



## Corrections Amendment Act 2019

Public Act 2019 No 57  
Date of assent 28 October 2019  
Commencement see section 2

### Contents

		Page
1	Title	3
2	Commencement	3
3	Principal Act	4
<b>Part 1</b>		
<b>Amendments to principal Act</b>		
4	Section 3 amended (Interpretation)	4
5	Section 10 amended (Delegation of powers and functions of chief executive)	4
6	New section 19B inserted (Delegation of powers and functions of health centre managers)	5
	19B Delegation of powers and functions of health centre managers	5
7	Section 42 amended (Certain information to be given to recently received prisoners)	5
8	Section 49 amended (Prisoners must be assessed on reception and have needs addressed)	5
9	Section 51 amended (Management plans)	6
10	Section 57 replaced (Segregation)	6
	57 Denial or restriction of prisoner's opportunity to associate with other prisoners	6
11	Section 60 amended (Segregation for purpose of medical oversight)	6
12	New sections 61A to 61H and cross-heading inserted	6

<i>Prisoners at risk of self-harm</i>		
61A	Ongoing assessment for risk of self-harm	6
61B	Initial steps that prison manager and health centre manager must take in respect of at-risk prisoner	6
61C	Confirmation of at-risk prisoner assessment	7
61D	At-risk management plan established	7
61E	Content of at-risk management plan	7
61F	Revocation of confirmed at-risk assessment	8
61G	Health centre manager must consult registered health professional if advice outside scope of practice	8
61H	Designation of at-risk cell	8
13	Section 77 amended (Outgoing telephone calls)	8
14	Section 81A amended (Request and approval for placement of child with mother)	9
15	New section 81AB inserted (Reconsideration of decision relating to child's placement)	9
	81AB Reconsideration of decision relating to child's placement	9
16	New sections 82A and 82B inserted	9
	82A Types of permitted accommodation	10
	82B No legitimate expectation as to conditions, etc	10
17	Section 87 amended (Restraint of prisoners)	10
18	Section 91 amended (Definition of scanner search)	10
19	Section 92 amended (Definition of x-ray search)	10
20	New sections 92A to 92D inserted	11
	92A Meaning of scanner search for purposes of this Act	11
	92B Meaning of imaging technology search	11
	92C Particular matters relating to imaging technology searches	11
	92D Particular restrictions when imaging technology search used as alternative to strip search	12
21	Section 93 amended (Restrictions on internal examinations)	12
22	Section 94 amended (Restrictions on searches)	12
23	Section 96 amended (Authority to search property)	12
24	Section 97 amended (Use of dogs for searching)	13
25	Section 98 amended (Search of prisoners and cells)	13
26	Section 99 amended (Search of persons other than prisoners)	13
27	Section 104 amended (General considerations relating to mail)	13
28	Section 108 amended (Withholding mail)	14
29	Section 117 amended (Authorised disclosure of information)	14
30	Section 118 amended (Restrictions on disclosure of information)	14
31	Section 120 amended (Destruction of recordings)	14
32	Section 128 amended (Offences by prisoner)	14
33	Section 146 replaced (Contravention of section 110A or 118)	14
	146 Offences in relation to mail, information, and images	14

34	Section 202 amended (Regulations relating to safe custody of prisoners)	15
35	Section 203 amended (Regulations relating to treatment of prisoners)	15

## Part 2

### Consequential amendments to Corrections Regulations 2005

36	Amendments to Corrections Regulations 2005	15
37	Regulations 57 and 58 and cross-headings replaced	15
	<i>Prescribed segregation and at-risk facilities</i>	
57	Mandatory items, features, and standards for segregation accommodation and at-risk cells	15
	<i>Additional segregation and at-risk facilities</i>	
58	Additional segregation and at-risk facilities	15
38	Regulation 60 amended (Cells for prisoners at risk of self-harm)	16
39	Regulation 61 amended (Cells for the assessment of prisoners' mental health)	16
40	Regulation 63 replaced (Prisoners at risk of self-harm)	16
63	Prisoners at risk of self-harm	16
41	Regulation 66 replaced (Individual cells)	17
66	Individual cells and shared cells	17
42	Regulation 196 revoked (No legitimate expectation as to conditions, etc)	17
43	Schedule 2 amended	17
44	Schedule 3 amended	18

### The Parliament of New Zealand enacts as follows:

#### 1 Title

This Act is the Corrections Amendment Act 2019.

