of the Act.

#### **54 Chief executive to be notified of cells**

The manager of a prison must notify the chief executive in writing of any cell in the prison that may be used for the accommodation of a prisoner subject to a segregation direction issued—

- (a) under section 58 of the Act, in circumstances where it is suspected that the prisoner has concealed internally an unauthorised item; or
- (b) under section 60(1)(b) of the Act.

Compare: SR 2000/81 r 148

#### **55 Health centre manager to be notified of certain segregation directions**

The health centre manager of a prison must be notified reasonably promptly by the prison manager after a prisoner is placed in a cell in circumstances where, as a consequence of any segregation direction, the prisoner is denied the opportunity to associate with other prisoners.

Compare: SR 2000/81 r 149

Regulation 55 heading: amended, on 4 June 2013, by regulation 10(1) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 55: amended, on 4 June 2013, by regulation 10(2) of the Corrections Amendment Regulations 2013 (SR 2013/197).

#### **56 Visits to prisoner**

The manager, or an officer authorised by the manager for the purpose, must at least once a day visit a prisoner who, as a consequence of a segregation direction, is denied the opportunity to associate with other prisoners.

Compare: SR 2000/81 r 149

*Prescribed segregation and at-risk facilities*

Heading: replaced, on 28 April 2020, by section 37 of the Corrections Amendment Act 2019 (2019 No 57).

**57 Mandatory items, features, and standards for segregation accommodation and at-risk cells**

- (1) Cells used to accommodate prisoners subject to a segregation direction must have the items and features specified in Part A of Schedule 2.
- (2) At-risk cells must have the items and features specified in Part A of Schedule 2, other than a bed.
- (3) The prison manager must ensure that the items and features specified in Part A of Schedule 2 that are provided for use in, or form part of, a cell to which this regulation applies are maintained in good working order.

Regulation 57: replaced, on 28 April 2020, by section 37 of the Corrections Amendment Act 2019 (2019 No 57).

*Additional segregation and at-risk facilities*

Heading: replaced, on 28 April 2020, by section 37 of the Corrections Amendment Act 2019 (2019 No 57).

**58 Additional segregation and at-risk facilities**

- (1) Natural lighting must be provided in the following cells:
  - (a) a cell used in a corrections prison for the accommodation of a prisoner subject to a segregation direction issued under section 58, 59, or 60 of the Act:
  - (b) an at-risk cell.
- (2) The requirement for natural lighting is in addition to the items or features referred to in regulation 57(1) or (2) that must be provided in respect of that cell.

Regulation 58: replaced, on 28 April 2020, by section 37 of the Corrections Amendment Act 2019 (2019 No 57).

**59 Additional segregation facilities for certain segregated prisoners**

- (1) A cell used for the accommodation of a prisoner subject to a segregation direction issued under section 58, section 59, or section 60(1)(a) of the Act must, in addition to the items and features described in regulation 57(1), and, if applicable, regulation 58,—
  - (a) if it is an existing cell, have the features and contain the items specified in Part B of Schedule 2, so far as is practicable in the circumstances:
  - (b) if it is a new cell, have the features and contain the items specified in Part B of Schedule 2.
- (2) Despite subclause (1), the chief executive may approve, for the accommodation of prisoners who are the subject of a segregation direction issued under section

58, section 59, or section 60(1)(a) of the Act, the use in a prison of cells that do not comply with subclause (1), if the chief executive is satisfied that it is not practicable in the circumstances to avoid using those cells for the accommodation of prisoners of that kind.

- (3) An approval under subclause (2)—
  - (a) applies only in respect of those cells specified in the approval; and
  - (b) remains in force for the period specified in the approval by the chief executive; and
  - (c) is subject to any conditions imposed by the chief executive.
- (4) The manager of a prison must ensure that all features and items specified in Part B of Schedule 2 that are provided for use in, or form part of, a cell in the prison to which this regulation applies are maintained in good working order.
- (5) Subclause (1) is subject to regulation 64.

#### **60 Cells for prisoners at risk of self-harm**

- (1) An at-risk cell must, in addition to the items and features referred to in regulations 57(2) and 58,—
  - (a) have the features and contain the items specified in Part C of Schedule 2; and
  - (b) so far as is practicable in the circumstances, have the feature specified in Part D of Schedule 2.
- (2) Despite subclause (1), the chief executive may approve cells that do not comply with subclause (1) for designation as at-risk cells if the chief executive is satisfied that it is not practicable in the circumstances to avoid using those cells as at-risk cells.
- (3) An approval under subclause (2)—
  - (a) applies only in respect of those cells specified in the approval; and
  - (b) remains in force for the period specified in the approval by the chief executive; and
  - (c) is subject to any conditions imposed by the chief executive.
- (4) The manager of a prison must ensure that all features or items specified in Part C of Schedule 2 that are provided for use in, or form part of, a cell in the prison to which this regulation applies are maintained in good working order.

Regulation 60(1): replaced, on 28 April 2020, by section 38 of the Corrections Amendment Act 2019 (2019 No 57).

Regulation 60(2): replaced, on 28 April 2020, by section 38 of the Corrections Amendment Act 2019 (2019 No 57).

#### **61 Cells for the assessment of prisoners' mental health**

- (1) A cell used for the accommodation of a prisoner who is subject to a segregation direction issued under section 60(1)(b) of the Act must, in addition to the fea-

- tures and items described in regulation 57(1), and, if applicable, regulation 58,—
- (a) have the features and contain the items specified in Part E of Schedule 2; and
  - (b) so far as is practicable in the circumstances, have the features and contain the items specified in Part F of Schedule 2.
- (2) Despite subclause (1), the chief executive may approve, for the accommodation of prisoners who are subject to a segregation direction issued under section 60(1)(b) of the Act, the use in a prison of cells that do not comply with subclause (1), if the chief executive is satisfied that it is not practicable in the circumstances to avoid using those cells for the accommodation of prisoners of that kind.
- (3) An approval under subclause (2)—
- (a) applies only in respect of those cells specified in the approval; and
  - (b) remains in force for the period specified in the approval by the chief executive; and
  - (c) is subject to any conditions imposed by the chief executive.
- (4) The manager of a prison must ensure that all features and items specified in Part E or Part F of Schedule 2 that are provided for use in, or form part of, a cell in the prison to which this regulation applies are maintained in good working order.

Compare: SR 2000/81 r 153

Regulation 61(1): amended, on 28 April 2020, by section 39 of the Corrections Amendment Act 2019 (2019 No 57).

Regulation 61(2): amended, on 28 April 2020, by section 39 of the Corrections Amendment Act 2019 (2019 No 57).

## **62 Treatment of segregated prisoners**

- (1) A prisoner subject to a segregation direction must be detained, so far as is practicable in the circumstances and if it is not inconsistent with the purposes of the segregation direction, under the same conditions as if he or she were not subject to a segregation direction.
- (2) A prisoner referred to in subclause (1) must not be denied access to activities consistent with the fulfilment of his or her prisoner management plan, or to his or her authorised property, simply because he or she is subject to a segregation direction.
- (3) Subclause (2) is subject to section 69(4)(b) of the Act.

Compare: SR 2000/81 r 155

### **63 Prisoners at risk of self-harm**

- (1) A suitable registered health professional must keep written notes of each visit to an at-risk prisoner and the notes must be entered on the prisoner's health record.
- (2) Within 24 hours of a prisoner's assessment as an at-risk prisoner, the health centre manager must visit the prisoner and prepare a report on the prisoner, but this does not apply if the health centre manager has visited the prisoner and written a report when providing advice to the prison manager under section 61C of the Act.
- (3) The health centre manager must—
  - (a) record any advice given under section 61C of the Act in relation to an at-risk prisoner in the health record of the prisoner concerned; and
  - (b) arrange for a copy of any report prepared to be put in the health record of the prisoner.
- (4) After visiting a prisoner under subclause (2), the health centre manager must recommend to the prison manager—
  - (a) whether or not the prisoner should be denied access, under section 69(2)(c) of the Act, to all or any of the minimum entitlements referred to in section 69, or, if the prisoner has already been denied access to all or any of those entitlements under section 69(2)(c), whether the prisoner should continue to be denied access to those entitlements;
  - (b) whether or not the prisoner should be denied access to any other item (such as clothing).
- (5) The health centre manager must record a recommendation under subclause (4) on the prisoner's prison record.
- (6) Before the health centre manager makes a recommendation under subclause (4) that relates to a matter outside his or her scope of practice, he or she must consult a registered health professional whose scope of practice includes that matter.
- (7) As far as is practicable in the circumstances and consistent with maintaining the prisoner's safety, an at-risk prisoner must be detained under the same conditions as if he or she were not at risk of self-harm, including access to activities in accordance with his or her management plan and access to authorised property.

Regulation 63: replaced, on 28 April 2020, by section 40 of the Corrections Amendment Act 2019 (2019 No 57).

### **64 Prisoners suspected of concealing unauthorised items**

- (1) This regulation applies to a prisoner who is subject to a segregation direction issued under section 60(1)(a) of the Act because the prisoner is suspected of concealing internally an unauthorised item.

- (2) A prisoner to whom this regulation applies may be placed in a cell that does not have—
- (a) a toilet; or
  - (b) running potable water; or
  - (c) a modesty screen.
- (3) The medical officer must advise the health centre manager in writing as soon as he or she believes that there has ceased to be any justification for continuing to deny or restrict the opportunity of the prisoner to associate with other prisoners.
- (3A) The health centre manager must advise the manager as soon as practicable in writing if he or she—
- (a) believes that there has ceased to be any justification for continuing to deny or restrict the opportunity of the prisoner to associate with other prisoners; or
  - (b) receives advice from a medical officer under subclause (3).
- (4) *[Revoked]*
- (5) A registered health professional must keep written notes of each visit to the prisoner under section 60(5) of the Act and arrange for those notes to be placed in the prisoner's health record.
- (6) A medical officer must record any recommendation or advice given by the medical officer in relation to a prisoner in the health record of the prisoner concerned.
- (7) A health centre manager must record any recommendation or advice given by the health centre manager in relation to a prisoner in the health record of the prisoner concerned.

Regulation 64: replaced, on 4 June 2013, by regulation 12 of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 64(1): amended, on 17 September 2017, by regulation 9(1) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Regulation 64(4): revoked, on 17 September 2017, by regulation 9(2) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Regulation 64(5): amended, on 17 September 2017, by regulation 9(3) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

## **Part 7**

### **Prisoner treatment and welfare**

#### *Accommodation*

##### **65 Accommodation of male and female prisoners**

- (1) Male and female prisoners must be detained—

- (a) in separate prisons; or
  - (b) within the same prison in separate quarters that are secured by different locking systems.
- (2) Where there is doubt about whether a prisoner is male or female, the chief executive must determine whether the prisoner is a male or female prisoner for the purpose of subclause (1).
- (3) If a prisoner supplies a copy of the prisoner's birth certificate that records the prisoner's sex as female or male, the determination under subclause (2) must be made in accordance with that sex.
- (4) If a prisoner supplies a copy of the prisoner's birth certificate that records the prisoner's sex as indeterminate, or records no sex, the chief executive must—
- (a) undertake a review of the determination made under subclause (2); and
  - (b) inform the prisoner that a review is being undertaken.
- (5) If a prisoner is not satisfied with the determination made under subclause (2), the prisoner may make an application for review under regulation 65B.

Regulation 65: replaced, on 10 February 2014, by regulation 4 of the Corrections Amendment Regulations (No 2) 2013 (SR 2013/489).

#### 65A Interpretation

In regulations 65B to 65D,—

**nominated sex** means the sex, whether male or female, nominated by a prisoner

**sentence expiry date** has the same meaning as in section 4(1) of the Parole Act 2002

**serious sexual offence** means a sexual offence under Part 7 of the Crimes Act 1961 that is punishable by a period of imprisonment of 7 years or more.

Regulation 65A: inserted, on 10 February 2014, by regulation 4 of the Corrections Amendment Regulations (No 2) 2013 (SR 2013/489).

#### 65B Prisoner may apply for review of determination as to sex

- (1) A prisoner may apply to the chief executive for a review of the determination made under regulation 65(2).
- (2) However, a prisoner may not make an application under subclause (1) if the prisoner—
- (a) is serving a sentence of imprisonment for a serious sexual offence against a person of the prisoner's nominated sex; or
  - (b) is remanded in custody charged with, or awaiting sentence for, a serious sexual offence against a person of the prisoner's nominated sex; or
  - (c) has served a sentence of imprisonment for a serious sexual offence against a person of the prisoner's nominated sex, and the sentence expiry date is 7 years or less before the date on which the application is made.

- (3) An application must state the prisoner's nominated sex for the purpose of regulation 65(1).

Regulation 65B: inserted, on 10 February 2014, by regulation 4 of the Corrections Amendment Regulations (No 2) 2013 (SR 2013/489).

### **65C Review of determination as to sex**

- (1) This regulation applies if—
- (a) a prisoner applies under regulation 65B for a review of a determination made under regulation 65(2); or
  - (b) the chief executive is required by regulation 65(4) to undertake a review of the determination made under regulation 65(2).
- (2) The chief executive must review the determination as soon as is reasonably practicable and—
- (a) confirm the original determination that the prisoner is a male or female prisoner; or
  - (b) determine that the prisoner should be recognised as being of the opposite sex to that originally determined.
- (3) In reviewing a determination, the chief executive must consider the following matters:
- (a) the prisoner's nominated sex; and
  - (b) any evidence provided by the prisoner about whether, and, if so, for how long, the prisoner has lived as a person of the nominated sex; and
  - (c) any evidence provided by the prisoner about whether the prisoner intends to live permanently as a person of the nominated sex; and
  - (d) the advice of—
    - (i) a senior employee of the department who has responsibility for custodial services; and
    - (ii) a senior employee of the department who has responsibility for health services for prisoners; and
    - (iii) any other person that the chief executive considers has relevant expertise; and
  - (e) any advice from a medical practitioner who has seen the prisoner; and
  - (f) any evidence provided by the prisoner about whether the prisoner has undergone, or is undergoing, medical treatment to acquire a physical conformation that accords with the gender identity of a person of the nominated sex; and
  - (g) the safety and well-being of the prisoner; and
  - (h) the safety and well-being of other prisoners (of either sex) with whom the prisoner may be accommodated; and



- (i) the security of the prison; and
- (j) whether any determination could make it more likely that the prisoner will be segregated from other prisoners in accordance with section 57 to 60 of the Act; and
- (k) the likely effect of any determination on the prisoner's rehabilitation, including the prisoner's access to special treatment programmes; and
- (l) any other matters raised by the prisoner.

Regulation 65C: inserted, on 10 February 2014, by regulation 4 of the Corrections Amendment Regulations (No 2) 2013 (SR 2013/489).

#### **65D Further review where birth certificate inconclusive**

- (1) Where the chief executive has made a determination under regulation 65C(2) in any case to which regulation 65C(1)(b) applies, a prisoner may apply to the chief executive for a further review of the determination.
- (2) Regulation 65C applies with any necessary modifications to the further review.

Regulation 65D: inserted, on 10 February 2014, by regulation 4 of the Corrections Amendment Regulations (No 2) 2013 (SR 2013/489).

#### **65E Expiry of determination**

- (1) A determination made under regulation 65(2) or 65C(2) in respect of a prisoner applies until the date on which the prisoner is first released from prison following the determination (excluding any temporary release from custody or temporary removal from prison under section 62 of the Act).
- (2) However, if the determination was made under regulation 65C(2)(b) following an application for a review under regulation 65B, the chief executive must revoke the determination if—
  - (a) the prisoner supplies a copy of the prisoner's birth certificate and requests to be recognised in accordance with the sex (if male or female) recorded on the birth certificate; or
  - (b) the prisoner is charged with a serious sexual offence against a person of the same sex as the prisoner's nominated sex; or
  - (c) the chief executive determines, on reasonable grounds, that 1 or more of the factors on which the determination was based have changed to such an extent that the determination is no longer appropriate.
- (3) If the chief executive revokes a determination under subclause (2), the original determination that applied to the prisoner before the prisoner applied for a review under regulation 65B is reinstated.

Regulation 65E: inserted, on 10 February 2014, by regulation 4 of the Corrections Amendment Regulations (No 2) 2013 (SR 2013/489).

Regulation 65E(2): amended, on 6 December 2019, by regulation 4 of the Corrections Amendment Regulations 2019 (LI 2019/260).

**66 Individual cells and shared cells**

- (1) A prisoner may be accommodated in a shared cell unless the prison manager is satisfied that the prisoner is unsuited for the shared cell accommodation that is available.
- (2) Before accommodating a prisoner in a shared cell, the prison manager must ensure that the prisoner is assessed to determine whether he or she is suited for the available shared cell accommodation.
- (3) A prisoner who is assessed as unsuited for the available shared cell accommodation must be accommodated in an individual cell.

Regulation 66: replaced, on 29 October 2019, by section 41 of the Corrections Amendment Act 2019 (2019 No 57).

**67 Facilities for cells and self-care units**

- (1) All new cells and new self-care units must contain the items specified in Part A of Schedule 3.
- (2) All existing cells and existing self-care units—
  - (a) must contain the items specified in Part B of Schedule 3; and
  - (b) must, so far as is practicable in the circumstances, contain the items specified in Part C of Schedule 3.
- (3) Despite subclauses (1) and (2), the chief executive may approve the use in a prison of cells or self-care units that do not comply with subclause (1) or subclause (2), as the case may be, if the chief executive is satisfied that it is not practicable in the circumstances to avoid using those cells or self-care units to accommodate prisoners in the prison.
- (4) An approval under subclause (3)—
  - (a) applies only in respect of those cells or self-care units specified in the approval; and
  - (b) remains in force for the period specified in the approval by the chief executive; and
  - (c) is subject to any conditions imposed by the chief executive.
- (5) The manager must ensure that all items specified in Schedule 3 that are provided for use in a cell or self-care unit in the prison are maintained in good working order.
- (6) This regulation does not apply to cells used for segregation directions and to transit cells.

Compare: SR 2000/81 r 52

## *Grooming*

### **68 Clothing**

- (1) Prisoners may wear their own clothing and footwear, except as provided in subclauses (3) and (4).
- (2) The manager must provide clothing or footwear to a prisoner on request by that prisoner, as long as the manager is satisfied that the request is reasonable.
- (3) The manager may require a prisoner who is not an accused prisoner to wear clothing or footwear provided by the prison.
- (4) The manager must require a prisoner (whether an accused prisoner or not) to wear clothing or footwear provided by the prison if the prisoner's own clothing or footwear is—
  - (a) generally insufficient or unfit for use; or
  - (b) insufficient or unfit for a specific activity or work in which the prisoner is engaged.
- (5) Clothing or footwear that is provided by the prison must be—
  - (a) suitable for the activities or work likely to be undertaken by the prisoner who is wearing that clothing or footwear; and
  - (b) adequate for safety, warmth, comfort, and health.
- (6) Clothing (other than clothing for a specific activity or work) that is provided to accused prisoners must be distinguishable from clothing provided to other prisoners.

Compare: SR 2000/81 r 54

### **69 Cleanliness**

- (1) Every prisoner must keep his or her person, cell or self-care unit, furniture, clothing, and property clean and tidy.
- (2) The manager of a prison must ensure that the means to comply with subclause (1) are available to every prisoner.

Compare: SR 2000/81 r 55

### **70 Physical appearance of prisoners detained in prison**

- (1) Unless the health centre manager directs otherwise on the grounds of health, safety, or cleanliness, a prisoner may keep or adopt the hair style of the prisoner's choice.
- (2) A prisoner may not grow a beard or moustache after reception to a prison, unless the prisoner first obtains the prison manager's approval.
- (3) A prisoner may retain any beard or moustache the prisoner had on reception without first obtaining the prison manager's approval.

- (4) A prisoner must shave a beard or moustache if the health centre manager so directs on the grounds of health, safety, or cleanliness.
- (5) Subclauses (2) and (3) are subject to subclause (4).
- (6) This regulation applies to prisoners detained under the Immigration Act 2009, but does not apply to accused prisoners.

Compare: SR 2000/81 r 57

Regulation 70(1): amended, on 4 June 2013, by regulation 13(1) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 70(4): amended, on 4 June 2013, by regulation 13(2) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 70(6): amended, at 2 am on 29 November 2010, by section 406(2) of the Immigration Act 2009 (2009 No 51).

### *Health care*

#### **71 Prison to have health centre**

- (1) In every prison there must be an area set aside as a health centre.
- (2) The health centre must be equipped to provide the following facilities:
  - (a) emergency first-aid facilities:
  - (b) examination room facilities:
  - (c) secure facilities to store medical supplies and medicines.
- (3) The health centre must, at all times, be available for any medical emergency.
- (4) All medical examinations conducted within the prison must be conducted in the health centre or a place approved by the chief executive or prison manager as suitable for conducting medical examinations, unless the condition of the prisoner requires that the prisoner be examined or treated elsewhere.

Compare: SR 2000/81 r 59

Regulation 71(4): amended, on 22 September 2011, by regulation 9 of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### **72 Duties of chief executive**

The chief executive must ensure that—

- (a) health centres are equipped and operated to provide adequately for the health needs of prisoners:
- (b) the health needs of prisoners are promptly met, and that, as far as practicable, the physical and mental health of prisoners is maintained to a satisfactory standard:
- (c) *[Revoked]*
- (d) access to adequate medical treatment is available to meet the health needs of prisoners at any time.

