Corrections Amendment Act 2024

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Commencement	see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Corrections Amendment Act 2024.

2 Commencement

(1) This Act, except sections 11, 13, 19, 55 to 58, and 68, comes into force on the day after Royal assent.

(2) Sections 11, 13, 19, 55 to 58, and 68 come into force on a single date set by Order in Council.

(3) If sections 11, 13, 19, 55 to 58, and 68 have not come into force by the first anniversary of Royal assent, they come into force then.

(4) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

3 Principal Act

This Act amends the Corrections Act 2004.

Part 1
Amendments to principal Act

4 Section 3 amended (Interpretation)

(1) In section 3(1), definition of **offender**, replace paragraph (c)(i) with:

(i) an accused prisoner; or

(2) In section 3(1), definition of **official agency**, after paragraph (g), insert:

(ga) an advocate within the meaning of section 2(1) of the Health and Disability Commissioner Act 1994; or

(3) In section 3(1), replace the definition of **rehabilitative programme** with:

rehabilitative programme means a programme designed for offenders to reduce reoffending by facilitating their rehabilitation and reintegration into the community, for example, a medical, social, therapeutic, psychological, te ao Māori, cultural, educational, employment-related, religion-based, reintegrative, or rehabilitative programme

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

accused prisoner—

(a) means a prisoner detained only by reason of the fact that the prisoner is awaiting trial or is on remand in custody during the trial:

(b) does not include a prisoner who is on remand awaiting sentence

audio link means a facility (for example, a telephone) that enables audio communication between people in different places

audiovisual link means a facility that enables audio and visual communication between people in different places

intelligence purpose has the meaning given in section 127B

non-offence-based programme means a programme designed for persons under control or supervision to assist them to reintegrate into the community, for example, a medical, social, therapeutic, psychological, te ao Māori, cultural, educational, employment-related, religion-based, or reintegrative programme

remote access facility means any of the following:

(a) audio link:

(b) audiovisual link:

(c) visual link:

(d) any other facility that enables communication between people in different places

visual link means a facility that enables visual communication between people in different places.

5 New section 3A inserted (Transitional, savings, and related provisions)

After section 3, insert:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

6 Section 5 amended (Purpose of corrections system)

In section 5(1)(c), replace "their reintegration" with "the reintegration of persons under control or supervision".

7 Section 6 amended (Principles guiding corrections system)

After section 6(1)(h), insert:

(ha) accused prisoners may, so far as is reasonable and practicable in the circumstances within the resources available, be given access to activities including non-offence-based programmes to assist with their successful reintegration into the community:

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

After section 10(ga), insert:

(gb) the power under section 127K(1) to approve the monitoring of visits and the collection of information from communications during the visits; or

9 Section 41 amended (Collection of biometric information, etc, from prisoner)

(1) After section 41(1), insert:

(1A) An authorised intelligence person (as defined in section 127A) may, for an intelligence purpose,—

(a) take photographs of a prisoner:

(b) collect biometric information from a prisoner:

(c) take measurements from a prisoner:

(d) collect information by carrying out a prescribed procedure designed to create a record to enable the subsequent identification of a prisoner.

(2) In section 41(2), after "(1)(d)", insert "or (1A)(d)".

(3) In section 41(4), after "officer", insert "under subsection (1)".

(4) After section 41(4), insert:

(4A) Information that is collected or taken from a prisoner under subsection (1) or (1A) may be monitored, collected, used, or disclosed under subpart 4A of this Part.

10 Section 43 amended (Authorised property)

After section 43(3)(a)(iii), insert:

(iv) an at-risk prisoner; or

11 Section 51 amended (Management plans)

(1) Replace the heading to section 51 with "**Case management plans**".

(2) Replace section 51(1) with:

(1) This section applies to 1 or more classes of prisoners prescribed by regulations made under this Act.

(3) In section 51(2), replace "management plan" with "case management plan".

(4) In section 51(3), replace "any prescribed requirements" with "any requirements prescribed by regulations made under this Act".