#### 2 Commencement

- (1) Sections 4(1), 7, 8, 10, 11, 12, 25(1) to (3), 37, 38, 39, 40, and 43 come into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates.
- (2) Any provision specified in subsection (1) that has not earlier been brought into force comes into force on the date that is 6 months after the date on which this Act receives the Royal assent.
- (3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

### 3 Principal Act

This Act amends the Corrections Act 2004 (the **principal Act**).

## Part 1 Amendments to principal Act

### 4 Section 3 amended (Interpretation)

(1) In section 3(1), definition of **drug**, after paragraph (b), insert:

(c) a psychoactive substance within the meaning of section 9 of the Psychoactive Substances Act 2013

(2) In section 3(1), insert in their appropriate alphabetical order:

**at-risk assessment** means, in relation to a prisoner, an assessment of the prisoner's risk of self-harm made under section 49(2) or 61A

**at-risk cell** means a cell that has been designated as an at-risk cell under section 61H

**at-risk management plan**, in relation to a prisoner, means the plan established for that prisoner under section 61D

**at-risk prisoner** means a prisoner who has received an at-risk assessment indicating that the prisoner is at risk of self-harm and the at-risk assessment has not been reversed or revoked

**Director-General of an intelligence and security agency** has the same meaning as in section 4 of the Intelligence and Security Act 2017

**imaging technology search** has the meaning given to that term in section 92B

**intelligence and security agency** has the same meaning as in section 4 of the Intelligence and Security Act 2017

**rub-down search** has the meaning given to that term in section 89

**scanner search** has the meaning given to that term in section 92A

**scope of practice** has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

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

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

**strip search** has the meaning given to that term in section 90

### 5 Section 10 amended (Delegation of powers and functions of chief executive)

After section 10(g), insert:

(gaa) the power under section 81AB to reconsider a decision refusing approval for a placement, or ending the placement, of a child; or

**6 New section 19B inserted (Delegation of powers and functions of health centre managers)**

After section 19A, insert:

**19B Delegation of powers and functions of health centre managers**

- (1) A health centre manager may, either generally or particularly, delegate any of the powers and functions of the health centre manager under this Act or regulations made under this Act to a person specified in subsection (2) or (3).
- (2) In the case of a health centre manager appointed to a corrections prison that is not a contract prison, the delegation may be made to a registered health professional who is an employee of the department.
- (3) In the case of a health centre manager appointed to a contract prison, the delegation may be made to a registered health professional who is an employee of the contractor (or subcontractor, within the meaning of section 199C) that manages the contract prison.
- (4) Section 13(2) and (5) to (7) applies to a delegation under this section, and any reference in those provisions to a prison manager is taken to be a reference to a health centre manager.

**7 Section 42 amended (Certain information to be given to recently received prisoners)**

- (1) Replace section 42(1) with:
  - (1) The manager of a prison must ensure that, on the reception of a prisoner, or reasonably promptly after the prisoner is received, the prisoner is given, in writing, relevant and sufficient information about—
    - (a) the operation of the prison; and
    - (b) the rules of the prison made under section 33; and
    - (c) the rules about authorised property made under section 45A; and
    - (d) the entitlements of prisoners; and
    - (e) offences against discipline under sections 128 to 131; and
    - (f) the complaints system operating at the prison.
- (2) After section 42(2), insert:
- (3) The manager of a prison must, as far as is practicable, also provide the information and advice in a form and language that are accessible and appropriate to the prisoner.

**8 Section 49 amended (Prisoners must be assessed on reception and have needs addressed)**

In section 49, insert as subsection (2):

- (2) The assessment under subsection (1)(a) must include an at-risk assessment to determine whether the prisoner is at risk of self-harm.

**9 Section 51 amended (Management plans)**

After section 51(3), insert:

- (3A) A plan may comprise more than 1 document, and those documents may be kept in different physical or electronic locations.

**10 Section 57 replaced (Segregation)**

Replace section 57 with:

**57 Denial or restriction of prisoner's opportunity to associate with other prisoners**

The opportunity of a prisoner to associate with other prisoners must not be denied or restricted, except in accordance with this Act.

**11 Section 60 amended (Segregation for purpose of medical oversight)**

- (1) In section 60(1)(a), after "health", insert " , except against the risk of self-harm".
- (2) In section 60(1)(b), delete "(including, without limitation, the risk of self-harm)".
- (3) Replace section 60(5) and (6) with:
- (5) While a direction under this section is in force, the health centre manager must, unless he or she is satisfied that it is not necessary in the circumstances, ensure that a registered health professional visits the prisoner concerned at least once a day.