Compare: SR 2000/81 r 60

Regulation 72(c): revoked, on 1 December 2008, by regulation 6 of the Corrections Amendment Regulations 2008 (SR 2008/371).

### **73 Duties of health centre manager**

- (1) The health centre manager of a prison must take all practicable steps to maintain the physical and mental health of prisoners to a satisfactory standard.
- (2) Without limiting subclause (1), the health centre manager of a prison must—
  - (a) advise the chief executive of any prisoner who, in the opinion of the health centre manager, requires—
    - (i) special treatment or attention by staff members; or
    - (ii) a modification in the management of that prisoner:
  - (b) if the chief executive requires, or the health centre manager considers it necessary in the circumstances, advise the chief executive of the equipment, supplies, facilities, and personnel required—
    - (i) to equip and operate the health centre adequately; and
    - (ii) to provide for the health needs of prisoners adequately:
  - (c) ensure that medicine is administered to a prisoner in accordance with his or her medical needs:
  - (d) advise the manager of the prison so that the provisions of the Misuse of Drugs Act 1975 are observed:
  - (e) advise the chief executive of any health and safety issues affecting any prisoner, classes of prisoners, or all prisoners.
- (3) Without limiting subclause (1), the health centre manager of a contract prison must, if a contractor requires or the health centre manager considers it necessary in the circumstances, advise the contractor of the equipment, supplies, facilities, and personnel required—
  - (a) to equip and operate the health centre adequately; and
  - (b) to provide for the health needs of prisoners adequately.
- (4) This regulation does not limit any of the functions or powers conferred or imposed on health centre managers by the Act.

Regulation 73: replaced, on 4 June 2013, by regulation 14 of the Corrections Amendment Regulations 2013 (SR 2013/197).

### **74 Chief executive to arrange for temporary replacement in certain cases**

- (1) A medical officer must reasonably promptly inform the chief executive if for a limited time that medical officer is or will be unable to perform his or his duties under the Act or these regulations.
- (2) The chief executive must ensure that arrangements are made for a suitable medical practitioner to act in place of the medical officer during the time the medical officer is away.

- (3) While acting in place of the medical officer, the medical practitioner has all the powers and functions conferred or imposed on the medical officer.

Compare: SR 2000/81 r 61

#### **75 Medical officer may arrange for additional medical assistance**

A medical officer of a prison may arrange for additional medical assistance in an emergency, but—

- (a) must, if possible, consult the manager before doing so; and
- (b) if it was not possible to consult the manager before doing so, must notify the manager reasonably promptly after doing so.

Compare: SR 2000/81 r 62

#### **76 Certain prisoners at risk or seriously ill**

- (1) The health centre manager must promptly notify the chief executive in writing with any recommendations the health centre manager thinks fit, if the health centre manager has reason to believe that—
- (a) a prisoner is at risk of self-harm; or
  - (b) the physical or mental health of a prisoner has been or is likely to be injuriously affected by continued detention or by any conditions of detention; or
  - (c) a sick prisoner will not survive his or her sentence or is totally or permanently unfit for detention; or
  - (d) a prisoner should be transferred to a hospital or psychiatric hospital or a secure facility.
- (2) The health centre manager of a prison must ensure that special attention is paid to any prisoner who is—
- (a) denied the opportunity to associate with other prisoners as a consequence of a segregation direction; or
  - (b) placed in a cell under a penalty of cell confinement.
- (3) Before the health centre manager notifies the chief executive under subclause (1) in relation to a matter that is outside the health centre manager's scope of practice, he or she must consult a medical practitioner whose scope of practice includes that matter.

Regulation 76: replaced, on 4 June 2013, by regulation 15 of the Corrections Amendment Regulations 2013 (SR 2013/197).

#### **77 Medical officer or health centre manager may refer prisoner to health service provider**

- (1) If satisfied that a prisoner detained in prison requires treatment by a health service provider, the following persons may refer the prisoner to a health service provider for treatment:

- (a) a medical officer;
  - (b) a health centre manager, if the matter falls within the health centre manager's scope of practice.
- (2) A health service provider must report to the medical officer or the health centre manager after a consultation has been completed in respect of a prisoner.
- (3) If a prisoner wishes to obtain treatment by a health service provider, but a medical officer or the health centre manager does not consider that a referral under subclause (1) is justified, the prisoner may obtain the treatment if—
- (a) the manager is satisfied that the treatment can be obtained in a manner that meets the security requirements of the prison for the prisoner; and
  - (b) the prisoner pays for the cost of the treatment, and the cost of facilitating his or her attendance to obtain the treatment.
- (4) A medicine prescribed for a prisoner by a health service provider may be administered at the prison only with the approval of the medical officer, or under the instruction of a medical practitioner.
- (5) An accused prisoner who at the time of his or her reception to a prison is undergoing urgent treatment by a health service provider may be visited and treated by the provider if—
- (a) the chief executive or manager approves of the treatment; and
  - (b) the accused prisoner pays for the cost, if any, of the treatment.
- (6) In this regulation, **treatment** includes assessment.

Compare: SR 2000/81 r 64

Regulation 77 heading: amended, on 4 June 2013, by regulation 16(1) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 77(1): replaced, on 4 June 2013, by regulation 16(2) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 77(2): amended, on 4 June 2013, by regulation 16(3) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 77(2): amended, on 1 December 2008, by regulation 7(2) of the Corrections Amendment Regulations 2008 (SR 2008/371).

Regulation 77(3): amended, on 4 June 2013, by regulation 16(4) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 77(3): amended, on 1 December 2008, by regulation 7(3) of the Corrections Amendment Regulations 2008 (SR 2008/371).

Regulation 77(5)(a): amended, on 22 September 2011, by regulation 11 of the Corrections Amendment Regulations 2011 (SR 2011/284).

## 78 Inspections by medical officers

- (1) The medical officer of a prison may, and if asked to do so by an inspector or an ombudsman or the chief executive, must, inspect and give a written report on the condition of the prison or any particular aspect of the prison as it affects the health of prisoners.

- (2) When subclause (1) applies, the medical officer—
  - (a) must give a copy of the report to the chief executive; and
  - (b) if a person other than the chief executive asked for the inspection, must give a copy of the report to that person.
- (3) In the case of a prison with 2 or more medical officers, the references in subclauses (1) and (2) to the medical officer must be read as references to 1 of them, designated by the chief executive for the purposes of this regulation.

Compare: SR 2000/81 r 65

### **79 Registered health professional, medical officer, or nurse may make recommendations**

- (1) A registered health professional, a medical officer of a prison, or a staff member who is a nurse may make recommendations to any other staff members in respect of the health needs of a prisoner.
- (2) In making any decision in respect of a prisoner, a staff member must consider all relevant recommendations under subclause (1).
- (3) A medical officer of a prison may at any time give the chief executive written recommendations on the health of any prisoner, or on any matter relating to the health or safety of prisoners.

Compare: SR 2000/81 r 66

### **80 Health centre managers and chief executive must notify medical officers in certain cases**

- (1) A health centre manager must ensure that a medical officer is promptly notified if a prisoner's physical or mental health appears to require the attention of a medical officer.
- (2) The chief executive must ensure that a medical officer is promptly notified if a prisoner has been placed under a mechanical restraint.
- (3) Subclause (2) does not apply—
  - (a) where handcuffs, or a waist restraint used in conjunction with handcuffs, have been applied on a prisoner for the purpose of escorting the prisoner (whether inside or outside a prison); or
  - (b) where a medical officer has recommended the use of the mechanical restraint.

Regulation 80: replaced, on 17 September 2017, by regulation 10 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

### **81 Dental services**

- (1) The chief executive must ensure that—
  - (a) dental examinations, and any other dental treatment approved by a medical officer or health centre manager, are provided for prisoners free of charge to them; and



- (b) a dentist is available to provide the examinations and treatment.
- (1A) A health centre manager may only approve a dental treatment if the matter falls within his or her scope of practice.
- (2) Any examination or treatment must be primarily concerned with the relief of pain, the maintenance of a reasonable standard of dental care relative to the dental and oral health of the prisoner concerned before the prisoner was admitted to the prison, or both.
- (3) Subclause (1) is subject to subclause (2).
- (4) In this regulation, **dentist** means a person for the time being registered as a dentist under the Health Practitioners Competence Assurance Act 2003.

Compare: SR 2000/81 r 69

Regulation 81(1)(a): amended, on 4 June 2013, by regulation 17(1) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 81(1A): inserted, on 4 June 2013, by regulation 17(2) of the Corrections Amendment Regulations 2013 (SR 2013/197).

### *Prisoner mail*

#### **82 All prisoner mail to be directed through manager**

All mail to or from a prisoner detained in a prison must be directed through the manager of the prison.

Compare: SR 2000/81 r 97

#### **83 Writing materials and postage**

- (1) Reasonable quantities of materials for writing letters must be readily available to prisoners.
- (2) The prison must pay the postage of up to 3 standard letters per week sent by each prisoner within New Zealand.
- (3) The prison must pay the postage of up to 3 standard letters per week sent by a prisoner to an inspector or an ombudsman, but is not required under this subclause to pay the postage of more than 3 standard letters per week sent by a prisoner.
- (4) Subclause (3) is not subject to subclause (2).
- (5) The prison may pay the postage of any mail sent by a prisoner in excess of the limit stated in subclause (2) or subclause (3) if the manager of a prison so decides.

Compare: SR 2000/81 rr 98, 99

#### **84 Copying of correspondence**

- (1) No correspondence to or from a prisoner may be copied unless—
- (a) it is correspondence between the prisoner and the department; or

- (b) it is copied in order for an authorised person (as defined in section 103A of the Act) to read the correspondence for the purpose of ascertaining whether it may be withheld under section 108(1) of the Act; or
  - (c) it is copied for the purpose of disclosing information under section 110A of the Act; or
  - (d) it is copied in order to obtain legal advice to determine—
    - (i) whether there are sufficient grounds to withhold the correspondence under section 108(1) of the Act; or
    - (ii) whether correspondence that is withheld under section 108(1) of the Act should be forwarded to an enforcement officer; or
    - (iii) whether mail may be disclosed for any other applicable purpose set out in the Act (including any of the purposes set out in section 110A(b) of the Act); or
  - (e) it is copied for the purpose of complying with any enactment or rule of law; or
  - (f) it is copied for the purpose of having it translated into English or te reo Māori; or
  - (g) the prisoner who sent or received the mail consents to a copy being made.
- (2) A copy made under subclause (1) must be destroyed when it is no longer required for the purpose for which it was made or any other applicable purpose set out in the Act or in this regulation.

Compare: SR 2000/81 r 105

Regulation 84(1)(b): replaced, on 1 April 2022, by regulation 4(1) of the Corrections Amendment Regulations 2022 (SL 2022/23).

Regulation 84(1)(c): replaced, on 1 April 2022, by regulation 4(1) of the Corrections Amendment Regulations 2022 (SL 2022/23).

Regulation 84(1)(d): inserted, on 1 April 2022, by regulation 4(1) of the Corrections Amendment Regulations 2022 (SL 2022/23).

Regulation 84(1)(e): inserted, on 1 April 2022, by regulation 4(1) of the Corrections Amendment Regulations 2022 (SL 2022/23).

Regulation 84(1)(f): inserted, on 1 April 2022, by regulation 4(1) of the Corrections Amendment Regulations 2022 (SL 2022/23).

Regulation 84(1)(g): inserted, on 1 April 2022, by regulation 4(1) of the Corrections Amendment Regulations 2022 (SL 2022/23).

Regulation 84(2): inserted, on 1 April 2022, by regulation 4(2) of the Corrections Amendment Regulations 2022 (SL 2022/23).

### *Telephone calls*

#### **85 Incoming telephone calls**

Unless the manager of a prison thinks it is in the interests of the prisoner or some other person, no prisoner may receive any incoming telephone call.

Compare: SR 2000/81 r 108

#### **86 Access to telephones generally**

- (1) The manager of a prison—
  - (a) must ensure that a remand prisoner has access to a telephone at all reasonable times for the purpose of communicating with his or her legal adviser or to arrange bail;
  - (b) must ensure that a sentenced prisoner has access to a telephone at all reasonable times for the purpose of communicating with his or her legal adviser about pending proceedings;
  - (c) must ensure that a prisoner has access to a telephone at all reasonable times if an inspector or an ombudsman asks for that prisoner to be able to contact him or her by telephone;
  - (d) may allow prisoners to have reasonable access to a telephone at all reasonable times for the purpose of obtaining any type of legal advice or for any other purpose approved by the manager.
- (2) In subclause (1)(b), **proceedings** are civil proceedings, or criminal proceedings, within the meaning of section 4(1) of the Legal Services Act 2011.

Compare: SR 2000/81 r 109

Regulation 86(2): amended, on 6 December 2019, by regulation 5 of the Corrections Amendment Regulations 2019 (LI 2019/260).

#### **87 Telephone charges**

- (1) A remand prisoner must be given reasonable access to a telephone, free of charge, for the purpose of a communication specified in regulation 86(1)(a).
- (2) A sentenced prisoner must be given reasonable access to a telephone, free of charge, for the purpose of a communication specified in regulation 86(1)(b).
- (3) A prisoner detained in a prison who is not a New Zealand citizen must be given reasonable access to a telephone, free of charge, for the purpose of communicating with a consular representative of the country of which that prisoner is a citizen.
- (4) A prisoner must, immediately after reception to a prison (other than as a consequence of a transfer from another prison), be allowed 1 free telephone call within New Zealand for the purpose of advising the prisoner's next of kin of his or her location, unless the prisoner's next of kin has been advised of his or her location.

Compare: SR 2000/81 r 110

## Part 8

### Visits to prisons

#### **88 Permission to visit or view prison**

- (1) The manager of a prison may permit any person to visit or view it at any reasonable time.
- (2) During the visit or viewing, the person—
  - (a) must comply with any conditions imposed by the manager of the prison; and
  - (b) must not communicate with any prisoner without the manager’s permission, unless the person—
    - (i) has statutory authority to do so; or
    - (ii) is an employee of the department.

Compare: SR 2000/81 r 70

#### *Statutory visitors*

#### **89 Visits by statutory visitors**

- (1) A statutory visitor may visit a prison and have access to the prisoners detained in that prison and staff members at any time if the visit or access is consistent with the statutory visitor’s statutory duties.
- (2) Subclause (1) is subject to regulations 110(2), 110(3), 112, and 113.
- (3) An interview between a prisoner detained in a prison and a statutory visitor must be held out of the hearing of any other person unless the prisoner or the visitor asks for a staff member to be present.
- (4) For the purposes of subclause (1), the performance by a consular representative of the functions referred to in Article 36 of the Vienna Convention on Consular Relations 1963 must be treated as the performance of that person’s statutory duties.

Compare: SR 2000/81 r 72

#### **90 Statutory visitors not to receive money, gratuities, etc**

A statutory visitor—

- (a) must not receive any money, gratuity, reward, gift, or benefit of any kind from or on behalf of a prisoner; and
- (b) must not trade with a prisoner; and
- (c) unless the conferring of the benefit concerned is a lawful exercise of the visitor’s statutory duties, must not enter into any arrangement with a prisoner that confers or is intended to confer a benefit of any kind on any person.

Compare: SR 2000/81 r 73

*Specified visitors*

**91 Specified visitors approved by manager**

- (1) The prescribed purposes for which a manager of a prison may approve a person as a specified visitor to that prison are—
  - (a) to provide spiritual or religious guidance or spiritual or religious instruction to a prisoner;
  - (b) to address the cultural or other specific needs of a prisoner;
  - (c) to act as a mediator or conciliator in a dispute involving prisoners;
  - (d) to assist a prisoner to prepare for a disciplinary hearing;
  - (e) to assist a prisoner to prepare or deal with a complaint by the prisoner.
- (2) The manager may—
  - (a) impose reasonable conditions as he or she thinks fit on the approval of a person as a specified visitor; or
  - (b) limit the duration of that approval; or
  - (c) both.

Compare: SR 2000/81 r 74

**92 Specified visitors approved by chief executive**

In approving a person or a class of persons as a specified visitor to 1 or more prisons, the chief executive may—

- (a) impose reasonable conditions as he or she thinks fit on the approval of the person or class of persons as a specified visitor; or
- (b) limit the duration of that approval; or
- (c) both.

**93 Specified visitor approvals**

- (1) An approval by the manager or the chief executive under regulation 91 or regulation 92 must—
  - (a) be in writing and signed by the manager or the chief executive, as the case may be; and
  - (b) state the name of the specified visitor; and
  - (c) if regulation 91 applies, state the purpose or purposes for which the person is approved as a specified visitor; and
  - (d) state the conditions (if any) imposed on the approval of that person as a specified visitor; and
  - (e) state the duration of that approval.
- (2) On his or her own initiative, or at the request of the manager of a prison, the chief executive may—

- (a) suspend, vary, or impose conditions attaching to an approval issued by the chief executive; or
  - (b) revoke any such approval.
- (3) The manager of a prison may—
  - (a) suspend, vary, or impose conditions attaching to an approval as a specified visitor to that prison issued by that manager; or
  - (b) revoke any such approval.
- (4) The chief executive must notify the specified visitor and the appropriate manager in writing of any action taken under subclause (2).
- (5) The manager of a prison must notify the specified visitor in writing of any action taken under subclause (3).

Compare: SR 2000/81 r 75

#### **94 Visits by specified visitors**

- (1) A specified visitor may visit a prison and have access to the prisoners and staff members at any time if the visit or access is consistent with the specified visitor's purpose and conditions of approval.
- (2) Subclause (1) is subject to—
  - (a) regulations 101, 106A, 106B, 110, and 112 to 116; and
  - (b) Schedules 3A and 4.
- (3) An interview between a prisoner and a specified visitor must be held out of the hearing of any other person unless the prisoner or visitor asks for a staff member to be present.

Compare: SR 2000/81 r 76

Regulation 94(2): replaced, on 17 September 2017, by regulation 11 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

#### **95 Specified visitors not to receive money, gratuities, etc**

- (1) A specified visitor must not receive any benefit, gift, gratuity, money, or reward of any kind from or on behalf of a prisoner unless—
  - (a) it is money received from any other person to buy for a prisoner, as a gift, an item of authorised property nominated by the other person or the prisoner; or
  - (b) it is a gift (other than a gift of money) or a benefit (other than a monetary benefit), and the visitor has first obtained written approval of the manager of the prison to receive it.
- (2) Without first obtaining the written approval of the manager of the prison, a specified visitor must not—
  - (a) trade with a prisoner; or

- (b) enter into any arrangement with a prisoner that confers or is intended to confer a benefit of any kind on any person.

Compare: SR 2000/81 r 77

### *Visits by inspectors*

#### **96 Access of inspectors**

Whenever an inspector of corrections visits a prison, he or she must have access at all times to—

- (a) all parts of the prison; and
- (b) all prisoners; and
- (c) all staff members and non-statutory visitors in the prison; and
- (d) all records stored by the prison that relate to—
  - (i) the prison; or
  - (ii) a prisoner or a former prisoner; or
  - (iii) a staff member.

Compare: SR 2000/81 r 78

#### **97 Orders of inspectors**

An inspector of corrections must—

- (a) record in writing any order that he or she gives as a result of a visit to a prison; and
- (b) give copies of the order to the manager of the prison concerned and the chief executive.

Compare: SR 2000/81 r 79

### *Private visitors*

#### **98 Purpose of visits**

- (1) The purpose of any visit to a prisoner by a private visitor is to maintain the family and social relationships of the prisoner in order to promote the prisoner's re-integration into the community on release.
- (2) Subclause (1) does not apply to visits by enforcement officers or the legal advisers of prisoners, or visits under regulation 108 or regulation 189(1).

Compare: SR 2000/81 r 80

#### **99 Private visitors to be approved before visit**

- (1) A private visitor must not be allowed to visit a prisoner unless,—
  - (a) before the day of the visit, the chief executive or contractor, in the case of a contract prison has approved the private visitor as a person who is entitled to visit the prisoner (an **approved visitor**); or

- (b) the manager of the prison concerned is satisfied that there are exceptional circumstances that justify the visit taking place.
- (2) A staff member supervising entry must deny entry to a prison to private visitors who do not have the prior approval of the chief executive or contractor, in the case of a contract prison, or the approval of the manager under subclause (1)(b).

Regulation 99(1)(a): amended, on 22 September 2011, by regulation 12(1) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 99(2): amended, on 22 September 2011, by regulation 12(2) of the Corrections Amendment Regulations 2011 (SR 2011/284).

### **100 Prisons to have pre-approval system for private visitors**

- (1) The chief executive must ensure that each prison has in place a system by which private visitors may—
  - (a) apply for the chief executive’s approval as an approved visitor to a prisoner; and
  - (b) be allowed to visit the prisoner on obtaining the chief executive’s approval before the day of the visit.
- (2) A contractor must ensure that each contract prison that he or she manages has in place a system by which private visitors may—
  - (a) apply for the contractor’s approval as an approved visitor to a prisoner; and
  - (b) be allowed to visit the prisoner or obtain the contractor’s approval before the day of the visit.

Regulation 100(2): inserted, on 22 September 2011, by regulation 13 of the Corrections Amendment Regulations 2011 (SR 2011/284).