(5) Replace section 51(4) with:

(4) Each case management plan must be consistent with the resources available to the chief executive to manage the prisoner.

12 Section 52 amended (Rehabilitative programmes)

In section 52, insert as subsections (2) and (3):

(2) The chief executive may, to the extent consistent with the resources available and any prescribed requirements or instructions issued under section 196, enable the provision of rehabilitative programmes to prisoners on remand awaiting sentence who, in the opinion of the chief executive, will benefit from those programmes.

(3) In deciding whether to enable the provision of programmes under subsection (2), the chief executive must consider the resources available to carry out the chief executive's obligation under subsection (1).

13 Section 54 amended (Reasons for transfer)

In section 54(1)(d), replace "management plan" with "case management plan".

14 Section 60 amended (Segregation for purpose of medical oversight)

After section 60(5), insert:

(6) As part of the visit referred to in subsection (5), the registered health professional must consider and advise the health centre manager of any matters relevant to a review of the continuing justification for a direction under this section.

15 Section 61A replaced (Ongoing assessment for risk of self-harm)

Replace section 61A with:

61A Ongoing assessment for risk of self-harm

A prisoner who has been assessed as not at risk of self-harm or whose at-risk assessment has been revoked must be reassessed if there are material changes in the prisoner's circumstances that are relevant to the risk of self-harm.

16 New section 61CA inserted (Prison manager may direct that at-risk prisoner's association with other prisoners be restricted or denied)

After section 61C, insert:

61CA Prison manager may direct that at-risk prisoner's association with other prisoners be restricted or denied

(1) A prison manager may direct that the opportunity of an at-risk prisoner to associate with other prisoners be restricted or denied if—

(a) the health centre manager of the prison recommends that a direction of that kind is desirable to address the prisoner's risk of self-harm; and

(b) the prison manager has confirmed the prisoner's at-risk assessment.

(2) The direction may restrict or deny the at-risk prisoner's opportunity to associate with other prisoners only to the extent that the restrictions or denial of opportunity are necessary for the safety of the at-risk prisoner.

(3) If the prison manager gives a direction under this section, the prison manager must ensure that—

(a) the at-risk prisoner is promptly informed in writing of the reasons for the direction, and any modification of the direction; and

(b) the chief executive is promptly informed in writing of the direction, and any modification of the direction, and the reasons for it.

(4) The prison manager or chief executive may, at any time, revoke or modify a direction under this section.

(5) However, the prison manager may not—

(a) revoke a restriction on, or the denial of, the opportunity of the at-risk prisoner to associate with other prisoners under this section unless the health centre manager advises that there has ceased to be any justification, under subsections (1) and (2), for the restriction or denial of opportunity; or

(b) modify a restriction unless the prison manager has taken into account the advice of the health centre manager.

(6) More than 1 direction may be given under this section while an at-risk management plan is in effect for the prisoner.

(7) If the direction is not earlier revoked under subsection (4), a prison manager must revoke a direction under this section when an at-risk management plan for the prisoner ends under section 61F(2).

(8) While a direction under this section is in force, the health centre manager must, unless the health centre manager 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.

(9) As part of the visit referred to in subsection (8), the registered health professional must consider and advise the health centre manager—

(a) of any matters relevant to the continuing justification for a direction under this section; and

(b) whether the prisoner's at-risk assessment should be reviewed.

17 Section 61E amended (Content of at-risk management plan)

(1) Replace section 61E(1)(a) with:

(a) whether any direction is in effect under section 61CA to restrict or deny the opportunity of the prisoner to associate with other prisoners; and

(2) Repeal section 61E(2), (3), and (4).

18 Section 61G amended (Health centre manager must consult registered health professional if advice outside scope of practice)

In section 61G, replace "section 61C or 61F" with "section 61C, 61CA, or 61F".

19 Section 81B amended (Parenting agreements)

In section 81B(d)(iv), replace "management plan" with "case management plan".

20 Section 85 amended (Use of non-lethal weapons)

(1) In the heading to section 85, replace "**non-lethal**" with "**less-lethal**".