**12 New sections 61A to 61H and cross-heading inserted**

After section 61, insert:

*Prisoners at risk of self-harm*

**61A Ongoing assessment for risk of self-harm**

A prisoner who has been assessed, in accordance with section 49(2), as not at risk of self-harm or whose at-risk assessment has been revoked must be re-assessed if there are material changes in the prisoner's circumstances that are relevant to the risk of self-harm.

**61B Initial steps that prison manager and health centre manager must take in respect of at-risk prisoner**

The initial steps that must be taken in respect of an at-risk prisoner are—

- (a) the prison manager must ensure that the prisoner is promptly placed in an at-risk cell or alternative accommodation that the prison manager considers adequate to protect the prisoner from self-harm; and
- (b) the prison manager must ensure that the prisoner is observed by an officer at the intervals that the prison manager specifies; and
- (c) the health centre manager must ensure that a registered health professional visits the prisoner at least twice per day (unless the health centre manager is satisfied that it is not necessary in the circumstances).

#### **61C Confirmation of at-risk prisoner assessment**

- (1) The prison manager must, in respect of an at-risk prisoner, obtain the advice of the health centre manager within 24 hours after the prisoner's at-risk assessment.
- (2) After considering the advice, the prison manager must—
  - (a) reverse the at-risk assessment, if the prison manager considers that the prisoner is not at risk of self-harm; or
  - (b) confirm the at-risk assessment, if the prison manager considers that the prisoner is at risk of self-harm.

#### **61D At-risk management plan established**

- (1) If a prison manager confirms a prisoner's at-risk assessment, the prison manager must ensure that an at-risk management plan is established for the prisoner as soon as practicable.
- (2) The plan must be established in consultation with—
  - (a) the health centre manager; and
  - (b) any other person within or outside the department that the prison manager considers has relevant expertise or knowledge.

#### **61E Content of at-risk management plan**

- (1) An at-risk management plan must specify—
  - (a) the restrictions (if any) on the opportunity of the prisoner to associate with other prisoners; and
  - (b) the steps to be taken to address the prisoner's risk of self-harm; and
  - (c) the situations in which the prisoner must be strip searched.
- (2) The plan may specify restrictions on the opportunity of the prisoner to associate with other prisoners only to the extent that those restrictions are necessary for the safety of the prisoner or the safety of other prisoners.
- (3) If the plan specifies restrictions on the opportunity of the prisoner to associate with other prisoners, the prison manager must ensure that—

- (a) the prisoner is promptly informed in writing of the reasons for the restrictions; and
  - (b) the chief executive is promptly informed in writing of the restrictions and of the reasons for those restrictions.
- (4) The chief executive may, at any time, revoke or modify a restriction on the opportunity of a prisoner to associate with other prisoners and amend the plan accordingly.
- (5) The plan must be revised as necessary at regular intervals, in accordance with any requirements prescribed by regulations made under this Act and any relevant instructions issued under section 196.

#### **61F Revocation of confirmed at-risk assessment**

- (1) The prison manager must revoke the confirmed at-risk assessment of an at-risk prisoner if the prison manager is satisfied, after obtaining the advice of the health centre manager, that the prisoner is no longer at risk of self-harm.
- (2) On the revocation of a prisoner's at-risk assessment by the prison manager, the at-risk management plan for that prisoner ends.

#### **61G Health centre manager must consult registered health professional if advice outside scope of practice**

A health centre manager must not give advice under section 61C or 61F in relation to a matter that is outside his or her scope of practice, unless the health centre manager has first consulted a registered health professional whose scope of practice includes the matter in question.

#### **61H Designation of at-risk cell**

- (1) The prison manager may designate a cell as an at-risk cell.
- (2) The designation must be in writing and may be revoked at any time.
- (3) An at-risk cell must have items and features, including items and features necessary for the safety of the prisoner, prescribed by regulations made under this Act and must meet prescribed standards.

### **13 Section 77 amended (Outgoing telephone calls)**

Replace section 77(6) with:

- (6) Every prisoner who makes an outgoing telephone call may be required to—
- (a) meet the cost of the call; or
  - (b) pay a fee set by the chief executive.
- (7) Despite subsection (6), a prisoner is not required to meet the cost of an outgoing telephone call or to pay a fee if this Act, or any regulations made under this Act, provides otherwise.