### **101 Denying approval of visitor or approving visitor subject to conditions or restrictions**

- (1) The chief executive, a contractor, or a prison manager (as the case may be) may decide not to approve a visitor under regulation 91, 92, or 99 if—
  - (a) information that is required to be provided under regulation 106A(1) or 106B(1)—
    - (i) is not provided before the day of the visit; or
    - (ii) is provided before the day of the visit but is reasonably believed to be false; or
  - (b) when asked to authorise access to information under regulation 106A(2) or 106B(3), the visitor does not authorise access to the information; or
  - (c) the chief executive, contractor, or prison manager (as the case may be) is satisfied on reasonable grounds that a visit by the visitor to the prisoner is likely to adversely affect 1 or more of the following matters:



- (i) the security, good order, or discipline of the prison:
    - (ii) the welfare, chances of successful rehabilitation, or safety of the prisoner:
    - (iii) the welfare or safety of any person in the prison, including the visitor; or
  - (d) the purpose of the visit does not fall within any of the purposes authorised in regulation 91 or 98, as applicable.
- (2) A visitor may be approved subject to any conditions or restrictions that are necessary to ensure that the matters in subclause (1)(c) are not adversely affected.

Regulation 101: replaced, on 17 September 2017, by regulation 12 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

### **102 Private visitors carrying medication**

- (1) A private visitor who is permitted to carry prescribed medication—
- (a) must carry that medication in its original container:
  - (b) may only bring into the prison the quantity of medicine that is reasonably required whilst he or she is in the prison:
  - (c) may be required to provide proof of his or her medical need, and that he or she requires access to the prescribed medication whilst in prison.
- (2) A private visitor must be advised of the requirements in subclause (1) when—
- (a) first approved as an approved visitor; and
  - (b) entering the prison.

### **103 Regulations and rules relating to visits to be available to prisoners and visitors**

- (1) Prisoners must be given a general description of the arrangements at the prison for the visiting of prisoners (including a general description of the effect, in relation to the visiting of prisoners, of these regulations and the rules) by private visitors.
- (2) There must be prominently displayed in every visiting area in a prison—
- (a) the current rules relating to the visiting of prisons; and
  - (b) the current provisions of these regulations relating to private visitors or the visiting of prisoners by private visitors.

Compare: SR 2000/81 r 81

### **104 Manager to determine visiting times**

- (1) The manager of a prison must determine the visiting times in each week when prisoners may receive private visitors; and those times may vary for prisoners of different classes.

- (2) When determining visiting times, the manager must have regard to—
  - (a) the need for visiting times to be on days and at times that allow for reasonable access to the prison; and
  - (b) regulation 182.
- (3) The manager may vary visiting times as he or she thinks fit.  
Compare: SR 2000/81 r 83

#### **105 Visits to be within visiting times**

- (1) Subject to subclause (2) and regulation 107 and section 74 of the Act, no prisoner may receive a private visitor outside visiting times.
- (2) If the manager of a prison first gives approval for the visit, a prisoner may receive a private visitor outside visiting times.
- (3) When determining whether to grant approval under subclause (2), the manager must have regard to any travelling difficulties that a visitor may experience.  
Compare: SR 2000/81 r 84

#### **106 Visitor under 18 years must be accompanied by adult**

- (1) A visitor who is under the age of 18 years must be accompanied by a parent, a guardian, or another person who is 18 years or older unless the manager is satisfied that—
  - (a) there is good reason for the visitor to visit the prisoner unaccompanied by an adult; and
  - (b) the visit is not contrary to the interests of the visitor.
- (2) The manager of each prison must ensure that the prison, so far as is reasonable and practicable in the circumstances, has in place arrangements with approved adults who are specified visitors and are willing and available to accompany visitors under 18 who do not have a parent, a guardian, or another person who is 18 years or older to accompany them when visiting the prisoner.

Regulation 106: replaced, on 17 September 2017, by regulation 13 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

#### *Information requirements for non-statutory visitors*

Heading: inserted, on 17 September 2017, by regulation 13 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

#### **106A Visitors may be asked to provide information**

- (1) A non-statutory visitor who is applying for approval to visit under regulation 91, 92, or 99 must, if requested, provide any or all of the following information:
  - (a) in respect of the prisoner concerned (if the visitor is applying to visit a particular prisoner),—
    - (i) the prisoner's name:

- (ii) any court orders that the visitor is aware of that relate to the prisoner that may have a bearing on the suitability of a visit:
  - (b) in respect of the visitor,—
    - (i) the visitor's name and date of birth:
    - (ii) the nature of the visitor's relationship with the prisoner (if the visitor is applying to visit a particular prisoner):
    - (iii) whether the visitor has ever served a sentence of imprisonment, and if so when:
    - (iv) whether the visitor is currently on bail:
    - (v) whether the visitor has been convicted of an offence within the last 2 years:
    - (vi) whether the visitor has ever been refused admittance to the prison, or any other prison, as a visitor:
    - (vii) any court orders that relate to the visitor that may have a bearing on the suitability of a visit:
    - (viii) whether the prisoner concerned (if the visitor is applying to visit a particular prisoner) has any convictions or current charges for offences against the visitor:
  - (c) in respect of a visitor who is under the age of 18 years, any additional information required to be provided under regulation 106B:
  - (d) any additional information that is necessary to assess the application for approval and ensure the safe management of visits and the safety and welfare of any visitor.
- (2) A visitor who is asked to provide information referred to in subclause (1)(b)(iii) to (v), (vii), or (viii) may be required to provide authority for any specified person to have access to information contained in official records that will verify the information given.

Regulation 106A: inserted, on 17 September 2017, by regulation 13 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

#### **106B Additional information that may be required if visitor is under 18 years**

- (1) Any or all of the following information may be requested in respect of a non-statutory visitor under the age of 18 years who is applying for approval to visit under regulation 91, 92, or 99:
  - (a) the nature of the relationship of the visitor and any adult visitor:
  - (b) the nature of the relationship of the visitor and the prisoner:
  - (c) if the adult visitor accompanying the visitor is not the visitor's guardian or the visitor is unaccompanied by an adult,—
    - (i) evidence of guardian consent for the visitor to visit the prisoner;or

- (ii) the reason why evidence of guardian consent is not available:
- (d) whether the prisoner has any convictions or current charges for offences against a child or young person.
- (2) The information required to be provided under this regulation is in addition to any information required under regulation 106A.
- (3) A visitor who is asked to provide information referred to in subclause (1) may be required to provide authority, or a relevant guardian's authority, for any specified person to have access to information contained in official records or held by children's agencies (within the meaning of section 5(1) of the Children's Act 2014) that will verify the information given.

Regulation 106B: inserted, on 17 September 2017, by regulation 13 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Regulation 106B(3): amended, on 21 December 2018, by section 10(2) of the Children's Amendment Act 2018 (2018 No 58).

### *Enforcement officers and interviews*

#### **107 Enforcement officer may visit prisoner**

- (1) An enforcement officer may visit a prisoner detained in a prison at any time agreed to by the manager if the purpose of the visit is to undertake an interview of the prisoner.
- (2) The following provisions apply to the interview:
  - (a) the prisoner must consent to it:
  - (b) an officer must be present when it begins:
  - (c) an officer must remain in sight while it is undertaken, if the prisoner or the enforcement officer so requests:
  - (d) at all times while it is undertaken, the prisoner and the enforcement officer must be able to contact an officer:
  - (e) the prisoner may end it at any time.
- (3) Subclause (2) does not limit an enforcement officer's power to allow or undertake the questioning of any prisoner.

Compare: SR 2000/81 r 86

#### **108 Restrictions on interviews and recordings**

- (1) Without first obtaining the written approval of both the chief executive and the prisoner concerned, no person may—
  - (a) interview a prisoner, for the purpose of—
    - (i) obtaining information and publishing or broadcasting it; or
    - (ii) publishing or broadcasting a transcript or description of the interview; or

- (b) make a sound recording of a prisoner, or an interview with a prisoner, for the purpose of—
    - (i) broadcasting it; or
    - (ii) publishing a transcript of it; or
  - (c) make or take a film, photograph, videotape, or other visual recording of a prisoner, for the purpose of publishing or broadcasting it.
- (2) Without first obtaining the written approval of both the chief executive and the prisoner concerned, no person to whom subclause (3) applies may—
- (a) interview a prisoner; or
  - (b) make a sound recording of a prisoner, or an interview with a prisoner; or
  - (c) make or take a film, photograph, videotape, or other visual recording of a prisoner.
- (3) This subclause applies to a person who is—
- (a) a publisher of books, or a magazine, newspaper, newsletter, circular, or other similar publication; or
  - (b) a broadcaster or producer of radio or television programmes; or
  - (c) a disseminator of news or opinion by electronic means; or
  - (d) a writer, a journalist (whether in electronic or print media), a radio or television broadcaster, or a producer of radio or television programmes; or
  - (e) an employee, contractor, or agent of a person described in any of paragraphs (a) to (d).
- (4) In this regulation and regulation 109,—
- (a) a reference to any film, information, interview, photograph, recording, transcript, or videotape includes a reference to any part of it;
  - (b) **interview** includes interview by telephone or electronic message;
  - (c) **publish** includes publish in a book.

Compare: SR 2000/81 r 87

## 109 Approvals

- (1) The chief executive must, in deciding whether to give approval under regulation 108, have regard to the need to—
- (a) protect the interests of people other than the prisoner concerned; and
  - (b) maintain the security and order of the prison concerned.
- (2) The chief executive must not give that approval unless satisfied that the prisoner understands—
- (a) the nature and purpose of the filming, interviewing, photographing, recording, or videotaping concerned; and

- (b) the possible consequences to the prisoner and other people of the publication or broadcasting of the film, interview, photograph, recording, transcript, or videotape concerned.
- (3) The chief executive may give that approval subject to any conditions reasonably necessary to—
  - (a) protect the interests of any person other than the prisoner; or
  - (b) maintain the security and order of the prison.
- (4) Subclause (1) is subject to subclause (2).  
Compare: SR 2000/81 r 88

### *General rules*

#### **110 Requirements when entering prisons**

- (1) A non-statutory visitor to a prison must give his or her name and address to the staff member supervising entry to it.
- (2) A visitor to a prison or any person who is not a staff member—
  - (a) may be required by the staff member supervising entry to the prison to verify his or her identity to the staff member's satisfaction; and
  - (b) must report to the staff member any unauthorised item in his or her possession.
- (3) A staff member supervising entry may inspect, seize, or otherwise deal with any unauthorised item reported under subclause (2)(b) or found in the possession of a visitor to a prison.
- (4) A staff member supervising entry must ensure that a person visiting a prison who requires access to vital medication while he or she is inside the prison is given access to that medication.  
Compare: SR 2000/81 rr 89, 112(3)

#### **111 Information about searching**

- (1) Notices must be prominently displayed at the reception area or at each reception area in a prison advising persons entering the prison that—
  - (a) unauthorised items must not be taken into the prison without authority; and
  - (b) a person entering the prison, that person's possessions, and that person's vehicle may be searched; and
  - (c) if a person requested to undergo a search of his or her person, possessions, or vehicle refuses to consent to that search, that person will be refused entry to the prison; and
  - (d) detection dogs or devices such as metal detectors may be used to assist in any search; and

- (e) if an unauthorised item is found on a person, or in a person's possessions, or in a person's vehicle, that person may be arrested; and
  - (f) prescribed medicine constitutes a drug; and
  - (g) if there are reasonable grounds to suspect a person of possessing drugs (as defined under the Misuse of Drugs Act 1975), he or she may be detained at the prison for up to 4 hours so that Police can attend to investigate the suspected possession of drugs.
- (2) Every notice referred to in subclause (1) must set out the definition of unauthorised item in section 3(1) of the Act.

Compare: SR 2000/81 r 111

Regulation 111(1)(d): amended, on 6 December 2019, by regulation 6 of the Corrections Amendment Regulations 2019 (LI 2019/260).

## **112 Visits to prisoners must be supervised**

- (1) All visits to prisoners must be supervised in a way that balances the following needs:
- (a) the needs of prisoners and their visitors for reasonable privacy;
  - (b) the need to maintain the safety of any person in the prison;
  - (c) the need to ensure the security and order of the prison;
  - (d) the need to prevent the transfer of unauthorised items between visitors and prisoners.

- (2) Subclause (1) is subject to regulations 89(3), 94(3), and 107(1), and to section 74 of the Act.

Compare: SR 2000/81 r 91

## **113 Visits not to be recorded without necessary approvals**

- (1) No visit to a prisoner detained in a prison may be recorded by a sound or visual recording, unless the person making the recording first obtains—
- (a) the approval of the manager, the prisoner, and the visitor; or
  - (b) the approval of the chief executive, and the prisoner under regulation 109.
- (2) Subclause (1) does not forbid the use of security surveillance cameras in a prison if—
- (a) they record only visual images; and
  - (b) notices are prominently displayed in visiting areas that inform visitors that they are in use in those areas.

Compare: SR 2000/81 r 92

*Procedure if non-statutory visitor denied approval or conditions imposed*

Heading: inserted, on 17 September 2017, by regulation 14 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

**113A Procedure if non-statutory visitor denied approval or conditions imposed**

- (1) This regulation and Schedule 3A apply if a decision is made under regulation 91, 92, or 99, as the case may be,—
  - (a) not to approve a non-statutory visitor; or
  - (b) to approve a non-statutory visitor subject to conditions.
- (2) The visitor must be notified in writing, as soon as practicable, of the date, time, and reason that the approval is denied or conditions are imposed.
- (3) In the case of a decision not to approve a visitor, the prisoner whom the visitor wished to see (if any) must be given written notice of the decision and the reasons for the decision.

Regulation 113A: inserted, on 17 September 2017, by regulation 14 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

*Exclusion of non-statutory visitors from prisons***114 Exclusion of non-statutory visitors from prisons**

- (1) An officer may exclude a non-statutory visitor from a prison if—
  - (a) the visitor behaves in a manner that is—
    - (i) harmful, threatening, or intimidating to any person; or
    - (ii) threatening or disruptive to the security and order of the prison; or
    - (iii) indecent; or
  - (b) the visitor fails to comply with the Act, these regulations, any rule, or any lawful order given by an officer; or
  - (c) subject to subclauses (3) and (4), the visitor is found in possession of an unauthorised item; or
  - (d) an emergency threatens the safety of any person or the security of the prison; or
  - (e) the prisoner whom the visitor wishes to see has stated that he or she does not wish to see the visitor; or
  - (f) a prohibition order made by the manager of another prison applies to the visitor.
- (2) A non-statutory visitor at any time excluded from a prison under paragraph (f) of subclause (1) must not be excluded again under that paragraph (in respect of the same prohibition order) more than 1 month after that time.
- (3) An officer must exclude a non-statutory visitor from a prison if the visitor—



- (a) fails to report to the staff member who is supervising entry to the prison—
    - (i) any drug, alcohol, or other intoxicating substance; or
    - (ii) any offensive weapon within the meaning of section 202A of the Crimes Act 1961; and
  - (b) is found in possession of any of the items specified in paragraph (a) while in the prison.
- (4) An officer must exclude from a prison a non-statutory visitor who is found in possession of any of the items specified in subclause (3)(a) when trying to enter the prison.

Compare: SR 2000/81 r 93

#### **115 Procedure if non-statutory visitor excluded from prison**

- (1) Subclauses (2) and (3) apply if an officer or a staff member excludes a non-statutory visitor from a prison under regulation 114.
- (2) The officer or staff member must—
  - (a) immediately tell the visitor the reason for the exclusion; and
  - (b) record in writing the date, time, and reason for the exclusion.
- (3) If applicable in the circumstances, the prisoner whom the visitor wished to see must be given written notice of the exclusion and the reason for the exclusion.
- (4) Subclause (5) applies if an officer or a staff member excludes a specified visitor from a prison.
- (5) If the person excluded is a specified visitor, the officer or staff member must also—
  - (a) immediately notify the manager of the prison of the exclusion; and
  - (b) within 24 hours after the exclusion, notify the visitor in writing of the reason for the exclusion.
- (6) If a person excluded refuses to leave, an officer or a staff member may use reasonable force to remove the person from the prison.

Regulation 115: replaced, on 17 September 2017, by regulation 15 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

#### **116 Prohibition orders**

- (1) The manager of a prison may prohibit a non-statutory visitor from visiting a particular prisoner, several prisoners, or the prison, if the manager is satisfied on reasonable grounds that—
  - (a) a visit by the visitor is likely to adversely affect 1 or more of the matters in regulation 101(1)(c); and
  - (b) prohibiting the visitor is appropriate or necessary in the circumstances.

- (2) Visiting may be prohibited only by a written order signed by the manager of the prison.
- (3) A prohibition order may be made—
  - (a) at the time a decision is made not to approve a visitor under regulation 91, 92, or 99; or
  - (b) at the time a visitor is excluded under regulation 114; or
  - (c) at any other time.
- (4) Schedule 4 applies to prohibition orders.

Regulation 116: replaced, on 17 September 2017, by regulation 15 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

*Visits to prisoners under control of officer, staff member, or probation officer*

**117 Prisoners under control of officer, staff member, or probation officer**

- (1) This regulation applies to visits to a prisoner under the control of an officer, staff member, or probation officer while outside a prison.
- (2) No person may visit a prisoner to whom subclause (1) applies unless—
  - (a) that person is—
    - (i) a statutory visitor or specified visitor; or
    - (ii) the prisoner’s legal adviser; or
    - (iii) the duty solicitor; or
  - (b) in the opinion of the officer, staff member, or probation officer, there are special circumstances that make it appropriate for that person to visit the prisoner.

Compare: SR 2000/81 r 29

## **Part 9**

### **Use of force, non-lethal weapons, and mechanical restraints**

*Use of force*

**118 Use of force**

These regulations, in respect of their application to the use of force by staff members and security officers, do not limit or affect any provision of the Crimes Act 1961, or any rule of law, that renders any circumstances—

- (a) a justification or an excuse for the use of force; or
- (b) a defence to a charge involving the use of force.

Compare: SR 2000/81 r 7

### **119 Conditions attached to use of physical hold**

- (1) A physical hold may be applied only by a staff member or security officer who has received adequate training in the use of that hold.
- (2) Before a staff member or security officer uses a physical hold on a prisoner, he or she must obtain the approval of the manager of the prison or employer as the case may be, unless it would be impracticable to do so.
- (3) The only types of physical hold that may be used are those approved by the chief executive.
- (4) Staff members and security officers trained to use physical holds must undergo refresher courses, approved by the chief executive, in the use of those holds at least once a year.

Compare: SR 2000/81 r 146

### *Non-lethal weapons*

#### **119A When non-lethal weapons may be used**

- (1) An officer or staff member may draw or use a baton only against a prisoner and only if the officer or staff member has reasonable grounds for believing that the use of physical force is reasonably necessary for any of the purposes or any of the circumstances referred to in section 83(1) of the Act.
- (2) An officer may draw or use pepper spray only against a prisoner and only if the officer has reasonable grounds for believing that the use of physical force is reasonably necessary for any of the purposes or any of the circumstances referred to in section 83(1) of the Act.

Regulation 119A: inserted, on 1 April 2022, by regulation 5 of the Corrections Amendment Regulations 2022 (SL 2022/23).

#### **120 Meaning of baton**

In these regulations, a **baton** means a blunt object that is designed to be used for law enforcement purposes and that is—

- (a) made of plastic, aluminium, or similar material; and
- (b) no more than 1 kg in weight; and
- (c) not capable of delivering an electric shock.

#### **120A Meaning of pepper spray**

*[Revoked]*

Regulation 120A: revoked, on 1 July 2017, by regulation 4 of the Corrections Amendment Regulations 2017 (LI 2017/113).

#### **121 Restrictions on carrying batons**

- (1) A security officer must not carry a baton while performing his or her duty as a security officer in any circumstance.

- (2) A staff member of a prison must not carry a baton outside a prison while performing his or her functions as a staff member in any circumstance.
- (3) A staff member of a prison may carry a baton only if—
  - (a) the baton was issued at the direction of the manager; and
  - (b) the staff member has received adequate training in the use of the baton.
- (4) Staff members trained to use batons must undergo refresher courses, approved by the chief executive, in the use of batons at least once a year.

Regulation 121: replaced, on 2 November 2012, by regulation 5 of the Corrections Amendment Regulations 2012 (SR 2012/310).

## **122 Issue and storage of batons**

- (1) The manager must ensure that batons are securely stored at all times except when they have been issued to staff members.
- (2) The manager may direct the issuing of batons to staff members only if he or she reasonably believes that—
  - (a) there is a serious threat to prison security or to the safety of any person; and
  - (b) the use of batons will reduce or eliminate the serious threat; and
  - (c) other means of reducing or eliminating the serious threat have been or are likely to be ineffective.
- (3) The manager must promptly direct that batons be returned to storage once the serious threat no longer exists.

Regulation 122: replaced, on 2 November 2012, by regulation 5 of the Corrections Amendment Regulations 2012 (SR 2012/310).

## **123 Use of batons**

- (1) A staff member who has been issued a baton may draw or use the baton only if the manager's approval has been obtained, unless it is impracticable in the circumstances.
- (2) A staff member must use the baton in a way that minimises pain or injury to the prisoner, as far as it is consistent with protecting prison security or the safety of any person.

Regulation 123: replaced, on 2 November 2012, by regulation 5 of the Corrections Amendment Regulations 2012 (SR 2012/310).

