



Corrections Amendment Regulations 2009

Anand Satyanand, Governor-General

Order in Council

At Wellington this 30th day of November 2009

Present:

His Excellency the Governor-General in Council

Pursuant to section 200 of the Corrections Act 2004, His Excellency the Governor-General, being satisfied of the matters specified in sections 85(3) and 87(3) of that Act and acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

- 1 Title**
These regulations are the Corrections Amendment Regulations 2009.
- 2 Commencement**
These regulations come into force on 1 January 2010.
- 3 Principal regulations amended**
These regulations amend the Corrections Regulations 2005.
- 4 Interpretation**
Regulation 3 is amended by inserting the following definition in its appropriate alphabetical order:
“**shared cell** means a cell shared by a prisoner with 1 or more other prisoners”.
- 5 Authorised property to be withheld from prisoners in certain circumstances**
Regulation 33(1) is amended by inserting the following paragraph after paragraph (b):
“(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:”.
- 6 Individual cells**
Regulation 66 is amended by revoking subclause (2) and substituting the following subclauses:
“(2) Despite subclause (1), a prisoner detained in a prison may be accommodated in a shared cell—

- “(a) if the manager believes that accommodating that prisoner in a shared cell—
 - “(i) will facilitate the management of a prisoner in the prison; or
 - “(ii) is necessary because of an emergency of any kind; or
 - “(b) in the circumstances described in subclause (2A).
- “(2A) The circumstances are that—
- “(a) the manager believes that accommodating that prisoner in a shared cell is necessary because a single cell is not reasonably available; and
 - “(b) the chief executive has issued instructions under section 196 of the Act for the purpose of ensuring that the use of shared cells is safe, secure, humane, and effective; and
 - “(c) the accommodation of that prisoner in a shared cell is in accordance with those instructions.”

7 **New regulation 120A inserted**

The following regulation is inserted after regulation 120:

“120A **Meaning of pepper spray**

In these regulations, **pepper spray** means an aerosol spray that—

- “(a) contains a pepper-based irritant to the eyes and respiratory passages (for example, oleoresin capsicum); and
- “(b) is designed for use as a disabling weapon.”

8 **Restrictions on carrying batons**

- (1) The heading to regulation 121 is amended by inserting “**or pepper spray**” after “**batons**”.
- (2) Regulation 121(1) and (2) are amended by inserting “or pepper spray” after “baton” in each place where it appears.
- (3) Regulation 121(3) is amended by inserting “or pepper spray” after “baton” in the first and second places where it appears.
- (4) Regulation 121(3)(b) is amended by adding “or pepper spray, as the case may be”.
- (5) Regulation 121(4) is amended by inserting “or pepper spray” after “batons” in the first place where it appears.

- (6) Regulation 121(4) is amended by inserting “or pepper spray, as the case may be,” after “batons” in the second place where it appears.

9 Issue and storage of batons

- (1) The heading to regulation 122 is amended by adding “**or pepper spray**”.
- (2) Regulation 122(1) is amended by inserting “and pepper spray” after “batons”.
- (3) Regulation 122(2) is amended by inserting “or pepper spray” after “batons” in the first place where it appears.
- (4) Regulation 122(2)(b) is amended by omitting “batons” and substituting “batons or pepper spray, as the case may be,”.
- (5) Regulation 122(3) is amended by inserting “and pepper spray” after “batons”.

10 Use of batons

- (1) The heading to regulation 123 is amended by adding “**or pepper spray**”.
- (2) Regulation 123 is amended by inserting “or pepper spray” after “baton” in each place where it appears.

11 Schedules 1 and 5 amended

- (1) Schedule 1 is amended in the manner set out in Part 1 of the Schedule of these regulations.
- (2) Schedule 5 is amended in the manner set out in Part 2 of the Schedule of these regulations.

**Schedule
Amendments to Schedules 1 and 5**

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Part 1

Amendment to Schedule 1

Part B: add:

“1 headphone, or 1 or 2 earphones, not combined with a microphone”.

Part 2 Amendments to Schedule 5

Clause 3: add:

“(j) spit hoods.”

Clause 5: omit “(i)” and substitute “(j)”.

Clause 6: omit “(i)” and substitute “(j)”.

Insert after clause 15B:

“Spit hoods

“15C Spit hoods may only be used by a staff member with specialist training in the control and restraint of prisoners.”

Clause 16: insert in its appropriate alphabetical order:

“**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”.

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

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

These regulations, which come into force on 1 January 2010, amend the Corrections Regulations 2005.

These regulations extend the circumstances in which cells can be shared by 2 or more prisoners, and regulate cell-sharing, by providing for the following:

- a prisoner may now be accommodated in a shared cell if the manager believes that to be necessary because a single cell is not reasonably available (rather than the existing requirement for a shortage of single cells that is temporary) provided that the accommodation of that prisoner in a shared cell complies

with instructions issued by the chief executive under section 196 of the Act for the purpose of ensuring that the use of shared cells is safe, secure, humane, and effective:

- a manager may withhold property from a prisoner in a shared cell if the presence of that property in that cell is a threat to the safety or welfare of any prisoner in that cell;
- a prisoner in a shared cell may be issued with, or allowed to keep, headphones as an item of authorised property.

The regulations also—

- implement a regime for the use of pepper spray as a non-lethal weapon in accordance with section 85 of the Corrections Act 2004; and
- authorise spit hoods as a mechanical restraint that may be used in prisons, in accordance with section 87 of the Corrections Act 2004, in a situation described in section 83(1) of that Act, and further regulate the use of spit hoods.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 3 December 2009.

These regulations are administered by the Department of Corrections.