(2) In section 85(1), (2), and (3), replace "non-lethal" with "less-lethal".

(3) After section 85(1), insert:

(1A) An officer may only use a less-lethal weapon prescribed for use in dealing with a prisoner who is passively resisting a lawful order in the situation described in section 83(1)(c)(ii) if the officer has reasonable grounds for believing there is an imminent threat of injury or harm to the prisoner or any other person.

(4) After section 85(3), insert:

(3A) The Minister must consider sufficient information relevant to the use of a less-lethal weapon to be satisfied of the matters in subsection (3).

(3B) The information must be provided to the Minister by the chief executive and may include, without limitation, the following:

(a) operational policies and procedures including, without limitation, those relating to the management of health impacts relating to the use of the weapon:

(b) training manuals:

(c) manufacturers' safety and operational information:

(d) any reports by domestic or international agencies that relate to the consistency of the use of the weapon with the humane treatment of prisoners.

(5) In section 85(4), replace "**non-lethal**" with "**less-lethal**".

21 Section 88 amended (Reporting on use of force, weapons, and mechanical restraints)

In section 88, replace "non-lethal" with "less-lethal".

22 Section 92A amended (Meaning of scanner search for purposes of this Act)

Replace section 92A(1) with:

(1) For the purposes of this Act, **scanner search** means—

(a) 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—

(i) in a person's body:

(ii) beneath or within clothing or possessions; or

(b) a search of a person using an electronic device (whether or not the device uses imaging technology) designed to measure a person's body temperature.

23 Section 92C amended (Particular matters relating to imaging technology searches)

Replace section 92C(2) with:

(2) An image produced as a result of an imaging technology search for the purpose of detecting any unauthorised item must be disposed of within 24 hours.

(2A) An image produced as a result of an imaging technology search for the purpose of measuring a person's body temperature must be disposed of within 1 hour.

24 Section 92D amended (Particular restrictions when imaging technology search used as alternative to strip search)

(1) In the heading to section 92D, after "**alternative to**", insert "**rub-down search or**".

(2) Replace section 92D(1) with:

(1) The restrictions in section 92C(1) do not apply if an imaging technology search is used as—

(a) an alternative to a rub-down search under section 98B(2); or

(b) an alternative to a strip search under section 98F.

25 Section 94 amended (Restrictions on searches)

Replace section 94(1)(c) with:

(c) an imaging technology search that is used as—

(i) an alternative to a rub-down search under section 98B(2); or

(ii) an alternative to a strip search under section 98F.

26 New section 94A inserted (Prisoner's preference in relation to searches)

After section 94, insert:

94A Prisoner's preference in relation to searches

(1) Despite sections 92D(2)(a) and 94(1) and (1A), if the chief executive has determined under regulations made under this Act that a prisoner is to be detained in a prison for male prisoners or a prison for female prisoners, the prisoner may choose the sex of a person who is to—

(a) carry out any specified search of the prisoner; or

(b) view any specified image of the prisoner; or

(c) be present during any strip search of the prisoner.

(2) Any specified search of the prisoner may only be carried out by a person of the sex chosen by the prisoner, unless there are reasonable grounds for not complying with this subsection.

(3) Any specified image of the prisoner may only be viewed by an officer or constable of the sex chosen by the prisoner, unless there are reasonable grounds for not complying with this subsection.

(4) A strip search of the prisoner must not be carried out in view of any person who is not of the sex chosen by the prisoner, unless there are reasonable grounds for not complying with this subsection.

(5) For the purposes of this section,—

specified image means an image that is produced using imaging technology, if imaging technology is used as—

(a) an alternative to a rub-down search under section 98B(2); or

(b) an alternative to a strip search under section 98F

specified search means the following:

(a) a rub-down search:

(b) a strip search:

(c) an imaging technology search that is used as—

(i) an alternative to a rub-down search under section 98B(2); or

(ii) an alternative to a strip search under section 98F.