### **123A Meaning of pepper spray**

- (1) In these regulations, **pepper spray** means an aerosol spray or other aerosol substance, contained in a deployment mechanism described in subclause (2), that—
  - (a) contains a pepper-based irritant (for example, oleoresin capsicum) or synthetic irritant to the eyes and respiratory passages; and

- (b) is designed to temporarily disable, or to temporarily incapacitate, a person against whom it is used.
- (2) The deployment mechanisms for pepper spray are the following:
  - (a) a hand-held deployment mechanism that deploys a targeted stream of pepper spray at a maximum distance of no more than 7 metres and that is to be carried on the person:
  - (b) a hand-held deployment mechanism that deploys a targeted stream of pepper spray at a maximum distance of no more than 10 metres:
  - (c) a hand-held deployment mechanism that can be equipped with a hose and wand attachment to deliver a dispersed fog of pepper spray into an enclosed space through an opening (such as through a vent or under a door).

Regulation 123A: replaced, on 1 April 2022, by regulation 6 of the Corrections Amendment Regulations 2022 (SL 2022/23).

### **123B Issue of pepper spray**

- (1) Pepper spray may be issued only to an officer and only if the officer has received adequate training in the use of pepper spray.
- (2) A security officer, or a staff member who is not an officer, must not, in any circumstance,—
  - (a) be issued pepper spray; or
  - (b) carry pepper spray while performing his or her functions.
- (3) Pepper spray may be issued only at the direction of the prison manager.
- (3A) The prison manager must not issue pepper spray contained in a deployment mechanism of a type described in regulation 123A(2)(b) or (c) unless he or she reasonably believes that—
  - (a) there is a serious threat to prison security or to the safety of any person; and
  - (b) the use of pepper spray will reduce or eliminate the serious threat.
- (4) The issuing of pepper spray must comply with any further conditions or restrictions imposed by the chief executive.

Regulation 123B: replaced, on 1 July 2017, by regulation 5 of the Corrections Amendment Regulations 2017 (LI 2017/113).

Regulation 123B(3): replaced, on 1 April 2022, by regulation 7 of the Corrections Amendment Regulations 2022 (SL 2022/23).

Regulation 123B(3A): inserted, on 1 April 2022, by regulation 7 of the Corrections Amendment Regulations 2022 (SL 2022/23).

### **123C Drawing and use of pepper spray**

- (1) An officer who has been issued pepper spray may draw or use it while performing the officer's functions in relation to a prisoner under the Act, these regulations, or any other enactment, while inside or outside a prison.

- (2) *[Revoked]*
- (3) The officer must use the pepper spray in a way that minimises pain or injury to the prisoner, so far as that is consistent with protecting prison security or the safety of any person.
- (4) Officers trained in the use of pepper spray must undergo refresher courses, approved by the chief executive, at least once a year.
- (5) The drawing and use of pepper spray must also comply with any further conditions or restrictions imposed by the chief executive.

Regulation 123C: replaced, on 1 July 2017, by regulation 5 of the Corrections Amendment Regulations 2017 (LI 2017/113).

Regulation 123C(1): replaced, on 17 September 2017, by regulation 16 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Regulation 123C(2): revoked, on 1 April 2022, by regulation 8 of the Corrections Amendment Regulations 2022 (SL 2022/23).

### **123D Keeping pepper spray secure**

- (1) An officer must ensure that any pepper spray issued to him or her is kept secure.
- (2) The manager of a prison must ensure that pepper spray is securely stored at all times except when it is issued to an officer.

Regulation 123D: inserted, on 1 July 2017, by regulation 5 of the Corrections Amendment Regulations 2017 (LI 2017/113).

### *Mechanical restraints*

### **124 Use of mechanical restraints**

A mechanical restraint may be used to restrain a prisoner only if—

- (a) the restraint is authorised by Schedule 5; and
- (b) the restraint is used in accordance with the requirements of Schedule 5.

Compare: SR 2000/81 r 145

### **125 Additional circumstances for use of handcuffs and waist restraints**

- (1) In addition to any situation described in section 83(1) of the Act, handcuffs or waist restraints used in conjunction with handcuffs may be applied on a prisoner—
  - (a) by an officer for the purpose of escorting a prisoner outside of a prison; and
  - (aa) by an officer for the purpose of allowing the prisoner to receive medical treatment if the prisoner's temporary removal is subject to a condition, imposed under section 64(1)(c) of the Act, that the handcuffs or restraints must be applied while the prisoner is receiving treatment; and

- (b) by an officer for the purpose of escorting a prisoner within a prison only if the officer has reasonable grounds to believe that it is necessary in the circumstances.

(2) *[Revoked]*

Regulation 125 heading: amended, on 17 September 2017, by regulation 17(1) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Regulation 125 heading: amended, on 9 August 2007, by regulation 4(1) of the Corrections Amendment Regulations (No 2) 2007 (SR 2007/192).

Regulation 125(1): amended, on 17 September 2017, by regulation 17(2) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Regulation 125(1): amended, on 22 September 2011, by regulation 15(1) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 125(1)(aa): inserted, on 17 September 2017, by regulation 17(3) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Regulation 125(1)(b): amended, on 22 September 2011, by regulation 15(2) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 125(2): revoked, on 22 September 2011, by regulation 15(3) of the Corrections Amendment Regulations 2011 (SR 2011/284).

## 126 Extension of 24-hour period

*[Revoked]*

Regulation 126: revoked, on 4 June 2013, by regulation 18 of the Corrections Amendment Regulations 2013 (SR 2013/197).

*Reporting use of force, non-lethal weapon, or mechanical restraint*

## 127 Reporting use of mechanical restraint

- (1) A staff member who uses a mechanical restraint on a prisoner in any circumstances other than the use of handcuffs or a waist restraint used in conjunction with handcuffs while escorting a prisoner (whether inside or outside a prison), must promptly report the use of the restraint to the manager.
- (2) The manager to whom the report is made must—
  - (a) ensure that a written record of the report is made, signed, and kept, and a copy of the report is forwarded promptly to the chief executive; and
  - (b) report the use of the restraint on the prisoner to a Visiting Justice, and in the case of a contract prison, to a monitor.

Regulation 127(1): amended, on 22 September 2011, by regulation 16 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 127(1): amended, on 9 August 2007, by regulation 5 of the Corrections Amendment Regulations (No 2) 2007 (SR 2007/192).

## 128 Reporting use of force or non-lethal weapon

- (1) A staff member or security officer who uses force or a non-lethal weapon on a prisoner in any circumstances must promptly report the use of the force or non-lethal weapon to,—

- (a) in the case of a staff member, the manager of the prison; or
  - (b) in the case of a security officer, his or her employer.
- (2) The person to whom the report is made must ensure that a written record of the report is made, signed, and kept, and a copy of the report is forwarded promptly to the chief executive.

### **129 Minimum requirements**

All reports on the use of force, a non-lethal weapon, or a mechanical restraint on a prisoner, must include the following information:

- (a) the date, time, and location of the use of the force, non-lethal weapon, or restraint; and
- (b) the name of the prisoner on whom the force, non-lethal weapon, or restraint was used; and
- (c) the names of all persons involved in the use of the force, non-lethal weapon, or restraint; and
- (d) the name of the person who approved the use of the force, non-lethal weapon, or restraint, or the reason why there was no prior approval; and
- (e) the circumstances leading to the use of the force, non-lethal weapon, or restraint; and
- (f) the type of force, non-lethal weapon, or restraint used; and
- (g) the date and time of the prisoner's examination by a registered health professional; and
- (h) the outcome of the incident, including the details of any injuries to any person.

## **Part 10 Drug and alcohol testing**

### *Procedure for drug and alcohol testing: urine samples*

Heading: amended, on 22 September 2011, by regulation 17 of the Corrections Amendment Regulations 2011 (SR 2011/284).

### **130 Urine sample may be required**

- (1) The provision of a urine sample is a procedure to which a prisoner may be required to submit, under section 124 of the Act, for the purpose of detecting whether the prisoner has used drugs, or consumed alcohol, or both.
- (2) Regulations 131 to 143 apply to the provision, collection, handling, analysis, and evidential use of analyses of urine samples required to be provided under section 124 of the Act.

Compare: SR 2000/81 r 158



### **131 Sample to be collected at reasonable time**

A prisoner detained at any prison must be required to provide a urine sample only at a reasonable time, unless the manager or any other staff member authorised for the purpose by the manager believes, on reasonable grounds, that the prisoner has committed an offence against section 129 or section 130 of the Act.

Compare: SR 2000/81 r 159

### **132 Identifying prisoners**

A designated collection officer who is required to collect a urine sample from a prisoner must, after the prisoner is taken to the designated sample collection area,—

- (a) positively identify the prisoner, either—
  - (i) through personal knowledge of the prisoner; or
  - (ii) by an identification photograph; and
- (b) verify the prisoner's PRN or driver's licence number.

Compare: SR 2000/81 r 160

### **133 Information to be given to prisoner before sample provided**

Before collecting a urine sample from a prisoner, the designated collection officer who is required to collect that sample must—

- (a) inform the prisoner verbally of the information contained in form 1 of Schedule 8; and
- (b) ask the prisoner to sign that form; and
- (c) give a copy of that form to the prisoner.

Compare: SR 2000/81 r 161

### **134 Privacy and supervision**

- (1) A prisoner who is required to provide a urine sample must be given such reasonable privacy as is consistent with the necessity to ensure a sample that is suitable for analysis is obtained.
- (2) Every urine sample obtained from a prisoner detained at a prison must be obtained under the supervision, and in the direct view, of—
  - (a) 2 designated collection officers of the same sex as the prisoner; or
  - (b) a designated collection officer of the same sex as the prisoner and either—
    - (i) a staff member who is a nurse and (if practicable) of the same sex as the prisoner; or
    - (ii) a medical officer.

- (3) Subclause (2)(a) does not prevent the presence, when a urine sample is or is to be provided, of all or any of the following people in addition to those under whose supervision it is or is to be provided:
- (a) a staff member or additional staff member who is a nurse and (if practicable) of the same sex as the prisoner:
  - (b) a medical officer or additional medical officer:
  - (c) if the manager of a prison believes, on reasonable grounds, that they are needed for the proper supervision and management of the prisoner, any number of additional officers (whether designated collection officers or not).
- (4) Subclause (1) is subject to subclauses (2) and (3).
- Compare: SR 2000/81 r 162

### **135 Requirements in relation to provision of sample**

To ensure that a urine sample is not tampered with, a designated collection officer may require the prisoner concerned to wash his or her hands immediately before, or wear gloves while, providing it.

Compare: SR 2000/81 r 163

### **136 Urine sample collection kit**

- (1) A designated collection officer who is required to collect a urine sample from a prisoner must ensure that he or she uses a urine sample collection kit provided by a specified laboratory.
- (2) Only 1 urine sample collection kit may be in the area designated by the manager for the purpose of urine sample collection at any one time.
- (3) The designated collection officer must check that the urine sample collection kit contains the following items:
  - (a) a sterile collection container:
  - (b) 2 sterile sample bottles each marked with a specimen identification number:
  - (c) 2 sterile tamper-proof sample bottle security labels:
  - (d) a plastic specimen bag containing a liquid absorbing sheet:
  - (e) a urine sample collection kit shipping seal.
- (4) If a urine sample collection kit does not contain all the items listed in subclause (3), it may not be used.
- (5) A urine sample to which this Part applies must be collected in the container referred to in subclause (3)(a).

Compare: SR 2000/81 r 164

Regulation 136 heading: replaced, on 22 September 2011, by regulation 18(1) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 136(1): amended, on 22 September 2011, by regulation 18(2) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 136(2): amended, on 22 September 2011, by regulation 18(2) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 136(3): amended, on 22 September 2011, by regulation 18(2) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 136(3)(e): amended, on 22 September 2011, by regulation 18(2) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 136(4): amended, on 22 September 2011, by regulation 18(2) of the Corrections Amendment Regulations 2011 (SR 2011/284).

### **137 Inspection of equipment by prisoners**

A designated collection officer who is required to collect a urine sample from a prisoner must, before collection, show the sterile collection container and the sterile sample bottles to the prisoner in a manner that enables the prisoner to verify that those items are empty, and that the seals under the caps on the sample bottles are intact.

Compare: SR 2000/81 r 165

### **138 Procedure if sample not provided immediately**

- (1) A prisoner who does not provide a urine sample immediately or who accidentally spills his or her sample must be—
  - (a) placed under supervision in an area authorised for the purpose by the manager; and
  - (b) given a reasonable period, not exceeding 3 hours, within which to provide a urine sample; and
  - (c) provided with approximately 200 mls of water per hour to drink during that period.
- (2) At the end of the period allowed for providing a urine sample, a prisoner who has not provided a urine sample during that period—
  - (a) must be informed that, unless a medical officer certifies that there are medical or psychological reasons for his or her not doing so, he or she is liable to be charged with an offence against section 129 of the Act if he or she does not provide a urine sample immediately; and
  - (b) must be given a final opportunity to provide a urine sample immediately.
- (3) Subclauses (1) and (2) do not apply in respect of a prisoner who contravenes any instruction as to where to place his or her urine sample.
- (4) Despite subclauses (1) and (2), if a person, other than the prisoner from whom a urine sample has been collected, spills that urine sample, the prisoner may not be required on that occasion to provide another sample.

Compare: SR 2000/81 r 166

**139 Procedure immediately after provision of sample**

- (1) Immediately after a urine sample has been provided by a prisoner, a designated collection officer must, in the presence of the prisoner,—
  - (a) pour the sample into 2 sterile bottles; and
  - (b) immediately after the sample has been poured into each bottle, secure the cap on each bottle.
- (2) Immediately after the caps on the bottles have been secured, a designated collection officer must, in the presence of the prisoner, label the bottles with a label that—
  - (a) in each case contains the combination of characters, or numbers, or both, that is recorded on Part A of form 2 in Schedule 8 for the purpose of identifying the prisoner who provided the sample and at least 1 person referred to in regulation 134(2) who supervised the provision of the sample; and
  - (b) in each case is initialled by the prisoner who provided the sample (if the prisoner so wishes).
- (3) Immediately after the bottles have been labelled, a designated collection officer must—
  - (a) complete Part A of form 2 in Schedule 8, in the presence of the prisoner; and
  - (b) give the prisoner an opportunity to sign it; and
  - (c) place the laboratory copy of the form into the urine sample collection kit; and
  - (d) give a copy of the form to the prisoner; and
  - (e) place the 2 sealed and labelled bottles into the specimen bag; and
  - (f) place the specimen bag in the urine sample collection kit; and
  - (g) seal the urine sample collection kit with the shipping seal provided in it; and
  - (h) place the urine sample collection kit in a locked refrigerator designated for storing urine samples.
- (4) A urine sample collection kit that is placed in a refrigerator under subclause (3)(h) must remain in that refrigerator until it is collected for transportation to a specified laboratory.

Compare: SR 2000/81 r 167

Regulation 139(3)(c): amended, on 22 September 2011, by regulation 19 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 139(3)(f): amended, on 22 September 2011, by regulation 19 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 139(3)(g): amended, on 22 September 2011, by regulation 19 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 139(3)(h): amended, on 22 September 2011, by regulation 19 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 139(4): amended, on 22 September 2011, by regulation 19 of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### **140 Chain of evidence for urine sample**

- (1) The manager of a prison must ensure that a urine sample collection kit containing a urine sample is delivered to a specified laboratory reasonably promptly after the procedure set out in regulation 139 has been completed.
- (2) An officer who removes a urine sample collection kit from the locked refrigerator and places the kit in a secure courier bag must sign form 3 of Schedule 8, and state on that form—
  - (a) the number of the urine sample collection kit; and
  - (b) the date and time that the kit was removed from the refrigerator; and
  - (c) the time that the courier bag was locked.
- (3) If the officer locking the secure courier bag is not the officer referred to in sub-clause (2), the officer locking the bag must also sign the form.
- (4) A person who collects a urine sample collection kit from a prison for transportation to a specified laboratory must sign the form, and state—
  - (a) his or her name; and
  - (b) the date and time of collection of the kit.

Compare: SR 2005/81 r 168

Regulation 140(1): amended, on 22 September 2011, by regulation 20 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 140(2): amended, on 22 September 2011, by regulation 20 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 140(2)(a): amended, on 22 September 2011, by regulation 20 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 140(4): amended, on 22 September 2011, by regulation 20 of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### **141 Certificate showing result of analysis**

After analysis of a urine sample delivered in a urine sample collection kit to a specified laboratory under regulation 140, an analyst from that laboratory must complete and send to the manager of the prison concerned a certificate showing the result of the analysis.

Compare: SR 2000/81 r 169

Regulation 141: amended, on 22 September 2011, by regulation 21 of the Corrections Amendment Regulations 2011 (SR 2011/284).

**142 Copy of certificate containing result of sample analysis to be given to prisoner and others**

On receipt of the certificate referred to in regulation 141, the manager of a prison must ensure that—

- (a) copies are given—
  - (i) to the prisoner who provided the urine sample; and
  - (ii) if the result is positive, to a medical officer, or a staff member who is a nurse, for the purpose set out in regulation 143(e); and
- (b) a copy is placed on the prisoner's prison record.

Compare: SR 2000/81 r 170

**143 Requirements before result of sample analysis can be used in proceedings**

The result of the analysis of a urine sample may only be used as evidence in any disciplinary hearing if—

- (a) the appropriate chain of evidence forms have been completed; and
- (b) an analyst from the specified laboratory that analysed the sample has certified in writing that—
  - (i) the result was positive; or
  - (ii) there is evidence that the sample has been tampered with or contaminated in any way; and
- (c) after receiving a copy of the analyst's certificate and before the commencement of the hearing, the prisoner has been—
  - (i) advised of the right to have the sample independently analysed at the prisoner's own expense; and
  - (ii) given 48 hours to elect to have the sample independently analysed; and
- (d) within that 48 hours the prisoner has elected—
  - (i) not to have the sample independently analysed; or
  - (ii) to have the sample independently analysed and the prisoner has been given—
    - (A) 14 days after the close of the day on which the 48 hours expires to pay for and dispatch the sample for independent analysis; and
    - (B) 21 days after the close of the day on which the 48 hours expires to produce the result of the independent analysis; and
- (e) a medical officer, or a staff member who is a nurse, has certified, in writing, that any drug found in the prisoner's sample was not, to the best of his or her knowledge, administered to the prisoner in accordance with

instructions from a health service provider, a health centre manager, or a medical officer.

Compare: SR 2000/81 r 171

Regulation 143(d)(ii): replaced, on 22 September 2011, by regulation 22 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 143(e): amended, on 4 June 2013, by regulation 19 of the Corrections Amendment Regulations 2013 (SR 2013/197).

### *Procedure for drug and alcohol testing: hair samples*

Heading: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### **143A Hair samples may be required**

- (1) The taking of hair samples is a procedure to which a prisoner may be required to submit, under section 124 of the Act, for the purpose of detecting whether the prisoner has used drugs, or consumed alcohol, or both.
- (2) Regulations 143B to 143M apply to the taking, collection, handling, analysis, and evidential use of hair samples required to be provided under section 124 of the Act.

Regulation 143A: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### **143B When hair samples may be taken**

An officer may require hair samples to be taken from a prisoner only if the prisoner—

- (a) is required under section 124 of the Act to provide a urine sample and the prisoner fails to provide the sample; or
- (b) is required under section 124 of the Act to provide a urine sample and the prison manager believes, on reasonable grounds, that the sample supplied is dilute, tainted, or otherwise contaminated; or
- (c) would be required under section 124 of the Act to provide a urine sample but the officer believes, on reasonable grounds, that the prisoner would fail to supply the urine sample, or that any sample provided would be dilute, tainted, or otherwise contaminated.

Regulation 143B: replaced, on 17 September 2017, by regulation 18 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

#### **143C Hair samples to be taken at reasonable time**

The taking of hair samples from a prisoner detained in any prison must be done only at a reasonable time unless the manager, or any other staff member authorised for the purpose by the manager, believes, on reasonable grounds, that the prisoner has committed an offence against section 129 or 130 of the Act.

Regulation 143C: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

**143D Identifying prisoners**

A designated collection officer who is required to take hair samples from a prisoner must, after the prisoner is taken to the designated sample collection area,—

- (a) positively identify the prisoner, either—
  - (i) through personal knowledge of the prisoner; or
  - (ii) by an identification photograph; and
- (b) verify the prisoner's PRN or driver's licence number.

Regulation 143D: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

**143E Information to be given to prisoner before hair samples taken**

Before taking hair samples from a prisoner, the designated collection officer who is required to take the samples must—

- (a) inform the prisoner verbally of the information contained in form 1A of Schedule 8; and
- (b) ask the prisoner to sign that form; and
- (c) give a copy of that form to the prisoner.

Regulation 143E: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

**143F Taking of hair samples**

- (1) The designated collection officer must, subject to subclause (2), take 2 samples of hair from the prisoner's head.
- (2) If it is not possible to take 2 samples from the prisoner's head,—
  - (a) the designated collection officer must take 2 samples of hair from another part of the prisoner's body; and
  - (b) both samples must be taken from the same part of the prisoner's body.
- (3) The designated collection officer must take the hair samples by using the cutting instrument provided in the collection kit to cut the hair from the prisoner's head or, if the case requires, from another part of the prisoner's body.
- (4) The taking of hair samples from a prisoner detained at a prison must be done under the supervision, and in the direct view, of an officer or another designated collection officer.
- (5) If hair samples are not to be taken from the prisoner's head,—
  - (a) the samples must be taken by a designated collection officer of the same sex as the prisoner; and
  - (b) the officer or designated collection officer supervising the taking of the samples must be of the same sex as the prisoner; and



- (c) the samples must be taken in a manner that affords the greatest degree of privacy and dignity consistent with the purpose of taking the samples.
- (6) The designated collection officer must take hair samples from the prisoner with decency and sensitivity.
- (7) Subclause (5) does not prevent the presence, when the hair samples are or are to be taken, of any number of additional officers (whether designated collection officers or not) if the manager of a prison believes, on reasonable grounds, that they are needed for the proper supervision and management of the prisoner.