**14 Section 81A amended (Request and approval for placement of child with mother)**

- (1) After section 81A(5), insert:
- (5A) If the chief executive refuses approval for a child's placement under subsection (1), or ends a placement under subsection (5), the chief executive must—
- (a) provide reasons for the decision; and
  - (b) notify the prisoner in writing of the decision and the process for reconsideration of the decision.
- (2) In section 81A(6), replace “sections 81B and 81C” with “sections 81AB to 81C”.

**15 New section 81AB inserted (Reconsideration of decision relating to child's placement)**

After section 81A, insert:

**81AB Reconsideration of decision relating to child's placement**

- (1) At the request of the prisoner, the chief executive must reconsider a decision (the **decision**) under section 81A—
- (a) refusing approval for the child's placement (*see* section 81A(2)); or
  - (b) ending the child's placement (*see* section 81A(5)).
- (2) A request for reconsideration must be made within 14 days after the prisoner has been notified in writing of the decision.
- (3) The chief executive must reconsider the decision against the relevant criteria set out in section 81A, except that the chief executive is not required to repeat the steps set out in section 81A(4).
- (4) A decision is not suspended while it is being reconsidered.
- (5) On reconsideration of the decision, the chief executive may do any of the following:
- (a) affirm it;
  - (b) amend it;
  - (c) rescind it and substitute a different decision.
- (6) The chief executive must—
- (a) provide reasons for the outcome under subsection (5); and
  - (b) notify the prisoner in writing of the outcome.

**16 New sections 82A and 82B inserted**

After section 82, insert:

**82A Types of permitted accommodation**

Subject to any restrictions set out in this Act or regulations made under this Act, a prisoner may be accommodated in an individual cell, a shared cell, or a self-care unit.

**82B No legitimate expectation as to conditions, etc**

- (1) To avoid doubt, a prisoner does not have any legitimate expectation of—
  - (a) being accommodated in, or of being provided with, the same or similar conditions during the whole term of his or her sentence, period of remand, or other period of detention; or
  - (b) being provided with the same or similar programmes or opportunities during the whole term of his or her sentence, period of remand, or other period of detention.
- (2) Subsection (1) does not affect any entitlement conferred on a prisoner by this Act or regulations made under it.

**17 Section 87 amended (Restraint of prisoners)**

- (1) Replace section 87(5) with:
  - (5) A mechanical restraint must not be used on a prisoner for more than 24 hours at a time unless the use of the restraint for more than 24 hours—
    - (a) is authorised by the prison manager and is, in the opinion of a medical officer, necessary to protect the prisoner from self-harm; or
    - (b) is, in the case of a prisoner who has been temporarily removed to a hospital outside the prison for treatment, necessary to prevent the escape of the prisoner or to maintain public safety.
- (2) In section 87(5A), replace “(5)” with “(5)(a)”.
- (3) Replace section 87(6) with:
  - (6) Despite subsections (1) to (5), chains or irons must not be fitted or attached to a prisoner in any circumstances.
- (7) In subsection (6), **chains or irons** does not include handcuffs.

**18 Section 91 amended (Definition of scanner search)**

- (1) In the heading to section 91, after “**search**”, insert “**for purposes of Public Safety (Public Protection Orders) Act 2014**”.
- (2) In section 91, replace “this Act” with “the Public Safety (Public Protection Orders) Act 2014”.

**19 Section 92 amended (Definition of x-ray search)**

- (1) In the heading to section 92, after “**search**”, insert “**for purposes of Public Safety (Public Protection Orders) Act 2014**”.

- (2) In section 92(1), replace “this Act” with “the Public Safety (Public Protection Orders) Act 2014”.
- (3) In section 92(2), after “x-ray search”, insert “under that Act”.

## **20 New sections 92A to 92D inserted**

After section 92, insert:

### **92A Meaning of scanner search for purposes of this Act**

- (1) For the purposes of this Act, **scanner search** means a search of a person and the person’s clothing or possessions using an electronic device (whether or not the device uses imaging technology) designed to identify the presence of unauthorised items that are concealed—
  - (a) in a person’s body:
  - (b) beneath or within clothing or possessions.
- (2) For the purpose of facilitating a scanner search under this Act, the person conducting the search may require the person being searched to—
  - (a) remove any item of outer clothing (including, without limitation, any jacket, jumper, or sweatshirt) that needs to be removed in order to carry out the search, except where the person being searched has no other clothing, or only underclothing, under that outer clothing:
  - (b) remove any head covering, gloves, footwear (including socks or stockings), belts, jewellery, or other accessories:
  - (c) comply with any other procedure that needs to be undertaken to carry out the search.