27 Section 96 amended (Authority to search property)

In section 96(1), after "scanner search", insert "(as defined in section 92A(1)(a))".

28 Section 98 replaced (Search of prisoners and cells)

Replace section 98 with:

98 Search of cells

(1) An officer may conduct a search of any cell in a prison, at any time, for the purpose of detecting any unauthorised item.

(2) Nothing in this section limits or affects any power or authority to search or inspect any cell in any prison for any purpose relating to the security of the prison.

98A Scanner search of prisoners

Detecting unauthorised item

(1) An officer may conduct a scanner search (as defined in section 92A(1)(a)) of any prisoner, at any time, for the purpose of detecting any unauthorised item.

Measuring body temperature

(2) An officer may conduct a scanner search (as defined in section 92A(1)(b)) of any prisoner for the purpose of measuring the prisoner's body temperature to ascertain any risk that they may be carrying a communicable disease.

(3) A scanner search under subsection (2) may only be carried out in accordance with an authorisation under section 103AAA.

98B Rub-down search of prisoners

(1) An officer may conduct a rub-down search of any prisoner, at any time, for the purpose of detecting any unauthorised item.

(2) An officer may conduct an imaging technology search of any prisoner as an alternative to a rub-down search if the chief executive has approved the device used in the imaging technology search as suitable for the purpose of replacing a rub-down search.

98C Strip search of prisoner required in specified circumstances

(1) Every prisoner must be required to undergo a strip search conducted by an officer—

(a) on first being admitted to a prison; and

(b) on being received in a prison on transfer from another prison.

(2) 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.

(3) Subsection (2)(a) does not apply if—

(a) a strip search has been conducted under subsection (1) or section 98D(1); and

(b) the prisoner has been supervised by an officer since the strip search was conducted; and

(c) an officer (who may be the same officer as under paragraph (b) or a different officer) considers a strip search under subsection (2)(a) to be unnecessary.

98D Strip search of prisoner for purpose of detecting unauthorised item

(1) An officer may conduct a strip search of a prisoner if the officer—

(a) has reasonable grounds for believing that the prisoner has in their possession an unauthorised item; and

(b) has obtained the manager's approval for the conduct of a strip search.

(2) The power to conduct a strip search of a prisoner under subsection (1) may only be exercised—

(a) for the purpose of detecting any unauthorised item; and

(b) if a strip search is necessary in the circumstances for the purpose of detecting an unauthorised item.

(3) Despite subsection (1)(b), it is not necessary to obtain the approval of a prison manager for the conduct of a strip search if the delay involved in obtaining the

approval would endanger the health or safety of any person or prejudice the maintenance of security at the prison.

98E Strip search of prisoner for purpose of detecting use of drugs or alcohol

(1) This section applies to a prisoner who is required under section 124 (other than in the situation referred to in section 124(2)(d)) to submit to a prescribed procedure for the purpose of detecting whether the prisoner has used drugs or consumed alcohol, or both.

(2) Immediately before the prisoner supplies a sample in accordance with the prescribed procedure, the prisoner may be required to undergo a strip search conducted by an officer.

(3) A strip search of the prisoner may only be required under subsection (2) if—

(a) the nature of the prescribed procedure is such that there is a risk that the prisoner may dilute, contaminate, or otherwise tamper with the sample; and

(b) a strip search is necessary to ensure that such dilution, contamination, or tampering does not occur.

98F Imaging technology search may be alternative to strip search

An officer may conduct an imaging technology search of any prisoner as an alternative to a strip search under this Act if the chief executive has approved the device used in the imaging technology search as suitable for the purpose of replacing a strip search.

29 Section 99 amended (Search of persons other than prisoners)

Replace section 99(1) with:

(1) A person who wishes to enter a prison or to visit a prisoner may, before being admitted to the prison or before being allowed access to any prisoner, be required to undergo the following:

(a) a scanner search (as defined in section 92A(1)(a)) conducted by an officer for the purpose of detecting any unauthorised item:

(b) a scanner search (as defined in section 92A(1)(b)) conducted by an officer for the purpose of measuring the person's body temperature to ascertain any risk that they may be carrying a communicable disease.