Regulation 143F: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

### **143G Hair sample collection kit**

- (1) A designated collection officer who is required to take hair samples from a prisoner must ensure that he or she uses a hair sample collection kit provided by a specified laboratory.
- (2) Only 1 hair sample collection kit may be in the area designated by the manager for the purpose of hair sample collection at any one time.
- (3) The designated collection officer must check that the collection kit contains the following items:
  - (a) 2 sample envelopes:
  - (b) 2 hair sample transport devices:
  - (c) 2 tamper-proof sample envelope security labels:
  - (d) a plastic specimen bag:
  - (e) a disposable cutting instrument for taking the hair samples:
  - (f) a collection kit shipping seal.
- (4) If a collection kit does not contain all the items listed in subclause (3), it may not be used.

Regulation 143G: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

### **143H Inspection of equipment by prisoner**

A designated collection officer who is required to take hair samples from a prisoner must, before taking the hair samples, show the hair sample collection kit to the prisoner in a manner that enables the prisoner to verify that the collection kit contains only the items listed in regulation 143G(3).

Regulation 143H: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

### **143I Procedure immediately after hair samples taken**

- (1) Immediately after hair samples are taken from a prisoner, a designated collection officer must, in the presence of the prisoner,—

- (a) secure each hair sample into a separate hair sample transport device; and
  - (b) place each hair sample transport device into a separate sample envelope; and
  - (c) seal each sample envelope; and
  - (d) write on each sample envelope the prisoner's PRN (or other identifying information as recorded on Part A of form 2A of Schedule 8) and the name of the designated collection officer who took the sample or the person who supervised that officer taking the sample; and
  - (e) allow each sample envelope to be initialled by the prisoner from whom the samples were taken (if the prisoner wishes to do so).
- (2) Immediately after the samples have been labelled, a designated collection officer must—
- (a) complete Part A of form 2A of Schedule 8, in the presence of the prisoner; and
  - (b) give the prisoner an opportunity to sign it; and
  - (c) place the laboratory copy of the form into the specimen bag; and
  - (d) give a copy of the form to the prisoner; and
  - (e) place the 2 sealed and labelled envelopes into the specimen bag; and
  - (f) seal the specimen bag with the shipping seal provided in the hair sample collection kit; and
  - (g) place the specimen bag in secure storage designated for storing hair samples.
- (3) A specimen bag that is placed in secure storage under subclause (2)(g) must remain there until it is collected for transportation to a specified laboratory.

Regulation 143I: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

### **143J Chain of evidence for hair samples**

- (1) The manager of a prison must ensure that a specimen bag containing hair samples is delivered to a specified laboratory reasonably promptly after the procedure set out in regulation 143I has been completed.
- (2) An officer who removes a specimen bag from secure storage and places it in a secure courier bag must sign form 3 of Schedule 8 and state on that form—
  - (a) the number of the specimen bag; and
  - (b) the date and time that the specimen bag was removed from secure storage; and
  - (c) the time that the courier bag was locked.
- (3) If the officer locking the secure courier bag is not the officer referred to in subclause (2), the officer locking the bag must also sign the form.

- (4) A person who collects a specimen bag from a prison for transportation to a specified laboratory must sign the form and state—
- (a) his or her name; and
  - (b) the date and time of the collection of the specimen bag.

Regulation 143J: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### **143K Certificate showing result of analysis**

After analysis of hair samples delivered in a specimen bag to a specified laboratory under regulation 143J, an analyst from that laboratory must complete and send to the manager of the prison concerned a certificate showing the result of the analysis.

Regulation 143K: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### **143L Copy of certificate containing result of sample analysis to be given to prisoner and others**

On receipt of the certificate referred to in regulation 143K, the manager of a prison must ensure that—

- (a) copies are given—
  - (i) to the prisoner from whom the hair samples were taken; and
  - (ii) if the result is positive, to a medical officer, or a staff member who is a nurse, for the purpose set out in regulation 143M(e); and
- (b) a copy is placed on the prisoner's prison record.

Regulation 143L: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### **143M Requirements before result of sample analysis can be used in proceedings**

The result of the analysis of a hair sample may only be used as evidence in any disciplinary hearing if—

- (a) the appropriate chain of evidence forms have been completed; and
- (b) an analyst from the specified laboratory that analysed the sample has certified in writing that—
  - (i) the result was positive; or
  - (ii) there is evidence that the sample has been tampered with or contaminated in any way; and
- (c) after receiving a copy of the analyst's certificate and before the commencement of the hearing, the prisoner has been—
  - (i) advised of the right to have the sample independently analysed at the prisoner's own expense; and

- (ii) given 48 hours to elect to have the sample independently analysed; and
- (d) within that 48 hours the prisoner has elected—
  - (i) not to have that sample independently analysed; or
  - (ii) to have the sample independently analysed and the prisoner has been given—
    - (A) 14 days after the close of the day on which the 48 hours expires to pay for and dispatch the sample for independent analysis; and
    - (B) 21 days after the close of the day on which the 48 hours expires to produce the result of the independent analysis; and
- (e) a medical officer, or a staff member who is a nurse, has certified, in writing, that any drug found in the prisoner's sample was not, to the best of his or her knowledge, administered to the prisoner in accordance with instructions from a health service provider, a health centre manager, or a medical officer.

Regulation 143M: inserted, on 22 September 2011, by regulation 23 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 143M(e): amended, on 4 June 2013, by regulation 20 of the Corrections Amendment Regulations 2013 (SR 2013/197).

### *Random testing programmes*

#### **144 General random testing programme**

- (1) A random testing programme known as the general random testing programme is established for the following purposes:
  - (a) to collect information about patterns of drug use and alcohol consumption by prisoners in order to develop, monitor, and evaluate the drug and alcohol strategy issued under section 123 of the Act;
  - (b) to permit assessment and appropriate management of prisoners in relation to their drug use and alcohol consumption;
  - (c) to deter drug use and alcohol consumption by individual prisoners;
  - (d) to check compliance with conditions attached to a prisoner's participation in any programme;
  - (e) to reduce the risk of personal injury or property damage that may arise if a prisoner is under the influence of drugs or alcohol.
- (2) The general random testing programme applies to the following classes of prisoner:
  - (a) all remand prisoners who have been in custody for a continuous period of 30 days or more:

- (b) subject to subclause (3), all prisoners (other than remand prisoners) who have been in custody for a continuous period of 30 days or more.
- (3) Subclause (2)(b) does not apply to a prisoner who is within 10 days of—
  - (a) the prisoner’s statutory release date; or
  - (b) the prisoner’s applicable release date as defined in section 107(9) of the Parole Act 2002; or
  - (c) the date on which the prisoner is, in accordance with a decision of the Parole Board, to be released—
    - (i) to serve a sentence of imprisonment by way of home detention; or
    - (ii) on parole; or
    - (iii) on compassionate release; or
  - (d) the prisoner’s final release date (if he or she is to be released under section 104 of the Parole Act 2002).

Compare: SR 2000/81 r 172

Regulation 144(3)(c): replaced, on 1 October 2007, by regulation 4 of the Corrections Amendment Regulations (No 3) 2007 (SR 2007/259).

#### **145 Temporary release and removal programme**

- (1) A random testing programme known as the temporary release and removal programme is established for the following purposes:
  - (a) to deter drug use and alcohol consumption by prisoners who are temporarily released from custody or temporarily removed from prison under section 62 of the Act;
  - (b) to check compliance with conditions attached to the release or removal of a prisoner under that section.
- (2) The temporary release and removal programme applies to all prisoners who have been temporarily released from custody or temporarily removed from prison, under section 62 of the Act, and who have not served more than 14 days since returning to the prison at the expiry of that release or period of removal.

Compare: SR 2000/81 r 173

#### **146 Identified drug user (IDU) programme**

- (1) A random testing programme known as the identified drug user programme is established for the purpose of permitting the assessment and appropriate management of prisoners in relation to their drug use and alcohol consumption.
- (2) This programme applies to all prisoners found guilty of—
  - (a) a disciplinary offence relating to drugs or alcohol; or

- (b) any offence relating to drugs or alcohol committed while the person is in prison.

Compare: SR 2000/81 r 174

#### **147 Requirements for random testing programmes**

Each random testing programme must fulfil all of the following requirements:

- (a) every prisoner in the class or classes of prisoner to which the programme applies must be eligible for selection on each occasion that a sample is drawn:
- (b) in the course of 1 month,—
  - (i) no more than 10% of eligible prisoners may be selected in a random testing programme that applies to any class of prisoner referred to in regulation 144; and
  - (ii) no more than 20% of eligible prisoners may be selected in a random testing programme that applies to a class of prisoner referred to in regulations 145 and 146:
- (c) a prisoner selected for testing must undergo it, unless—
  - (i) the manager of a prison, or a staff member authorised for the purpose by the manager, certifies that the prisoner's selection was not in accordance with a methodology specified in regulation 148; or
  - (ii) a medical officer certifies that there are medical or psychological reasons why the prisoner should not be required to provide a urine sample or, if regulation 143B applies, hair samples.

Compare: SR 2000/81 r 175

Regulation 147(c)(ii): amended, on 22 September 2011, by regulation 24 of the Corrections Amendment Regulations 2011 (SR 2011/284).

#### **148 Random selection methodology**

- (1) An equal percentage of eligible prisoners in each random-testing programme must be selected each week for testing.
- (2) The names of prisoners to be tested under a random testing programme must be selected by a computer programme that uses a pre-defined algorithm to randomly select each prisoner who is eligible to be tested under that programme.
- (3) The manager must ensure that the name of a prisoner to be tested under a random testing programme is not disclosed to any prisoner (including the prisoner selected for testing) until the prisoner is required to produce a urine sample.

Compare: SR 2000/81 r 176

*Record of drug and alcohol testing*

**149 Record of drug and alcohol testing to be kept**

- (1) The manager of a prison, or any other staff member authorised for the purpose by the manager, must enter, in a record kept specially for the purpose, a note of—
  - (a) any direction under section 124 of the Act to a prisoner to provide a urine sample or, if regulation 143B applies, hair samples, and the result of the sample analysis; and
  - (b) any random testing programme that is operating, including a summary of the results of that programme.
- (2) The manager must, on request, send a copy of, or an extract from, the record kept under this regulation to the chief executive.

Compare: SR 2000/81 r 177

Regulation 149(1)(a): amended, on 22 September 2011, by regulation 25 of the Corrections Amendment Regulations 2011 (SR 2011/284).

**Part 11**  
**Discipline and order**

*Maintenance of discipline*

**150 Maintenance of discipline**

- (1) In every prison, discipline and order must be maintained with firmness and fairness.
- (2) In the control of prisoners, staff members must seek to influence those prisoners through example and leadership and to enlist their willing co-operation.
- (3) No officer may take disciplinary action against a prisoner if that action is retaliatory in nature or inconsistent with acceptable standards of treatment of a prisoner in similar circumstances.
- (4) A prisoner who considers himself or herself to be aggrieved by a lawful order must obey that order but may, on the first convenient occasion, make a complaint under Part 12.

Compare: SR 2000/81 rr 140, 142

**151 Prisoners not to exercise disciplinary powers**

No prisoner may be permitted or required to exercise disciplinary powers over another prisoner.

Compare: SR 2000/81 r 141

*Disciplinary proceedings***152 Disciplinary proceedings**

Disciplinary proceedings must be conducted in accordance with Schedule 7.

Compare: SR 2000/81 r 144

**153 Role of security officers in disciplinary proceedings**

No security officer may prepare a written notice of the kind referred to in clause 6 of Schedule 7, or prosecute a charge against a prisoner for a disciplinary offence, but a security officer may be required to give evidence at a disciplinary hearing in respect of that charge.

Compare: SR 2000/81 r 30(3)

*Cell confinement***154 Manager to notify chief executive of certain cells**

The manager of a prison must notify the chief executive in writing of any cell in the prison that may be used by a prisoner on whom a penalty of cell confinement is imposed.

Compare: SR 2000/81 r 148

**155 Notification of prisoner's cell confinement**

The health centre manager must be notified reasonably promptly after a prisoner has been placed in a cell under a penalty of cell confinement.

Compare: SR 2000/81 r 149

Regulation 155: amended, on 4 June 2013, by regulation 21 of the Corrections Amendment Regulations 2013 (SR 2013/197).

**156 Daily visits to prisoner under cell confinement**

The manager of a prison, or an officer authorised by the manager of a prison for the purpose, must at least once a day visit a prisoner confined under a penalty of cell confinement.

Compare: SR 2000/81 r 149

**157 Cells used for cell confinement**

- (1) Cells used for prisoners on whom a penalty of cell confinement has been imposed—
  - (a) must have the features and contain the items specified in Part A of Schedule 6; and
  - (b) must, so far as is practicable, have the features and contain the items specified in Part B of Schedule 6; and
  - (c) must, so far as is practicable, be in a different part of the prison from cells used for prisoners segregated under section 60(1)(b) of the Act.



- (2) Despite subclause (1), the chief executive may approve the use in a prison of cells for prisoners under a penalty of cell confinement that do not comply with subclause (1), if the chief executive is satisfied that it is not practicable in the circumstances to avoid using those cells for prisoners under a penalty of cell confinement.
- (3) An approval under subclause (2)—
  - (a) applies only in respect of those cells specified in the approval; and
  - (b) remains in force for the period in the approval specified by the chief executive; and
  - (c) is subject to any conditions imposed by the chief executive.
- (4) The manager of a prison must ensure that all items specified in Schedule 6 that are provided for use in a cell to which this regulation applies are maintained in good working order.

Compare: SR 2000/81 r 154

### *Forfeiture or postponement of privileges*

#### **158 Privileges**

The penalty of forfeiture or postponement of privileges that may be imposed on a prisoner under section 133(3)(a) or 137(3)(a) of the Act comprises the loss or postponement of all or any of the following privileges:

- (a) the opportunity to be in common areas of the prison after the evening meal:
- (b) the opportunity to make telephone calls other than those to which a prisoner is entitled under the Act or these regulations:
- (c) participation in a recreational activity, course, or programme that is not part of the prisoner's management plan:
- (d) use of, or access to, films, videotapes, records, cassettes, or compact discs:
- (e) use of a television, radio, audio cassette player, compact disc player, or other electronic equipment used for recreational purposes:
- (f) use of a musical instrument, unless it is part of a prisoner's management plan:
- (g) pursuit of a hobby:
- (h) purchase of anything other than essential toiletries, writing materials, and stamps:
- (i) the opportunity for physical exercise beyond the minimum entitlement conferred by section 69(1)(a) of the Act:
- (j) the opportunity to receive private visitors beyond the minimum entitlement conferred by section 69(1)(d) of the Act.

Regulation 158: replaced, on 4 June 2013, by regulation 22 of the Corrections Amendment Regulations 2013 (SR 2013/197).

## Part 12 Complaints

### *Corrections facilities*

#### **159 Information to be provided to persons under control or supervision**

- (1) Every person under control or supervision must be given the required information,—
  - (a) in the case of a prisoner, promptly after the prisoner is received in a prison, and in any case not later than 24 hours after the prisoner is received:
  - (ab) in the case of a person sentenced to a sentence of home detention, as soon as practicable after the sentence commences:
  - (b) in the case of a person who is required to report to a probation officer, promptly after the person first reports to a probation officer, and in any case not later than 14 days after the date of first report:
  - (c) in the case of a person who is serving a sentence of imprisonment by way of home detention, as soon as practicable after the person begins serving the sentence in that way:
  - (d) in the case of a prisoner who makes a complaint to the manager of a prison and indicates to the manager that he or she is dissatisfied with the outcome of the complaint, promptly after that indication is received by the manager:
  - (e) in the case of a person who makes a complaint to the controlling officer of a community work centre or probation office and indicates to the controlling officer that he or she is dissatisfied with the outcome of the complaint, promptly after that indication is received by the controlling officer.
- (2) The required information is,—
  - (a) in the case of a person referred to in subclause (1)(a), (ab), (b), or (c),—
    - (i) a description of the complaints system operating at the prison, community work centre, or probation office, as the case may be:
    - (ii) contact details for the office of the Ombudsmen and an inspector of corrections, together with a statement that a person under control or supervision may make a complaint to an ombudsman or an inspector of corrections at any time:
  - (b) in the case of a person referred to in subclause (1)(d) or (e), contact details for the Office of the Ombudsmen and an inspector of corrections,

together with a statement that a person under control or supervision may make a complaint to an ombudsman or an inspector of corrections at any time.

- (3) The person responsible for ensuring that a person is given the required information is,—
- (a) in the case of a prisoner, the manager of the prison:
  - (ab) in the case of a person sentenced to a sentence of home detention, the controlling officer of the probation office from which the offender is being supervised:
  - (b) in the case of a person required to attend a community work centre or probation office, the controlling officer of the community work centre or probation office:
  - (c) in the case of a person who is serving a sentence of imprisonment by way of home detention, the controlling officer of the probation office from which the offender on home detention is being supervised.
- (4) In this regulation **outcome**, in relation to any complaint, includes a refusal to investigate a complaint under regulation 163.

Regulation 159(1)(ab): inserted, on 1 October 2007, by regulation 5(1) of the Corrections Amendment Regulations (No 3) 2007 (SR 2007/259).

Regulation 159(1)(c): replaced, on 1 October 2007, by regulation 5(2) of the Corrections Amendment Regulations (No 3) 2007 (SR 2007/259).

Regulation 159(2)(a): amended, on 1 October 2007, by regulation 5(3) of the Corrections Amendment Regulations (No 3) 2007 (SR 2007/259).

Regulation 159(3)(ab): inserted, on 1 October 2007, by regulation 5(4) of the Corrections Amendment Regulations (No 3) 2007 (SR 2007/259).

Regulation 159(3)(c): amended, on 1 October 2007, by regulation 5(5) of the Corrections Amendment Regulations (No 3) 2007 (SR 2007/259).

**160 Complaints to manager of prison and controlling officer of community work centre or probation office to be in writing**

The manager of a prison or controlling officer of a community work centre or probation office—

- (a) is not obliged to receive or process a complaint from any person who is or was under control or supervision unless the complaint is in writing; and
- (b) must take all reasonable steps to ensure that sufficient forms designed to enable any person to record a complaint are readily available.

**161 Reasonable assistance to be provided**

Every staff member must, if asked by a person who is or was under control or supervision for assistance in making a complaint to a manager of a prison or the controlling officer of a community work centre or probation office,—

- (a) provide reasonable assistance to the person; and

- (b) if the person is unable to make his or her complaint in writing, assist the person to make a complaint.

### **162 Complainant to be notified orally and in writing**

If a person who is or was under control or supervision makes a complaint to a manager of a prison or to the controlling officer of a community work centre or probation office, that person must, within 5 working days of the date on which the complaint is received, be given notice of that receipt—

- (a) in writing; and
- (b) if practicable, orally.

### **163 Frivolous or vexatious complaints**

A manager of a prison or controlling officer of a community work centre or probation office—

- (a) may refuse to investigate a complaint that he or she considers to be frivolous or vexatious;
- (b) must, if he or she refuses to investigate a complaint under paragraph (a), ensure that the person who made the complaint is promptly notified in writing and, if practicable, orally of that decision.

### **164 Nature of complaint need not be disclosed**

- (1) A complainant need not disclose the nature of a complaint if—
  - (a) the complainant believes that the complaint concerns a person to whom the complaint will be forwarded; and
  - (b) the complainant provides the name of the person or persons who are the subject of the complaint.
- (2) If a complaint to which subclause (1) applies is received by any person who is identified as the subject of the complaint, that person must refer the complaint to another staff member who is not the subject of the complaint.
- (3) Any staff member to whom a complaint is referred under subclause (2) may require the complainant to supply to him or her details of the complaint in writing.

### **165 Complainants to be regularly informed of progress**

- (1) Every manager of a prison and controlling officer of a community work centre or probation office must ensure that a person who makes a complaint to that manager or controlling officer in accordance with regulation 160 is—
  - (a) provided with an opportunity for an interview within 10 working days of the date on which the complaint is received in the presence, if the complainant wishes, of 1 support person nominated by the complainant who is not the complainant's legal adviser; and

- (b) notified at monthly intervals in writing and, if practicable, orally on what progress is being made in investigating and dealing with the complaint; and
  - (c) notified in writing and, if practicable, orally of the outcome of the complaint, once any investigation has been concluded and a decision made, including—
    - (i) any decision made by the department as a consequence of the complaint:
    - (ii) any actions to be taken in response to the complaint agreed by the department and the complainant.
- (2) This clause does not apply if a decision is made under regulation 163 to refuse to investigate a complaint.

**166 Complaints system at each prison, community work centre, and probation office to be auditable**

Every manager of a prison and every controlling officer of a community work centre or probation office must establish an information system for recording complaints that—

- (a) is designed to be auditable; and
- (b) records—
  - (i) the date on which a complaint is received:
  - (ii) the name of the complainant:
  - (iii) the nature of the complaint:
  - (iv) if the complaint is considered to be frivolous or vexatious:
  - (v) details of compliance with regulation 165:
  - (vi) the time taken to deal with the complaint:
  - (vii) the outcome of the complaint.