### **92B Meaning of imaging technology search**

For the purposes of this Act, **imaging technology search**—

- (a) means a scanner search that produces an image of the body or part of the body (whether external or internal) of the person being searched; and
- (b) includes, without limitation, a search using an x-ray machine or a body scanner.

### **92C Particular matters relating to imaging technology searches**

- (1) An image produced as a result of an imaging technology search must,—
  - (a) so far as practicable, avoid showing a clear image of the body beneath clothing; and
  - (b) obscure the genitals or make them not easily distinguishable if they are included in the image.
- (2) An image produced as a result of an imaging technology search must be retained only as long as is necessary to determine the presence of an unauthorised item.

- (3) Despite anything to the contrary in another enactment, a person who conducts an imaging technology search must not, without reasonable excuse, photograph or copy the image or provide the image to another person.

**92D Particular restrictions when imaging technology search used as alternative to strip search**

- (1) The restrictions in section 92C(1) do not apply where an imaging technology search is used as an alternative to a strip search under section 98(9).
- (2) However, an image that is produced using imaging technology—
- (a) may be viewed only by an officer or a constable of the same sex as the person who is searched; and
  - (b) may not be viewed by another prisoner.

**21 Section 93 amended (Restrictions on internal examinations)**

In section 93, replace “92” with “92B”.

**22 Section 94 amended (Restrictions on searches)**

- (1) Replace section 94(1) with:
- (1) The following searches may be carried out only by a person of the same sex as the person to be searched:
- (a) a rub-down search;
  - (b) a strip search;
  - (c) an imaging technology search that is used as an alternative to a strip search under section 98(9).
- (1A) A strip search must not be carried out in view of any person who is not of the same sex as the person to be searched.
- (2) In section 94(2), replace “strip search, or x-ray search”, with “or strip search”.

**23 Section 96 amended (Authority to search property)**

- (1) Replace section 96(1) with:
- (1) Authority conferred by this Act to conduct a scanner search of any person includes the authority to search—
- (a) any item carried by, or in the possession of, that person;
  - (b) any outer clothing removed for the purposes of the search;
  - (c) any head covering, gloves, footwear (including socks or stockings), belts, jewellery, or other accessories removed for the purposes of the search.
- (2) In section 96(3), delete “or x-ray search”.
- (3) In section 96(7), delete “or x-ray”.

**24 Section 97 amended (Use of dogs for searching)**

Replace section 97(3) with:

- (3) While any officer is using a dog for the purposes of searching any person, the officer who has control of the dog must take reasonable steps to prevent the dog from coming into physical contact with the person being searched.

**25 Section 98 amended (Search of prisoners and cells)**

- (1) After section 98(6)(b), insert:

- (ba) on the return of the prisoner to the prison after the prisoner has been outside the prison in the control of an officer, a probation officer, or a staff member who is not an officer:

- (2) Repeal section 98(7)(b).

- (3) Replace section 98(7A) and (7B) with:

- (7A) Every at-risk prisoner must be required to undergo a strip search conducted by an officer—

- (a) each time the prisoner enters an at-risk cell, until an at-risk management plan is established for the prisoner:
    - (b) in the situations set out in the at-risk management plan for the prisoner.

- (4) Replace section 98(9) with:

- (9) If a prisoner is required to undergo a strip search under this section, a scanner search may be undertaken as an alternative if the chief executive has approved the device as suitable for the purpose of replacing a strip search.

**26 Section 99 amended (Search of persons other than prisoners)**

After section 99(4), insert:

- (4A) Any person may be refused admission to a prison or part of the prison, refused access to a prisoner, or required to leave the prison or place where the prisoner is (as the case may be) if the person refuses to remove an item of outer clothing (on the grounds that the person has no other clothing, or only underclothing, under that outer clothing) for the purpose of a scanner search or a rub-down search.

**27 Section 104 amended (General considerations relating to mail)**

After section 104(f), insert:

- (g) the interests of victims:
    - (h) the potential impacts of the written material on persons beyond the intended recipient, including the potential for the sharing and publication of the material:
    - (i) the potential for messages to be disseminated through coded references.

**28 Section 108 amended (Withholding mail)**

- (1) In section 108(1)(d), replace “it is correspondence that the manager believes on reasonable grounds is likely to—” with “the manager believes on reasonable grounds that the correspondence may, directly or indirectly,—”.
- (2) In section 108(1)(d)(i), replace “a person to whom it is being sent by the prisoner” with “any person”.
- (3) After section 108(1)(d)(vi), insert:

(vii) promote or encourage hostility towards any group of persons on 1 or more of the grounds specified in section 21 of the Human Rights Act 1993.