(1A) A scanner search under subsection (1)(b) may only be carried out in accordance with an authorisation under section 103AAA.

30 New section 103AAA inserted (Scanner search authorised to ascertain risk of communicable disease)

After section 103, insert:

103AAA Scanner search authorised to ascertain risk of communicable disease

(1) The prison manager may authorise a scanner search for the purpose of measuring a person's body temperature if—

(a) the prison manager considers that the scanner search is necessary and justifiable to ascertain any risk that the person entering the prison may be carrying a communicable disease; and

(b) the prison manager has taken into account advice from a registered health professional on the matter; and

(c) the chief executive has approved the device used in the search as suitable for the purpose.

(2) The authorisation may apply to 1 or more persons or classes of persons.

(3) The authorisation may apply only for a period of time that is reasonable in the circumstances based on the advice obtained from the registered health professional under subsection (1)(b).

(4) The period of time must be specified in the authorisation.

(5) The authorisation may be extended or revoked in the same manner in which it was made.

31 Section 108 amended (Withholding mail)

In section 108(1)(d), after "correspondence", insert "or mail".

32 Section 110A amended (Restrictions on disclosure of mail)

In section 110A, replace "contained in any" with "or".

33 Section 110B amended (Warnings in relation to mail)

Replace section 110B(a) and (b) with:

(a) that—

(i) their mail may be opened and withheld, and of the grounds on which it may be withheld; and

(ii) their correspondence may be opened, read, and withheld, and of the grounds on which it may be withheld; and

(b) about—

(i) the types of mail that are exempted from being opened and withheld, and the extent to which the exemptions apply; and

(ii) the types of correspondence that are exempted from being opened, read, and withheld, and the extent to which the exemptions apply.

34 Section 110C amended (Application of Privacy Act 2020)

In section 110C, after "correspondence", insert "or mail".

35 Sections 111 to 122 and cross-heading repealed

Repeal sections 111 to 122 and the cross-heading above section 111.

36 New subpart 4A of Part 2 inserted

After section 127, insert:

Subpart 4A—Monitoring, collecting, using, and disclosing prisoner communications and information sources for intelligence purpose

127A Interpretation

In this subpart, unless the context otherwise requires,—

authorised intelligence person means—

(a) the chief executive; and

(b) a person who is authorised by the chief executive under section 127G

collect, in relation to prisoner communications and information sources,—

(a) means to gather prisoner communications and information sources; and

(b) includes downloading, photographing, storing, or otherwise making a record of prisoner communications and information sources

contracted provider means a person engaged by the chief executive to provide services in connection with translating, transcribing, or interpreting prisoner communications and information sources

disclose—

(a) means to disclose prisoner communications and information sources; and

(b) includes—

(i) allowing a person to listen to, watch, read, or examine any of those prisoner communications and information sources; and

(ii) giving or lending to a person a copy, printout, recording, video, image, translation, or written document containing those prisoner communications and information sources

eligible employee means a person who is an employee of the chief executive or an employee of a contractor

exempt prisoner call means the following:

(a) a prisoner call that is exempt from this subpart under section 127D, 127E, or 127F:

(b) information transmitted by any remote access facility to which a prisoner is a party with a court, tribunal, or the New Zealand Parole Board that is conducted while the prisoner is in prison

exempt prisoner communications and information sources means—

(a) prisoner communications and information sources that are exempt from this subpart under section 127D, 127E, or 127F; and

(b) exempt prisoner calls

monitor, in relation to prisoner communications and information sources, means to do any or all of the following:

(a) listen to, watch, read, examine, and take notes from prisoner communications and information sources:

(b) listen to, watch, read, and take notes from a record of prisoner communications and information sources:

(c) process prisoner communications and information sources by technology

prisoner call means any information transmitted by an audio link, a visual link, or an audiovisual link to which a prisoner is a party that is conducted while the prisoner is in prison

prisoner communications and information sources means—

(a) any communications to or from a prisoner; and

Examples

Communications to or from a prisoner are, for example,—

- conversations:
- correspondence and mail:
- email and text messages:
- writing:
- photographs, pictures, drawings, symbols, and other images:
- prisoner calls:
- visits:
- signs, signals, and gestural language:
- video and other electronic communications:
- recordings of communications to or from a prisoner.