**167 Procedure where inspector wishes to interview prisoners**

- (1) If an inspector wishes to visit a prison to interview prisoners, he or she must, if practicable in the circumstances, notify the manager at least 48 hours before the visit.
- (2) The manager must—
  - (a) ensure that the prisoners are given at least 24 hours' notice of the visit; and
  - (b) take all reasonable steps to facilitate interviews (for example, by ensuring that interview rooms are available for interviews, and that the prisoners are available to attend interviews).

Compare: SR 2000/81 r 184

*Police jails***168 Internal complaints system for Police jails**

The internal complaints system for every Police jail must comply with the provisions of the Independent Police Conduct Authority Act 1988.

Regulation 168: amended, on 29 November 2007, by section 27(2) of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

**Part 13**  
**Special categories of prisoners****169 Effect of Part 13**

The provisions of this Part override the other provisions of these regulations.

Compare: SR 2000/81 r 130

*Mothers with young children*

Heading: amended, on 19 September 2011, by section 7(2) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

**170 Approval for placement of baby with mother**

*[Revoked]*

Regulation 170: revoked, on 19 September 2011, by section 7(3) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

**171 Extension of baby's placement with mother**

*[Revoked]*

Regulation 171: revoked, on 1 December 2008, by regulation 9 of the Corrections Amendment Regulations 2008 (SR 2008/371).

**172 Accommodation of baby with mother**

*[Revoked]*

Regulation 172: revoked, on 19 September 2011, by section 7(3) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

**173 Parenting agreement for placement with mother**

*[Revoked]*

Regulation 173: revoked, on 19 September 2011, by section 7(3) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

**174 Placement of child does not affect legal rights**

The placement of a child in prison does not affect any legal rights of guardianship or custody in respect of that child.

Regulation 174 heading: amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 174: amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

### *Daily visits from child*

Heading: amended, on 19 September 2011, by section 7(5) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

## **175 Approval for daily visits from child**

- (1) This regulation applies to a female prisoner who—
  - (a) gives birth to a child while in prison, or on reception to a prison is the mother of a child less than 24 months old; and
  - (b) wishes to continue daily contact with her child.
- (2) The child of the female prisoner to whom this regulation applies and the child's caregiver may visit the prison daily to enable the child to feed and bond with his or her mother, until the day after the date on which the child is 24 months old if—
  - (a) the child's mother has requested the manager for approval for daily visits from her child; and
  - (b) the manager approves the request.
- (3) The manager may approve a request made under subclause (2) if—
  - (a) the manager is satisfied that the continuation of daily contact between the mother and the child—
    - (i) is in the best interests of the child; and
    - (ii) is not inconsistent with any court order relating to the child; and
    - (iii) is consistent with maintaining the security and good order of the prison; and
  - (b) the chief executive approves the child's caregiver as a person entitled to visit the prisoner under regulation 99(1)(a); and
  - (c) the child's mother, the child's caregiver, and the manager enter into a parenting agreement in relation to the child's daily visits.
- (4) If the manager identifies any care and protection issues in relation to the child's daily visits, the manager must consult the chief executive of the department responsible for administering the Oranga Tamariki Act 1989 before making a decision under subclause (3).
- (5) The manager may end the child's daily visits to the prison if the manager considers that—
  - (a) any of subparagraphs (i) to (iii) of subclause (3)(a) are not being met; or
  - (b) the mother's responsibilities under the parenting agreement are not being met.

Regulation 175 heading: amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(1)(a): amended, on 22 September 2011, by regulation 26 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 175(1)(a): amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(1)(b): amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(2): amended, on 22 September 2011, by regulation 26 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Regulation 175(2): amended, on 19 September 2011, by section 7(4) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(2): amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(2)(a): amended, on 19 September 2011, by section 7(4) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(2)(a): amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(3)(a): amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(3)(a)(i): amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(3)(a)(ii): amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(3)(b): amended, on 19 September 2011, by section 7(4) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(3)(c): amended, on 19 September 2011, by section 7(4) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(4): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Regulation 175(4): amended, on 19 September 2011, by section 7(4) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 175(5): amended, on 19 September 2011, by section 7(4) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

## **176 Parenting agreement for daily visits from child**

A parenting agreement to which regulation 175(3)(c) relates—

- (a) must include notice that the mother is responsible for the care of her child while the child is in the prison; and
- (b) may outline the timing, frequency, and rules in respect of the daily visits.

Regulation 176 heading: amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 176(a): amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).



**177 Facilities for feeding and bonding with child**

- (1) As far as practicable, a child's daily visits to the prison must take place in suitable facilities approved by the chief executive for the purpose of enabling the child to feed and bond with his or her mother.
- (2) A facility approved by the chief executive in subclause (1)—
  - (a) must provide reasonable privacy for the mother and child; and
  - (b) may include facilities that are used for other compatible purposes.

Regulation 177 heading: amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 177(1): amended, on 19 September 2011, by section 7(4) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 177(1): amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

Regulation 177(2)(a): amended, on 19 September 2011, by section 7(7) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

**178 Extension of baby's daily visits**

*[Revoked]*

Regulation 178: revoked, on 1 December 2008, by regulation 11 of the Corrections Amendment Regulations 2008 (SR 2008/371).

*Young prisoners*

**179 Young and adult prisoners to be kept apart**

- (1) All prisoners, including accused prisoners, under the age of 18 years, must,—
  - (a) when inside a prison, be kept apart from prisoners who are 18 years or older; and
  - (b) when outside a prison, be kept apart from prisoners who are 18 years or older, where practicable.
- (2) This regulation is subject to regulations 179A and 180.

Regulation 179(2): amended, on 22 September 2011, by regulation 27 of the Corrections Amendment Regulations 2011 (SR 2011/284).

**179A Young and adult prisoners not to be transported in same vehicle compartment**

A prisoner, including any accused prisoner, under the age of 18 years must not be transported in a vehicle compartment in which there is a prisoner who is 18 years old or older.

Regulation 179A: inserted, on 22 September 2011, by regulation 28 of the Corrections Amendment Regulations 2011 (SR 2011/284).

**180 Chief executive may approve mixing of young and adult prisoners**

- (1) If the chief executive is satisfied that it is in the best interests of the prisoners concerned, the chief executive may, in respect of a prison, approve the mixing of a prisoner or class of prisoners—
  - (a) who are under 18 years with a prisoner or class of prisoners who are 18 years or older;
  - (b) who are between 18 years and 20 years with a prisoner or class of prisoners who are under 18 years.
- (2) The chief executive may not approve the mixing of accused prisoners with other prisoners under subclause (1) unless regulation 186 applies.
- (3) This regulation is subject to regulation 179A.

Compare: SR 2000/81 r 133

Regulation 180(3): inserted, on 22 September 2011, by regulation 29 of the Corrections Amendment Regulations 2011 (SR 2011/284).

**181 Telephone calls**

- (1) A young prisoner is entitled to make 1 outgoing telephone call per week, in addition to the entitlement provided by section 77(3) of the Act.
- (2) The entitlement in subclause (1) is in addition to any telephone call made to an official agency or the prisoner's legal adviser.

**182 Visiting times for young prisoners**

The manager of a prison must ensure that visiting times for young prisoners are as flexible as possible.

Compare: SR 2000/81 r 135

**183 Prison to contact nominated person**

- (1) This regulation applies if a young prisoner is—
  - (a) subject to any segregation direction (other than a segregation direction under section 59(1)(a) of the Act); or
  - (b) confined in a cell for a disciplinary offence under section 133 or 137 of the Act.
- (2) A young prisoner may nominate one of the following persons for the purpose of subclause (3):
  - (a) a parent or guardian of the young prisoner;
  - (b) an adult member of the family, whanau, or family group of the young prisoner;
  - (c) any other adult.
- (3) If a young prisoner has nominated a person under subclause (2), the manager must, as soon as practicable, ensure that the person nominated is informed, both orally and in writing, of—

- (a) the prisoner's segregation or cell confinement; and
- (b) the reasons for the prisoner's segregation or cell confinement.

*Accused prisoners and Immigration Act 2009 detainees*

Heading: amended, at 2 am on 29 November 2010, pursuant to section 406(2) of the Immigration Act 2009 (2009 No 51).

**184 Immigration Act 2009 detainees subject to same regime as accused prisoners**

Prisoners who are detained under the Immigration Act 2009 are subject to the same regime and have the same entitlements as accused prisoners except as provided under regulation 70 and regulation 188.

Regulation 184 heading: amended, at 2 am on 29 November 2010, by section 406(2) of the Immigration Act 2009 (2009 No 51).

Regulation 184: amended, at 2 am on 29 November 2010, by section 406(2) of the Immigration Act 2009 (2009 No 51).

**185 Treatment of accused prisoners**

- (1) Accused prisoners are entitled to the same standard of treatment as convicted prisoners, subject to subclause (2).
- (2) The standard of treatment provided to accused prisoners—
  - (a) must take account of—
    - (i) the individual safety needs of the prisoner; and
    - (ii) any security issues relating to a particular prisoner; and
  - (b) may exceed the standard of treatment provided to convicted prisoners.

**186 Separation of accused prisoners**

- (1) As far as practicable, accused prisoners must be kept apart from other prisoners in a prison.
- (2) If it is not reasonably practicable to accommodate an accused prisoner in a separate unit from convicted prisoners, then the accused prisoner must be subject to a separate regime that ensures accused prisoners are kept apart from other prisoners as far as practicable.
- (3) There must be no mixing of accused prisoners and other prisoners in respect of a prison, unless the chief executive approves on being satisfied that there are exceptional circumstances.
- (4) An approval under subclause (3) must be written, and may relate to a prisoner, a class of prisoners, or to all prisoners.
- (5) As far as practicable, 2 or more accused prisoners who are awaiting trial in the same case must not be permitted to communicate with each other.

- (6) This regulation does not apply to female accused prisoners who are allowed to keep their children with them in prison under section 81A of the Act.

Compare: SR 2000/81 r 134

Regulation 186(5): amended, on 4 October 2013, by regulation 3(2) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

Regulation 186(6): inserted, on 19 September 2011, by section 7(8) of the Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88).

### **187 Visiting times for accused prisoners**

The manager of a prison must ensure that visiting times for accused prisoners are as flexible as possible.

Compare: SR 2000/81 r 135

### **188 Physical appearance of prisoners awaiting trial**

- (1) Unless a health centre manager directs otherwise on the grounds of health, safety, or cleanliness, the hairstyle and facial hairstyle of a prisoner awaiting trial or during trial may be cut or shaved only to the extent necessary to preserve the appearance of that prisoner at the time of his or her reception to the prison.

- (2) This regulation does not apply to prisoners detained under the Immigration Act 2009.

Compare: SR 2000/81 r 136

Regulation 188(1): amended, on 4 June 2013, by regulation 23 of the Corrections Amendment Regulations 2013 (SR 2013/197).

Regulation 188(2): amended, at 2 am on 29 November 2010, by section 406(2) of the Immigration Act 2009 (2009 No 51).

### *Prisoners detained for non-payment of money*

### **189 Prisoners detained for non-payment of money**

- (1) A prisoner may communicate with any person (other than another prisoner) at any reasonable time if—

- (a) the prisoner is detained solely for the non-payment of a sum of money; and  
(b) the purpose of the communication is to obtain the sum of money to enable the prisoner to be released.

- (2) Part 8 and Schedule 4 apply in respect of any visit made under subclause (1).

Compare: SR 2000/81 r 139

*Transgender prisoners*

*[Revoked]*

Heading: revoked, on 10 February 2014, by regulation 5 of the Corrections Amendment Regulations (No 2) 2013 (SR 2013/489).

**190 Accommodation of transgender prisoners who have completed gender reassignment surgery**

*[Revoked]*

Regulation 190: revoked, on 10 February 2014, by regulation 5 of the Corrections Amendment Regulations (No 2) 2013 (SR 2013/489).

*Service prisoners*

**191 Request for information**

- (1) On receiving a request from a service prisoner's commanding officer or competent service authority, the chief executive must promptly provide any information about that prisoner that is reasonably necessary for the administration of sentences under the Armed Forces Discipline Act 1971.
- (2) Any information provided under subclause (1) must include, without limitation, information on the conduct of that prisoner that is required for the reconsideration of a sentence under Part 8 of the Armed Forces Discipline Act 1971.

Regulation 191(2): amended, on 1 July 2009, by section 87 of the Court Martial Act 2007 (2007 No 101).

**192 Transfers and temporary removals of service prisoners**

The chief executive must, when considering the issuing of a direction for the transfer of a service prisoner under section 53 of the Act, or the temporary removal of a service prisoner under section 62 of the Act, as is reasonable and practicable—

- (a) inform the prisoner's commanding officer that a transfer or temporary removal is under consideration; and
- (b) subject to any requirements of the Act, have regard to any representations made by the prisoner's commanding officer; and
- (c) promptly inform the prisoner's commanding officer of any decision directing the transfer or temporary removal of the prisoner.

**Part 14**  
**Miscellaneous**

**193 Assistance with proceedings**

- (1) This regulation applies to—
  - (a) any prisoner who is appealing or applying for leave to appeal against any conviction, order, or sentence; and

- (b) any accused prisoner who is preparing his or her defence or plea in mitigation; and
  - (c) any prisoner detained under the Immigration Act 2009 who is preparing for any process or proceeding under that Act.
- (2) When a prisoner to whom this regulation applies is preparing an appeal, application, defence, or plea, or preparing for any proceeding under the Immigration Act 2009, the manager of a prison must, as far as is reasonably practicable in the circumstances,—
- (a) ensure that the prisoner is provided with adequate facilities to do so, to the extent that this is consistent with the maintenance of safety and security requirements; and
  - (b) facilitate contact between the prisoner and any adviser or assistant (other than another prisoner) helping the prisoner to do so.
- (3) Subclause (2) is subject to clauses 4 to 7 of Schedule 4.

Compare: SR 2000/81 r 137

Regulation 193(1)(c): amended, at 2 am on 29 November 2010, by section 406(2) of the Immigration Act 2009 (2009 No 51).

Regulation 193(2): replaced, on 1 December 2008, by regulation 12 of the Corrections Amendment Regulations 2008 (SR 2008/371).

Regulation 193(2): amended, at 2 am on 29 November 2010, by section 406(2) of the Immigration Act 2009 (2009 No 51).

#### 194 Service of documents

- (1) If a manager of a prison is given documents to be served on a prisoner in connection with any proceedings, the manager must ensure that—
- (a) the documents are given to the prisoner as soon as is reasonably practicable; and
  - (b) the prisoner acknowledges in writing the time and date of receipt of those documents by the prisoner.
- (2) If the prisoner refuses to acknowledge the time and date of receipt of any documents given to the prisoner under subclause (1), the staff member who gives the documents to the prisoner must record in writing the time and date of receipt.
- (3) Subclauses (1) and (2) are subject to the provisions of any other enactment.
- (4) In this regulation, **proceedings** are civil proceedings, or criminal proceedings, within the meaning of section 4(1) of the Legal Services Act 2011.

Compare: SR 2000/81 r 185

Regulation 194(4): amended, on 6 December 2019, by regulation 7 of the Corrections Amendment Regulations 2019 (LI 2019/260).

**195 Fees for Visiting Justices who are not District Court Judges**

The rates of remuneration for work done by Visiting Justices who are not District Court Judges are the rates determined by the Minister of Justice.

**196 No legitimate expectation as to conditions, etc**

*[Revoked]*

Regulation 196: revoked, on 29 October 2019, by section 42 of the Corrections Amendment Act 2019 (2019 No 57).

**197 Schedules**

The schedules set out further provisions and forms for the purposes of these regulations.

**Schedule 1  
Authorised property**

*[Revoked]*

rr 30, 31

Schedule 1: revoked, on 4 June 2013, by regulation 24 of the Corrections Amendment Regulations 2013 (SR 2013/197).

**Schedule 2**  
**Items and features of cells for segregated prisoners and prisoners at risk of self-harm**

rr 57, 59, 60, 61

Schedule 2 heading: amended, on 28 April 2020, by section 43(1) of the Corrections Amendment Act 2019 (2019 No 57).

**Part A**  
**Items and features prescribed for cells for segregated prisoners**

Schedule 2 Part A heading: amended, on 28 April 2020, by section 43(2) of the Corrections Amendment Act 2019 (2019 No 57).

Artificial lighting  
Automatic fire detector  
Bed  
Fresh or conditioned air  
Heating as appropriate for climatic conditions

**Part B**  
**Additional items and features of cells for certain segregated prisoners**

Desk with seating  
General power outlet  
Hand washing facilities  
Intercom, alarm, or call button  
Privacy screening consistent with safe custodial management  
Reflective surface (such as polished stainless steel) for personal grooming  
Running potable water  
Shelving  
Storage for authorised property  
Toilet

**Part C**  
**Items and features of cells for prisoners at risk of self-harm**

A cut down knife located outside the cell but in the vicinity.  
A window that allows a complete view of the inside of the cell from a vantage point outside the cell door.  
Artificial lighting that is controlled only from outside the cell.



Furniture and fittings within the cell that are free from features that could facilitate self-harm (in particular hanging or garrotting).

Intercom, alarm, or call button.

No privacy screening or any other barrier that prevents a full view of the cell from the door window.

### **Part D**

#### **Additional feature for cells accommodating prisoners at risk of self-harm**

Located close to the prison's health centre

### **Part E**

#### **Items and features of cells for assessment of prisoners' mental health**

A window that allows a complete view of the cell from a vantage point outside the cell door.

Artificial lighting that is controlled only from outside the cell.

Furniture and fittings within the cell that are free from features that could facilitate self-harm (in particular hanging or garrotting).

Intercom, alarm, or call button.

No privacy screening or any other barrier that prevents a full view of the cell from the door window.

### **Part F**

#### **Additional items and features of cells for assessment of mental health**

Desk with seating

Located close to the prison's health centre

General power outlet

Reflective surface (such as polished stainless steel) for personal grooming

Shelving

Storage for authorised property

Toilet

## Schedule 3

### Items in cells and self-care units

r 67

#### Part A

##### Mandatory items and features of new cells and new self-care units

Artificial lighting

Bed

Desk with seating

General power outlet

Heating appropriate to climatic conditions and suitable for the number of occupants and the daily regime

Intercom, alarm, or call button

A reflective surface (such as polished stainless steel) for personal grooming

Privacy screening consistent with safe custodial management (including, in the case of a shared cell, privacy screening of the toilet and shower from view by other cell occupants)

Natural lighting

Running potable water

Shelving

Storage for authorised property

Toilet

Hand washing facilities

Fresh or conditioned air suitable for the number of occupants and the daily regime

Automatic fire detector

Schedule 3 Part A: amended, on 29 October 2019, by section 44(1) of the Corrections Amendment Act 2019 (2019 No 57).

Schedule 3 Part A: amended, on 29 October 2019, by section 44(2) of the Corrections Amendment Act 2019 (2019 No 57).

Schedule 3 Part A: amended, on 29 October 2019, by section 44(3) of the Corrections Amendment Act 2019 (2019 No 57).

## **Part B**

### **Mandatory items and features of existing cells and existing self-care units**

Artificial lighting

Bed

Heating appropriate to climatic conditions and suitable for the number of occupants and the daily regime

Natural lighting

Fresh or conditioned air suitable for the number of occupants and the daily regime

Automatic fire detector

Intercom, alarm, or call button (in the case of a shared cell)

Privacy screening consistent with safe custodial management (including, in the case of a shared cell, privacy screening of the toilet and shower from view by other cell occupants)

Schedule 3 Part B: amended, on 29 October 2019, by section 44(4) of the Corrections Amendment Act 2019 (2019 No 57).

Schedule 3 Part B: amended, on 29 October 2019, by section 44(5) of the Corrections Amendment Act 2019 (2019 No 57).

Schedule 3 Part B: amended, on 29 October 2019, by section 44(6) of the Corrections Amendment Act 2019 (2019 No 57).

## **Part C**

### **Other items and features of existing cells and existing self-care units**

Desk with seating

General power outlet

Intercom, alarm, or call button

A reflective surface (such as polished stainless steel) for personal grooming

Privacy screening consistent with safe custodial management

Running potable water

Shelving

Storage for authorised property

Toilet

Hand washing facilities

## Schedule 3A

### Decisions about approval to visit

r 113A

Schedule 3A: inserted, on 17 September 2017, by regulation 19 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

#### *Interpretation*

- 1 In this schedule, **decision** means a decision under regulation 91, 92, or 99—
- (a) not to grant approval to a visitor; or
  - (b) to grant approval to a visitor subject to conditions.

#### *Effect of decision*

- 2 A decision applies from the day that it is made until—
- (a) a new decision is made under regulation 91, 92, or 99; or
  - (b) the decision is reversed or modified on review.
- 3 While a decision described in—
- (a) clause 1(a) applies, the visitor may be prevented from visiting a prisoner concerned in the prison:
  - (b) clause 1(b) applies, the visitor may only visit a prisoner concerned subject to the conditions imposed.

#### *Review of decision*

- 4 The following persons may apply to the chief executive to review a decision:
- (a) a visitor to whom the decision relates;
  - (b) a prisoner to whom written notice of the decision has been given under regulation 113A(3).
- 5 An application to review a decision must be in writing and must state—
- (a) the name of any prisoner to whom it relates; and
  - (b) the applicant's reasons for applying to have the decision reviewed.
- 6 The chief executive must obtain a copy of the decision and review it within 21 days after receiving the application.
- 7 Before reviewing the decision, the chief executive may consult any staff member as the chief executive thinks fit.
- 8 The chief executive may confirm, reverse, or modify the decision.