**29 Section 117 amended (Authorised disclosure of information)**

Repeal section 117(7).

**30 Section 118 amended (Restrictions on disclosure of information)**

In section 118(1), delete “or in accordance with the Privacy Act 1993”.

**31 Section 120 amended (Destruction of recordings)**

- (1) In section 120(3), after “State Sector Act 1988”, insert “(except an intelligence and security agency)”.
- (2) After section 120(3), insert:
- (3A) The Director-General of an intelligence and security agency must ensure that every recording of a prisoner call held by the agency that was obtained by the monitoring of the call under this Act is destroyed, or completely erased, as soon as practicable if the recording is not required, or is no longer required, by the agency for the purpose of its functions.
- (3) In section 120(4), replace “(1) and (3)” with “(1), (3), and (3A)”.

**32 Section 128 amended (Offences by prisoner)**

After section 128(1)(n), insert:

- (o) tattoos another prisoner:
- (p) receives a tattoo with his or her consent:
- (q) tattoos himself or herself:
- (r) contacts a person in breach of a court order or direction of any court.

**33 Section 146 replaced (Contravention of section 110A or 118)**

Replace section 146 with:

**146 Offences in relation to mail, information, and images**

Every person who contravenes section 92C(3), 110A, or 118 commits an offence and is liable on conviction to a fine not exceeding \$2,000.

**34 Section 202 amended (Regulations relating to safe custody of prisoners)**

- (1) In section 202(g), delete “under section 58 or section 59 or section 60”.
- (2) In section 202(k), replace “x-ray” with “imaging technology”.

**35 Section 203 amended (Regulations relating to treatment of prisoners)**

After section 203(b), insert:

- (ba) prescribing matters that must be included in rehabilitative programmes, and different matters may be prescribed for different rehabilitative programmes and different classes of prisoners:

**Part 2****Consequential amendments to Corrections Regulations 2005****36 Amendments to Corrections Regulations 2005**

This Part consequentially amends the Corrections Regulations 2005.

**37 Regulations 57 and 58 and cross-headings replaced**

Replace regulations 57 and 58 and the cross-heading above each regulation with:

*Prescribed segregation and at-risk facilities*

**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.

*Additional segregation and at-risk facilities*

**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.

**38 Regulation 60 amended (Cells for prisoners at risk of self-harm)**

Replace regulation 60(1) and (2) with:

- (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.

**39 Regulation 61 amended (Cells for the assessment of prisoners' mental health)**

In regulation 61(1) and (2), delete “for reasons other than the risk or possible risk of self-harm”.

**40 Regulation 63 replaced (Prisoners at risk of self-harm)**

Replace regulation 63 with:

**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.

#### **41 Regulation 66 replaced (Individual cells)**

Replace regulation 66 with:

#### **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.

#### **42 Regulation 196 revoked (No legitimate expectation as to conditions, etc)**

Revoke regulation 196.

#### **43 Schedule 2 amended**

- (1) In the Schedule 2 heading, after “**prisoners**”, insert “**and prisoners at risk of self-harm**”.
- (2) In Schedule 2, Part A heading, replace “**the purposes of section 61 of the Act**” with “**cells for segregated prisoners**”.

**44 Schedule 3 amended**

- (1) In Schedule 3, Part A, replace the item relating to heating with:  
Heating appropriate to climatic conditions and suitable for the number of occupants and the daily regime
- (2) In Schedule 3, Part A, replace the item relating to privacy screening with:  
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)
- (3) In Schedule 3, Part A, replace the item relating to fresh or conditioned air with:  
Fresh or conditioned air suitable for the number of occupants and the daily regime
- (4) In Schedule 3, Part B, replace the item relating to heating with:  
Heating appropriate to climatic conditions and suitable for the number of occupants and the daily regime
- (5) In Schedule 3, Part B, replace the item relating to fresh or conditioned air with:  
Fresh or conditioned air suitable for the number of occupants and the daily regime
- (6) In Schedule 3, Part B, after the item relating to automatic fire detector, insert:  
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)

**Legislative history**

19 March 2018	Introduction (Bill 35–1)
29 March 2018	First reading and referral to Justice Committee
27 February 2019	Reported from Justice Committee
30 April 2019	Second reading
16 October 2019	Committee of the whole House (Bill 35–2)
22 October 2019	Third reading
28 October 2019	Royal assent

This Act is administered by the Department of Corrections.