- 
- 9 The chief executive must, reasonably promptly, notify the following persons in writing of the outcome of the review:
- (a) the proposed visitor:
  - (b) any prisoner concerned.
- 10 Clauses 6 to 9 are subject to clause 11.
- 11 The chief executive may refuse to review a decision if the chief executive is satisfied that—
- (a) the reasons stated by the applicant for applying to have the decision reviewed (however expressed in the application) are substantially the same as the reasons stated by the applicant in relation to a review already undertaken; and
  - (b) there have been no material changes in circumstance since that review.
- 12 Reasonably promptly after refusing to review a decision, the chief executive must notify the visitor and any prisoner concerned in writing.
- 13 Subject to section 10(k) of the Act, the chief executive must not delegate the power to conduct a particular review to the following persons:
- (a) a person who exercised delegated authority to make the original decision:
  - (b) if the original decision was made by a staff member of a prison, any other staff member of the prison.
- 14 The chief executive may refuse to consider a new application for approval, despite regulation 91, 92, or 99 (as the case may be), if the chief executive is satisfied that—
- (a) the application is substantially the same as an application that has previously been denied; and
  - (b) there have been no material changes in circumstance since that application was denied.

## Schedule 4

### Prohibition orders

r 116

#### *Grounds for prohibition*

*[Revoked]*

Heading: revoked, on 17 September 2017, pursuant to regulation 20(1) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

1 *[Revoked]*

Schedule 4 clause 1: revoked, on 17 September 2017, by regulation 20(1) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

#### *Contents of prohibition orders*

2 A prohibition order must state—

- (a) the prison to which it relates; and
- (b) the name of the prohibited visitor; and
- (c) if it relates to a particular prisoner or several prisoners, the name or names of the prisoner or prisoners; and
- (d) why it has been made; and
- (e) the date on which it is signed and the date (no more than 12 months later) when it expires; and
- (f) how it may be reviewed; and
- (g) that this order revokes any approval previously given for that visitor to visit the prison, prisoner, or prisoners concerned.

Schedule 4 clause 2: amended, on 17 September 2017, by regulation 20(2) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Schedule 4 clause 2(g): amended, on 17 September 2017, by regulation 20(3) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

#### *Service of prohibition orders*

3 A manager who signs a prohibition order must ensure that, reasonably promptly after it is signed,—

- (a) it is given to, or sent by post to the last known address of, the prohibited visitor; and
- (b) if it relates to a particular prisoner or several prisoners, a copy is given to the prisoner or prisoners.

*Effect of prohibition orders*

- 4 A prohibition is in force between the time the prohibition order is signed and the close of the day on which it expires.

Schedule 4 clause 4: amended, on 17 September 2017, by regulation 20(4) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

- 5 While a prohibition order relating to a prohibited visitor and a particular prisoner or several prisoners in a prison is in force, the prohibited visitor may be prevented from visiting the prisoner or prisoners in the prison.

- 6 While a prohibition order relating to a prohibited visitor and a prison is in force, the prohibited visitor may be refused reception to the prison, or prevented from visiting any prisoner in it.

- 7 Clauses 4 to 6 are subject to clause 12.

*Review of prohibition orders*

- 8 A prohibited visitor, and any prisoner to whom a copy of the order has been given under clause 3(b), may at any time apply to the chief executive to review the prohibition order concerned.

- 9 An application to review a prohibition order must be written, and—

- (a) must state the applicant's reasons for applying to have the order reviewed; and
- (b) if it is made by the prohibited visitor and the order relates to a particular prisoner or several prisoners, must state the name or names of the prisoner or prisoners in respect of which the prohibited visitor wishes the order reviewed (or that the prohibited visitor wishes the order reviewed in respect of the prisoner or all the prisoners to which it relates).

- 10 The chief executive must obtain a copy of the prohibition order and review it within 21 days of receiving the application.

- 11 Before reviewing the prohibition order the chief executive may consult any staff member the chief executive thinks fit.

- 12 The chief executive may confirm, reverse, or modify the order.

- 13 If the prohibited visitor applied for the review, the chief executive must reasonably promptly cause written notice of his or her decision to be given to the prohibited visitor and any prisoner or prisoners in relation to whom the prohibited visitor wished the order reviewed.

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- 14 If a prisoner applied for the review, the chief executive must reasonably promptly cause written notice of his or her decision to be given to that prisoner and the prohibited visitor.
- 15 The chief executive may refuse to review a prohibition order if satisfied that—
- (a) the reasons stated by the applicant for applying to have the order reviewed (however expressed in the application) are substantially the same as the reasons stated by the applicant in relation to a review already undertaken; and
  - (b) there have been no material changes in circumstance since that review.
- 16 Reasonably promptly after refusing under clause 15 to review a prohibition order, the chief executive must cause written notice of his or her refusal to be given—
- (a) to the prohibited visitor concerned and any prisoner or prisoners in relation to whom the prohibited visitor wished the order reviewed, if the prohibited visitor applied for the review;
  - (b) to the prisoner and prohibited visitor concerned, if a prisoner applied for the review.
- 17 Clauses 10 to 14 are subject to clause 15.



## Schedule 5 Mechanical restraints

r 124

### *General*

- 1 No mechanical restraint, other than a restraint authorised for use by a staff member, may be used by a staff member to restrain a prisoner.
- 2 No mechanical restraint, other than a restraint authorised for use by a security officer, may be used by a security officer to restrain a prisoner.
- 3 The mechanical restraints authorised for use by a staff member are—
  - (a) handcuffs for general use, which must be of a type approved by the chief executive (but a type may be approved only if the chief executive is satisfied that the handcuffs can be safely and humanely applied in a manner that minimises discomfort to a prisoner, for long periods if necessary):
  - (b) handcuffs for emergency use, which must be of a type approved by the chief executive (but a type may be approved only if the chief executive is satisfied that they can be safely and humanely applied, for short periods):
  - (c) *[Revoked]*
  - (d) *[Revoked]*
  - (e) *[Revoked]*
  - (ea) waist restraints used in conjunction with handcuffs:
  - (f) *[Revoked]*
  - (g) *[Revoked]*
  - (h) torso restraints:
  - (i) head protectors:
  - (j) spit hoods.

Schedule 5 clause 3(a): replaced, on 17 September 2017, by regulation 21(1) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Schedule 5 clause 3(b): replaced, on 17 September 2017, by regulation 21(1) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Schedule 5 clause 3(c): revoked, on 17 September 2017, by regulation 21(1) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Schedule 5 clause 3(d): revoked, on 17 September 2017, by regulation 21(1) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Schedule 5 clause 3(e): revoked, on 17 September 2017, by regulation 21(1) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Schedule 5 clause 3(ea): inserted, on 9 August 2007, by regulation 6 of the Corrections Amendment Regulations (No 2) 2007 (SR 2007/192).

Schedule 5 clause 3(f): revoked, on 6 December 2019, by regulation 8(1) of the Corrections Amendment Regulations 2019 (LI 2019/260).

Schedule 5 clause 3(g): revoked, on 6 December 2019, by regulation 8(1) of the Corrections Amendment Regulations 2019 (LI 2019/260).

Schedule 5 clause 3(j): inserted, on 1 January 2010, by regulation 11(2) of the Corrections Amendment Regulations 2009 (SR 2009/374).

- 4 The mechanical restraints authorised for use by security officers are the restraints described in clause 3(a) and (ea).

Schedule 5 clause 4: replaced, on 17 September 2017, by regulation 21(2) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Schedule 5 clause 4: amended, on 6 December 2019, by regulation 8(2)(a) of the Corrections Amendment Regulations 2019 (LI 2019/260).

Schedule 5 clause 4: amended, on 6 December 2019, by regulation 8(2)(b) of the Corrections Amendment Regulations 2019 (LI 2019/260).

- 5 If a staff member is to use a mechanical restraint of a type specified in clause 3(h) to (j), the manager of a prison must approve that use by completing a form approved for the purpose by the chief executive before each occasion on which the restraint is to be used by a staff member.

Schedule 5 clause 5: amended, on 6 December 2019, by regulation 8(3) of the Corrections Amendment Regulations 2019 (LI 2019/260).

- 6 Despite clause 5, a staff member may use a mechanical restraint of a type specified in clause 3(h) to (j) without the prior approval of the manager of a prison if the circumstances require an immediate reaction, but the staff member who uses the mechanical restraint must, as soon as possible after use,—

- (a) complete the form approved for the purpose by the chief executive; and
- (b) inform the manager of a prison of the use.

Schedule 5 clause 6: amended, on 6 December 2019, by regulation 8(4) of the Corrections Amendment Regulations 2019 (LI 2019/260).

- 7 A prisoner may not be handcuffed or restrained to—

- (a) any part of a vehicle used for transportation; or
- (b) a cell grill.

- 7A Where handcuffs, or waist restraints used in conjunction with handcuffs, are applied on a prisoner who is being escorted to or from medical treatment, or receiving medical treatment, escorting officers must, taking into account the advice of the treating medical practitioner,—

- (a) implement any measures that are reasonably necessary to ensure that the mechanical restraint does not adversely affect the health and comfort of the prisoner; and

- (b) remove the mechanical restraint if necessary to allow the prisoner to receive medical treatment.

Schedule 5 clause 7A: inserted, on 17 September 2017, by regulation 21(3) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

*Tie-down beds*

*[Revoked]*

Heading: revoked, on 6 December 2019, by regulation 8(5) of the Corrections Amendment Regulations 2019 (LI 2019/260).

8 *[Revoked]*

Schedule 5 clause 8: revoked, on 6 December 2019, by regulation 8(5) of the Corrections Amendment Regulations 2019 (LI 2019/260).

*Wrist bed restraints*

*[Revoked]*

Heading: revoked, on 6 December 2019, by regulation 8(5) of the Corrections Amendment Regulations 2019 (LI 2019/260).

9 *[Revoked]*

Schedule 5 clause 9: revoked, on 6 December 2019, by regulation 8(5) of the Corrections Amendment Regulations 2019 (LI 2019/260).

*Torso restraints*

10 Torso restraints—

- (a) may only be used around the following parts of a prisoner's body:
- (i) the chest:
  - (ii) the thighs:
  - (iii) the lower legs (excluding ankles); and
- (b) may only be used on medical advice.

*Head protectors*

11 Head protectors may only be used on medical advice.

*Handcuffs*

Heading: replaced, on 17 September 2017, by regulation 21(4) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

12 Handcuffs for general use must not be fitted so as to impede circulation.

Schedule 5 clause 12: replaced, on 17 September 2017, by regulation 21(4) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

*Velcro restraint handcuffs**[Revoked]*

Heading: revoked, on 17 September 2017, by regulation 21(4) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

- 13 Handcuffs for emergency use—
- (a) may be used only in emergency situations and if handcuffs for general use are not available; and
  - (b) must be regularly checked to ensure that circulation is not being impeded; and
  - (c) must, as soon as practicable, be removed and replaced with handcuffs for general use.

Schedule 5 clause 13: replaced, on 17 September 2017, by regulation 21(4) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

*Handcuffs for escorting purposes**[Revoked]*

Heading: revoked, on 17 September 2017, by regulation 21(4) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

14 *[Revoked]*

Schedule 5 clause 14: revoked, on 17 September 2017, by regulation 21(4) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

15 *[Revoked]*

Schedule 5 clause 15: revoked, on 17 September 2017, by regulation 21(4) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

*Waist restraints*

Heading: inserted, on 9 August 2007, by regulation 6 of the Corrections Amendment Regulations (No 2) 2007 (SR 2007/192).

## 15A A waist restraint may only be used—

- (a) around a prisoner's waist; and
- (b) in conjunction with handcuffs of a type approved for general use.

Schedule 5 clause 15A: inserted, on 9 August 2007, by regulation 6 of the Corrections Amendment Regulations (No 2) 2007 (SR 2007/192).

Schedule 5 clause 15A(b): amended, on 17 September 2017, by regulation 21(5) of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

## 15B A waist restraint must not be fitted so as to cause undue discomfort to the prisoner.

Schedule 5 clause 15B: inserted, on 9 August 2007, by regulation 6 of the Corrections Amendment Regulations (No 2) 2007 (SR 2007/192).

*Spit hoods*

Heading: inserted, on 1 January 2010, by regulation 11(2) of the Corrections Amendment Regulations 2009 (SR 2009/374).

- 15C Spit hoods may only be used by a staff member with specialist training in the control and restraint of prisoners.

Schedule 5 clause 15C: inserted, on 1 January 2010, by regulation 11(2) of the Corrections Amendment Regulations 2009 (SR 2009/374).

*Defined terms*

- 16 In this schedule,—

**head protector** means an open-faced solid helmet designed to be worn by a prisoner to assist in preventing self-harm, and that has—

- (a) padding inside the helmet; and
- (b) an attaching strap

**spit hood** means a bag or face mask—

- (a) designed to be placed over a prisoner's face to prevent the prisoner from spitting at or biting a staff member; and
- (b) made of an open-mesh fabric that allows the prisoner to see and to breathe

**torso restraint** means a soft-belt restraint designed to immobilise a person's arms or legs

**waist restraint** means a belt—

- (a) designed to be worn around the prisoner's waist; and
- (b) to which the prisoner's wrists are secured by handcuffs that are attached or fastened to the belt.

Schedule 5 clause 16 **spit hood**: inserted, on 1 January 2010, by regulation 11(2) of the Corrections Amendment Regulations 2009 (SR 2009/374).

Schedule 5 clause 16 **tie-down bed**: revoked, on 6 December 2019, by regulation 8(6) of the Corrections Amendment Regulations 2019 (LI 2019/260).

Schedule 5 clause 16 **torso restraint**: replaced, on 6 December 2019, by regulation 8(7) of the Corrections Amendment Regulations 2019 (LI 2019/260).

Schedule 5 clause 16 **waist restraint**: inserted, on 9 August 2007, by regulation 6 of the Corrections Amendment Regulations (No 2) 2007 (SR 2007/192).

Schedule 5 clause 16 **wrist bed restraint**: revoked, on 6 December 2019, by regulation 8(6) of the Corrections Amendment Regulations 2019 (LI 2019/260).

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**Schedule 6**  
**Items and features of cells used for penalty of cell confinement**

r 157

**Part A**  
**Mandatory items and features**

A window that allows a complete view of the inside of the cell from a vantage point outside the door

Artificial lighting that is controlled only from the outside of the cell

Automatic fire detector

Furniture and fittings within the cell that are free from features that could facilitate self-harm (in particular hanging or garrotting)

Heating as appropriate for climatic conditions

Natural lighting

No privacy screening or any other barrier that prevents a full view of the cell from the door window

Raised sleeping platform

Fresh or conditioned air

**Part B**  
**Other items and features**

Running potable water

Intercom, alarm, or call button

Toilet

## Schedule 7 Disciplinary proceedings

r 152

### *Hearing adjudicators*

- 1 Before designating a hearing adjudicator under section 15(1) of the Act, or approving a person under section 15(3) of the Act, the chief executive must be satisfied that the employee of the department, or person (in the case of a contract prison),—
  - (a) has received adequate training in holding disciplinary hearings; and
  - (b) is competent to hold disciplinary hearings.
- 2 A designation or approval under clause 1 must be signed by the chief executive, and state—
  - (a) the staff member or person (in the case of a contract prison) to whom it relates; and
  - (b) its duration; and
  - (c) any restrictions or conditions to which it is subject.
- 3 The chief executive may revoke his or her designation or approval at any time, but must give written notice of the revocation to—
  - (a) the manager of the prison concerned; and
  - (b) the staff member or person (in the case of a contract prison) to whom it relates.
- 4 A hearing adjudicator may conduct a disciplinary hearing if, and only if, he or she—
  - (a) does not have direct responsibility for the day-to-day management of the prisoner charged with the disciplinary offence concerned; and
  - (b) is not reported to directly by the person prosecuting the offence.

### *Prisoner to be charged promptly*

- 5 A charge in respect of a disciplinary offence must be laid promptly after a staff member becomes aware of the act or omission alleged to constitute that disciplinary offence, unless the prisoner is the subject of an investigation under section 128(2)(b) of the Act or clause 50(b), in which case, the charge may be laid only after the investigation is complete.
- 6 A charge in respect of a disciplinary offence is laid when a staff member gives the prisoner who is the subject of the charge a written notice that includes the following:

- (a) a description of the incident or circumstances giving rise to the alleged offence;
- (b) a statement of the provision under which the prisoner is charged.

*Prisoner to be given other information*

- 7 A prisoner who is charged with a disciplinary offence must be given, in a separate document from the notice referred to in clause 6, a written notice that includes the information specified in clause 8 either—
- (a) at the same time as the charge is laid; or
  - (b) reasonably promptly after the charge is laid.
- 8 The information referred to in clause 7 is a statement that,—
- (a) if the charge was not laid within 7 days after the date on which a staff member became aware of the act or omission alleged to constitute a disciplinary offence, the prisoner may apply under clause 10 for the charge to be dismissed; and
  - (b) if the charge is to be heard by a hearing adjudicator, the prisoner may apply under clause 11 for the charge to be dismissed if—
    - (i) the disciplinary hearing has not been adjourned, and the charge has not been heard within 14 days of being laid; or
    - (ii) the disciplinary hearing has been adjourned, and the charge has not been heard within 21 days of being laid; and
  - (c) the prisoner has no right to apply for the charge to be dismissed if it has been referred to a Visiting Justice; and
  - (d) if the alleged offence is an offence against section 129 of the Act and the disciplinary hearing has been adjourned to allow the prisoner to obtain an independent analysis of a urine sample or hair samples, certain time limits apply before the prisoner may apply to have the charge dismissed; and
  - (e) an inspector may dismiss a charge under clause 10 only if he or she is satisfied that the failure to lay the charge within the period specified in that clause was unreasonable in the circumstances; and
  - (f) an inspector may dismiss a charge under clause 11 only if he or she believes that the failure to hear the charge was unreasonable in the circumstances; and
  - (g) subject to Schedule 4 (which relates to prohibition orders), the prisoner may apply to the manager of the prison to have a person (other than another prisoner or a legal adviser) attend the hearing to be a support person for the prisoner; and



- (h) if the prisoner calls a witness, he or she must pay the witness' expenses unless the person holding the hearing orders otherwise under clause 39; and
- (i) provides information on the procedure that will be followed at the disciplinary hearing; and
- (j) explains the prisoner's right to seek legal assistance and legal representation at his or her own cost; and
- (k) the hearing may be delayed if clause 50 applies.

Schedule 7 clause 8(d): amended, on 22 September 2011, by regulation 30(1) of the Corrections Amendment Regulations 2011 (SR 2011/284).

*Charge to be heard reasonably promptly*

- 9 Every charge in respect of a disciplinary offence must be heard reasonably promptly, but the prisoner must be given sufficient time to enable the prisoner to prepare his or her defence.

*Charges may be dismissed in certain cases*

- 10 A prisoner charged with a disciplinary offence may apply to an inspector for the charge to be dismissed if the charge was not laid within 7 days after the date on which a staff member became aware of the act or omission alleged to constitute that offence.
- 11 A prisoner charged with a disciplinary offence may apply to an inspector for the charge to be dismissed if the hearing is to be conducted by a hearing adjudicator and—
- (a) the disciplinary hearing has not been adjourned, and the charge has not been heard within 14 days of being laid; or
  - (b) the disciplinary hearing has been adjourned, and the charge has not been heard within 21 days of being laid.

- 12 Clauses 9 to 11 are subject to clause 50.

- 13 Clause 14 applies if—

- (a) a prisoner has been charged with a disciplinary offence against section 129 or section 130(1) of the Act; and
- (b) a disciplinary hearing has been adjourned to allow the prisoner to obtain an independent analysis of a urine sample or hair samples.

Schedule 7 clause 13(b): amended, on 22 September 2011, by regulation 30(2) of the Corrections Amendment Regulations 2011 (SR 2011/284).

- 14 If this clause applies, the prisoner may not apply to an inspector under clause 11 unless 15 days or more have elapsed since the prisoner provided the hearing adjudicator responsible with the result of the independent analysis.

- 15 An inspector must not dismiss a charge, on an application under clause 10, unless satisfied that the failure to lay the charge within the period specified in that clause was unreasonable in the circumstances.
- 16 An inspector must not dismiss a charge, on an application under clause 11, unless satisfied that the failure to hear the charge within the period specified in clause 11 was unreasonable in the circumstances.
- 17 A prisoner who has applied for legal representation in respect of a charge laid against him or her may apply to an inspector to have the charge dismissed if—
- (a) the prisoner’s application for legal representation was accepted; and
  - (b) the prisoner was not advised within 14 days of the charge being laid, or within 21 days if an adjournment was agreed, that the charge was referred to a Visiting Justice.
- 18 An inspector must not dismiss a charge under clause 17 unless satisfied that the failure to advise the prisoner of the referral within the period specified in that clause was unreasonable in the circumstances.

*Assistance before hearing*

- 19 If a prisoner detained in a prison is preparing his or her defence in respect of a disciplinary offence, the manager of the prison—
- (a) must ensure that the prisoner is provided with paper and writing materials if the prisoner asks for those things; and
  - (b) as far as practicable in the circumstances, must facilitate contact between the prisoner and any adviser or assistant helping the prisoner prepare the defence (other than another prisoner).
- 20 Clause 19(b) is subject to Schedule 4 (which relates to prohibition orders).
- 21 A prisoner may contact his or her legal adviser for the purpose of assisting with the preparation of his or her defence.
- 22 The department is not liable for the cost of any legal assistance incurred—
- (a) in the preparation of a prisoner’s defence; or
  - (b) if legal representation of the prisoner at the hearing is permitted, in the provision of legal representation at the hearing.

*Prisoner must attend disciplinary hearing*

- 23 A prisoner charged with a disciplinary offence must attend the disciplinary hearing in respect of the charge.

- 24 The person conducting the hearing must use his or her best endeavours to ensure that a prisoner charged with a disciplinary offence understands and participates in the disciplinary hearing in respect of the charge.

*Staff members may conduct prosecutions*

- 25 A charge in respect of a disciplinary offence may be prosecuted by any staff member other than—
- (a) the manager of the prison concerned; or
  - (b) a staff member who is to be a witness at the disciplinary hearing in respect of the offence.

*Prisoner may have support person present at disciplinary hearing*

- 26 A prisoner detained in a prison who is charged with a disciplinary offence may apply to the manager of the prison to have any person (other than another prisoner or the prisoner's legal adviser) attend the disciplinary hearing in respect of the offence to be a support person for the prisoner.
- 27 Clause 26 does not affect the ability of a prisoner to apply to be legally represented at the hearing of a disciplinary offence.
- 28 Clause 26 is subject to Schedule 4 (which relates to prohibition orders).
- 29 A support person permitted to attend a disciplinary hearing must not speak unless invited to do so by the person conducting the hearing.
- 30 Any expenses incurred by a support person in attending a disciplinary hearing must be met by the prisoner concerned.

*Hearing of charge*

- 31 At the beginning of a disciplinary hearing in respect of a disciplinary offence, the charge must be read to the prisoner and the prisoner must be asked to plead.
- 32 If the prisoner pleads not guilty,—
- (a) the person prosecuting the offence must present the case against the prisoner, and must be given the opportunity to call witnesses; and
  - (b) the prisoner must be given the opportunity to present his or her case and to call witnesses on his or her behalf; and
  - (c) any witness (whether called by the person prosecuting the offence or the prisoner) may be cross-examined.
- 33 If the prisoner pleads not guilty and, after hearing all the evidence, the person holding the hearing finds that the case against the prisoner has been proved

- beyond reasonable doubt, the person holding the hearing must find the prisoner guilty of the offence.
- 34 If the prisoner pleads guilty or is found guilty, the person holding the hearing, subject to clause 35, may impose on the prisoner a penalty under section 137 of the Act (if the person is a Visiting Justice) or section 133 (if the person is a hearing adjudicator) of the Act.
- 35 Before imposing any penalty or postponing imposing a penalty, the person holding the hearing—
- (a) must give the prisoner the opportunity to make an explanation or plea in mitigation; and
  - (b) may invite any support person to speak.
- 36 If a penalty is imposed on a prisoner as a result of a disciplinary hearing, the person holding the hearing must promptly record and sign in the punishment book—
- (a) a statement of the nature of any offence for which a penalty is imposed, together with the name of the offender, the date of the offence, and the particulars of the penalty; and
  - (b) if the hearing is an appeal, the particulars and result of any appeal.
- 37 After the recording of any information required by clause 36, the manager of a prison must reasonably promptly—
- (a) forward a copy of the information recorded to the chief executive; and
  - (b) give the prisoner a copy of the finding and reasons; and
  - (c) notify the prisoner's commanding officer of the finding and reasons, if the prisoner is a service prisoner.

*Witness expenses*

- 38 Any expenses that a witness incurs in attending a disciplinary hearing must be met by the party who calls that witness.
- 39 However, the person holding the disciplinary hearing may order that a prisoner is not required to meet the expenses of his or her witness if—
- (a) the prisoner or the witness is transferred to another prison on or after the charge is laid; or
  - (b) it is unjust for the prisoner to meet those expenses in the circumstances.

*Adjournment of disciplinary hearings*

- 40 A person who is prosecuting a disciplinary offence, and a prisoner who is charged with that offence, may apply, before or during the disciplinary hearing, to have the disciplinary hearing adjourned.
- 41 A person who is holding a disciplinary hearing must adjourn the disciplinary hearing if—
- (a) he or she is satisfied that the prisoner who is charged with the disciplinary offence has not had a proper opportunity to prepare his or her defence; or
  - (b) he or she is satisfied that a material witness is not available to give evidence at the disciplinary hearing; or
  - (c) the prisoner is charged with a disciplinary offence against section 129 or section 130(1) of the Act and the prisoner wishes to obtain an independent analysis of a urine sample or hair samples.
- Schedule 7 clause 41(c): amended, on 22 September 2011, by regulation 30(3) of the Corrections Amendment Regulations 2011 (SR 2011/284).
- 42 A person who is holding a disciplinary hearing may adjourn the disciplinary hearing if all parties consent to the adjournment.
- 43 A hearing to decide whether a disciplinary hearing should be adjourned may be held by way of telephone conference, electronic device, or video link if the prisoner charged with the disciplinary offence, the person prosecuting the disciplinary offence, and the person holding the disciplinary hearing agree in writing to its being held in that manner.
- 44 If a hearing is held by way of telephone conference, electronic device, or video link, the person holding the hearing must record, in writing, the outcome of the hearing and notify, in writing, the prisoner charged with the disciplinary offence and the person prosecuting the disciplinary offence of the outcome.

*Notification of right of appeal*

- 45 A hearing adjudicator who finds a prisoner guilty of a disciplinary offence must promptly give the prisoner written notice of his or her right to request that the decision be referred by way of appeal to a Visiting Justice under section 136 of the Act.
- 46 The department is not liable for the cost of any legal assistance incurred—
- (a) in the preparation of a prisoner's appeal; or
  - (b) if legal representation of the prisoner at the appeal is permitted, in the provision of legal representation at the appeal.

*Punishment*

- 47 No penalty under section 133 or 137 of the Act may be imposed on a prisoner charged with a disciplinary offence unless—
- (a) a disciplinary hearing is held; and
  - (b) either the prisoner pleads guilty to the disciplinary offence or the prisoner is found guilty of that offence.
- 48 If a prisoner is charged with a disciplinary offence and is awaiting a disciplinary hearing,—
- (a) the prisoner retains the minimum entitlements referred to in section 69 of the Act; and
  - (b) the prisoner must not be punished at any time before the disciplinary hearing has concluded.
- 49 No prisoner may be punished more than once for the same disciplinary offence.
- 50 Despite clause 34, a person holding a hearing must not make a decision as to whether a disciplinary charge against a prisoner is proven if—
- (a) the prisoner has been charged with a criminal offence relating to the same incident that gave rise to the alleged disciplinary offence; or
  - (b) the manager is awaiting advice from the Police as to whether the prisoner will be charged with a criminal offence relating to that incident.
- 51 A disciplinary hearing in respect of a prisoner to whom clause 50 applies may be continued only if the Police notify the manager of the prison that the prisoner will not be charged with a criminal offence.

*Legal representation*

- 52 Where an application for legal representation has been accepted—
- (a) the charge must be referred to a Visiting Justice; and
  - (b) the prisoner must be advised of the referral within 14 days of the charge being laid, or within 21 days if an adjournment was agreed.
- 53 A hearing adjudicator who makes a decision declining a prisoner's application for legal representation must promptly give the prisoner written notice of the prisoner's right to appeal that decision to a Visiting Justice.

## Schedule 8 Drug and alcohol testing forms

rr 133, 139, 140

### Form 1 Information to prisoner supplying urine sample

r 133

*Section 124, Corrections Act 2004*

Name:

PRN:

Driver licence No:

- 1 You are required to give a sample of urine under section 124 of the Corrections Act 2004 (the **Act**).

#### REASON FOR TEST

\*() **Random**

Your name has been selected under—

- \*() (a) the general random testing programme; or  
\*() (b) the temporary release and removal programme; or  
\*() (c) the identified drug user (IDU) programme; or

\*() **Reasonable grounds**

The prison manager, or a staff member authorised for the purpose, suspects on reasonable grounds that—

- \*() (a) you have used a drug, smoked any substance, or consumed alcohol; or  
\*() (b) while on temporary release under section 62 of the Act, or during any period of temporary removal under that section and in breach of a condition imposed on your release or in respect of your removal, you have used a drug or consumed alcohol,—

without the authority of a medical officer or health centre manager; or

\*() **Voluntary participant**

\*() You are a voluntary participant in a programme, regime, or custodial arrangement that has as one of its aims the reduction of drug and alcohol use to which section 124(2)(c) of the Act applies.

\*() **Contaminated sample**

\*() You submitted to a prescribed procedure under section 124 of the Act by supplying a sample and the prison manager believes, on reasonable grounds, that the sample supplied was dilute, tainted, or otherwise contaminated.

\*Tick if applicable.

- 2 The sample will be collected in the presence of 2 or more designated collection officers, or a combination of 1 or more designated collection officers and staff members who are medical officers or nurses.
- 3 You will be required to provide a sample of at least 30 ml of urine into a sterile container provided to you. You must provide this sample immediately if possible. If you are unable to supply an adequate sample immediately, you will be given up to 3 hours and will be provided with water during that period.
- 4 You may be required to wash your hands immediately before, or wear gloves while, providing the sample. Failure to do so could result in a charge under section 128 or section 129 of the Act (disciplinary offence).
- 5 You may also be required to submit to a search if necessary to ensure that you do not dilute, contaminate, or otherwise tamper with the sample.
- 6 Any attempt to dilute, contaminate, or otherwise tamper with the sample could result in a charge under section 128 or section 129 of the Act (disciplinary offence).
- 7 Not providing an adequate sample could result in a charge under section 128 or section 129 of the Act of refusing or failing to submit to a test (disciplinary offence).
- 8 The penalties for diluting, contaminating, or otherwise tampering with a sample, or for failing or refusing to submit to a test are the same as the penalties for a positive test.
- 9 The prisoner urine sample form (form 2) will be completed in your presence. You will be asked to sign that form, and you will be given a copy.
- 10 The sample will be divided into 2 parts by pouring it, in your presence, into 2 sample bottles. These will be known as samples A and B.
- 11 The 2 samples will be sent to a laboratory where sample A will be tested.
- 12 Sample A will first be subjected to a screening test. If the screening test shows a positive result the sample will be tested again using a different method to confirm the first result.
- 13 You will be given a copy of the test result for sample A.
- 14 You may be charged with an offence against discipline under section 128 or section 129 of the Act if your sample proves positive for drugs or alcohol unless it is found that you were authorised to use a drug or consume alcohol by a medical officer or health centre manager.
- 15 Sample B will be retained by the laboratory in case you want to have an independent test done because you do not agree with the results of the test done on Sample A.
- 16 You will have 48 hours after being advised of the results of the test done on sample A to elect to have sample B tested independently.



- 17 You will have to pay in advance for sample B to be tested. You will only be reimbursed if the sample B test results do not uphold the sample A results.
- 17A You will have 14 days (after the close of the day on which the 48 hours expires) to arrange and pay for sample B to be tested independently.
- 18 You will have 21 days (after the close of the day on which the 48 hours expires) to produce the result of the sample B tests.

Signature of prisoner:

Date:

Prisoner copy:

CPO copy:

Schedule 8 form 1: amended, on 4 June 2013, by regulation 25(1) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Schedule 8 form 1: amended, on 4 June 2013, by regulation 25(2) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Schedule 8 form 1: amended, on 4 June 2013, by regulation 25(3) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Schedule 8 form 1: amended, on 4 June 2013, by regulation 25(4) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Schedule 8 form 1: amended, on 4 June 2013, by regulation 25(5) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Schedule 8 form 1: amended, on 4 June 2013, by regulation 25(6) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Schedule 8 form 1: amended, on 4 June 2013, by regulation 25(7) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Schedule 8 form 1: amended, on 4 June 2013, by regulation 25(8) of the Corrections Amendment Regulations 2013 (SR 2013/197).

Schedule 8 form 1: amended, on 22 September 2011, by regulation 31(1) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Schedule 8 form 1: amended, on 22 September 2011, by regulation 31(2) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Schedule 8 form 1: amended, on 22 September 2011, by regulation 31(3) of the Corrections Amendment Regulations 2011 (SR 2011/284).

Form 1A  
Information to prisoner supplying hair samples

r 143E

*Section 124, Corrections Act 2004*

Name:

PRN:

Driver licence No:

1 Hair samples are required to be taken from you under section 124 of the Corrections Act 2004 (the **Act**) because—

- \*() (a) you were required under section 124 of the Act to provide a urine sample and failed to provide the sample; or
- \*() (b) you were required under section 124 of the Act to provide a urine sample, and the prison manager believes, on reasonable grounds, that the sample you provided is dilute, tainted, or otherwise contaminated; or
- \*() (c) you would otherwise be required under section 124 of the Act to provide a urine sample but the officer believes, on reasonable grounds, that you would fail to provide the urine sample, or that any sample provided would be dilute, tainted, or otherwise contaminated.

\*Tick if applicable.

- 2 The samples will be taken by a designated collection officer in the presence of a designated collection officer or staff member.
- 3 Two samples of hair will be taken from you, each around 7 mm thick and about the width of an HB pencil and at least 20 mm long.
- 4 Both hair samples will be cut from your head where possible and as close to the scalp as possible.
- 5 If sufficient hair samples cannot be taken from your head, both samples will be taken from another part of your body in accordance with the procedure set out in the regulations.
- 6 You may also be required to submit to a search for the purpose of detecting any agent or substance that might be used to tamper with a sample (for example by adulteration or substitution of the sample).
- 7 Any attempt to adulterate a sample or substitute another sample could result in a charge under section 128 or 129 of the Act (disciplinary offence).
- 8 Failing to allow an adequate sample to be taken from you could result in a charge under section 128 or 129 of the Act of refusing or failing to submit to a test (disciplinary offence).
- 9 The penalties for tampering with a sample or for failing or refusing to submit to a test are the same as the penalties for a positive test.

- 10 The prisoner hair sample form (form 2A) will be completed in your presence. You will be asked to sign that form, and you will be given a copy.
- 11 The 2 samples will be sent to a laboratory where sample A will be tested.
- 12 You will be given a copy of the test result for sample A.
- 13 You may be charged with an offence against discipline under section 128 or 129 of the Act if your sample proves positive for drugs or alcohol unless it is found that you were authorised to use a drug or consume alcohol by a medical officer.
- 14 Sample B will be retained by the laboratory in case you want to have an independent test done because you do not agree with the results of the test done on sample A.
- 15 You will have 48 hours after being advised of the results of the test done on sample A to elect to have sample B tested independently.
- 16 You will have to pay in advance for sample B to be tested. You will only be reimbursed if the sample B test results do not uphold the sample A results.
- 17 You will have 14 days after the close of the day on which the 48 hours expires to pay for and dispatch sample B.
- 18 You will have 21 days (after the close of the day on which the 48 hours expires) to produce the result of the sample B tests.

Signature of prisoner:

Date:

Prisoner copy:

CPO copy:

Schedule 8 form 1A: inserted, on 22 September 2011, by regulation 33 of the Corrections Amendment Regulations 2011 (SR 2011/284).

Schedule 8 form 1A: amended, on 17 September 2017, by regulation 22 of the Corrections Amendment Regulations (No 2) 2017 (LI 2017/242).

Form 2

r 139

Prisoner urine sample form  
(Part A)

Prisoner PRN No: Prison ID:	<b>Specimen identification No:</b> (number allotted by laboratory to sample bottles)	
<b>Names of persons supervising provision of sample:</b>		
..... [name]	[signature]	[designation]
..... [name]	[signature]	[designation]
..... [name]	[signature]	[designation]
<b>Urine specimen:</b> Date provided by prisoner: .....		
Temperature is within the range 90–100°F      Y/N		Time: ..... Reason to test: .....
<b>Acknowledgment by prisoner:</b> I acknowledge that the urine samples accompanying this form are my own		
<b>Prisoner signature:</b> .....		
<b>Kit packed and checked by:</b> ..... [name]		[signature]
(To laboratory) <b>Test requested:</b> Core drug screen:..... Other (specify):		

Specimen receipt at laboratory  
(Part B)

<b>Laboratory reference No:</b>	<b>Reject sample if any of the following apply:</b> <i>*Tick if applicable</i>
Kit received/seal broken and contents checked by:	*( ) Sample ID on form and bottles do not match
Name:	*( ) Sample unlabelled
Date:	*( ) Signature/s of supervisor/s omitted from sample bottle, security labels, and/or this form
Signature:	*( ) Sample bottle/s security label/s broken or shows evidence of tampering
	*( ) Sample temperature not within range
	*( ) Sample show obvious adulteration
	*( ) Sample volume is insufficient

  

Reason sample handled	Released by: signature— print name	Received by: signature—print name	Date

**Sample A**

Analysis is completed by .....[*name*] on ..... [*date*]

Result forwarded to prison by ..... [*name*] on ..... [*date*]

Sample destroyed (after 2 months) by ..... [*name*] on ..... [*date*]

**Sample B** (to be completed for positive results)

Sample stored on ..... [*date*]

Upon prisoner's request, sample dispatched to ..... [*name of laboratory*] for independent analysis

Sample destroyed (after 6 months) by ..... [*name*] on ..... [*date*]

Schedule 8 form 2: amended, on 22 September 2011, by regulation 32 of the Corrections Amendment Regulations 2011 (SR 2011/284).

## Form 2A

r 143I

***Prisoner hair sample form  
(Part A)***

Prisoner PRN No:

Prison ID:

Specimen identification No: [*number allocated by laboratory to sample envelopes*]**Name of person taking hair samples**

Name:

Signature:

Designation:

**Name of person supervising taking of samples**

Name:

Signature:

Designation:

**Hair samples**

Date provided by prisoner:

Time:

Reason to test:

**Acknowledgement by prisoner**

I acknowledge that the hair samples accompanying this form are my own.

Signature of prisoner:

**Specimen bag packed and checked by:**

Name:

Signature:

**To laboratory: test requested**Core drug screen: [*name*]Other: [*specify*]

***Specimen receipt at laboratory  
(Part B)***

**Laboratory reference No:**

Specimen bag received/seal broken and contents checked by: *[name]*

Date:

Signature:

**Reject sample if any of the following apply:**

- \*() Sample ID on form and envelopes do not match
- \*() Sample unlabelled
- \*() Signature of supervisor omitted from sample envelope, security labels, or this form
- \*() Sample envelope security label broken or shows evidence of tampering
- \*() Sample shows obvious adulteration
- \*() Sample amount is insufficient

*\*Tick if applicable.*

<b>Reason sample handled</b>	<b>Released by: signature—print name</b>	<b>Received by: signature—print name</b>	<b>Date</b>

**Sample A**

Analysis is completed by *[name, date]*

Result forwarded to prison by *[name, date]*

Residue of sample destroyed by *[name, date]*

**Sample B (to be completed for positive results)**

Sample stored on *[date]*

Upon prisoner's request, sample dispatched to *[name of laboratory]* for independent analysis

Residue of sample destroyed (after 6 months) by *[name], [date]*

Schedule 8 form 2A: inserted, on 22 September 2011, by regulation 34 of the Corrections Amendment Regulations 2011 (SR 2011/284).





Diane Morcom,  
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.  
Date of notification in *Gazette*: 10 March 2005.

## Notes

### 1 *General*

This is a consolidation of the Corrections Regulations 2005 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### 2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### 3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### 4 *Amendments incorporated in this consolidation*

Corrections Amendment Regulations 2022 (SL 2022/23) (as amended by Corrections Amendment Regulations 2022 Amendment Regulations 2022 (SL 2022/77))

Water Services Act 2021 (2021 No 36): section 206(2)

Corrections Amendment Regulations 2019 (LI 2019/260)

Corrections Amendment Act 2019 (2019 No 57): Part 2

Children's Amendment Act 2018 (2018 No 58): section 10(2)

Corrections Amendment Regulations (No 2) 2017 (LI 2017/242)

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): section 149

Corrections Amendment Regulations 2017 (LI 2017/113)

Standards and Accreditation Act 2015 (2015 No 91): section 45(2)

Corrections Amendment Regulations (No 2) 2013 (SR 2013/489)

Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409): regulation 3(2)

Corrections Amendment Regulations 2013 (SR 2013/197)

Corrections Amendment Regulations 2012 (SR 2012/310)

Criminal Procedure Act 2011 (2011 No 81): section 413

Corrections Amendment Regulations 2011 (SR 2011/284)

Corrections (Contract Management of Prisons) Amendment Act 2009 (2009 No 59): section 8(2)

Corrections Amendment Regulations 2009 (SR 2009/374)

Immigration Act 2009 (2009 No 51): section 406(2)

Corrections (Mothers with Babies) Amendment Act 2008 (2008 No 88): section 7  
Corrections Amendment Regulations 2008 (SR 2008/371)  
Policing Act 2008 (2008 No 72): section 116(a)(ii)  
Court Martial Act 2007 (2007 No 101): section 87  
Court Martial Appeals Amendment Act 2007 (2007 No 99): section 35  
Independent Police Conduct Authority Amendment Act 2007 (2007 No 38): section 27(2)  
Corrections Amendment Regulations (No 3) 2007 (SR 2007/259)  
Corrections Amendment Regulations (No 2) 2007 (SR 2007/192)  
Corrections Amendment Regulations 2007 (SR 2007/168)