(b) the following information sources:

(i) images (for example, photographs, drawings, or symbols) made by a prisoner:

(ii) video footage and images of a prisoner:

(iii) Internet and intranet sources with which a prisoner interacts:

(iv) publicly available and legally accessible information (including, but not limited to, information in the news media and on social media) relevant to a prisoner; and

(c) the substance of, or any information that is transmitted by,—

(i) communications to or from a prisoner; or

(ii) an information source described in paragraph (b); and

(d) information held by the department about a prisoner (for example, incident reports, information collected or taken from a prisoner under section 41, and trust account details)

prisoner health records means health records referred to in section 165

translate includes to decode and decrypt; and **translation** has a corresponding meaning

use, in relation to prisoner communications and information sources, includes to collate, analyse, synthesise, or draw conclusions from prisoner communications and information sources to inform decision making about the management of prisoners or the operation of prisons.

127B Meaning of intelligence purpose

(1) An **intelligence purpose**, in relation to a purpose for monitoring, collecting, using, or disclosing prisoner communications and information sources, means—

(a) to identify risk and to deter and prevent harm:

(b) to support the good order, safety, and security of prisons.

(2) Examples of what constitutes an intelligence purpose are the following:

(a) to prevent and discourage the commission of offences by, or for the benefit of, or with the help or encouragement of, prisoners:

(b) to detect and investigate offences committed by, for the benefit of, or with the help or encouragement of, prisoners:

(c) to prosecute, convict, and penalise—

(i) prisoners who commit offences, or who help or encourage other people to commit offences; and

(ii) people who commit offences for the benefit of, or with the help or encouragement of, prisoners:

(d) to detect and prevent non-compliance with directions given under section 168A (no-contact conditions if family violence offence defendant remanded in custody) of the Criminal Procedure Act 2011:

(e) to prevent and discourage escapes from prisons.

127C Relationship of this subpart to monitoring, collecting, using, or disclosing information by other means

(1) Nothing in this subpart limits, or otherwise affects,—

(a) sections 103A to 110C (withholding mail):

(b) sections 180 to 182E (disclosure of information):

(c) sections 189A to 189D (detection, interception, etc, of radiocommunications within prison boundaries).

(2) Nothing in this subpart limits, or otherwise affects, the operation of security surveillance cameras or other technology in a prison.

Exemptions

127D Exemptions for specified prisoner communications and information sources

The following prisoner communications and information sources are exempt from being monitored, collected, used, or disclosed under this subpart:

(a) prisoner health records held by the department, including psychological information that is recorded and created to provide treatment to prisoners:

(b) prisoner communications and information sources in connection with restorative justice processes.

127E Exemptions for prisoner communications and information sources with specified persons

(1) Prisoner communications and information sources between a prisoner and the following persons are exempt from being monitored, collected, used, or disclosed under this subpart:

(a) if the prisoner communications and information sources are related to legal affairs,—

(i) the prisoner's legal adviser; or

(ii) a barrister or solicitor with whom the prisoner is discussing the possibility of the person acting for the prisoner; or

(iii) a member of the Armed Forces with whom a member of the Armed Forces detained in a prison is discussing the possibility of the person representing the prisoner in the Court Martial or other proceedings:

(b) a statutory visitor:

(c) a Justice of the Peace acting in an official capacity:

(d) a person from an official agency acting in an official capacity:

(e) a member of Parliament acting in an official capacity:

(f) a person acting in their official capacity on behalf of the International Criminal Court.

(2) Section 110 applies to the monitoring of mail between a prisoner and a legal adviser under this subpart.

127F Powers of Governor-General and chief executive to exempt prisoner communications and information sources

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, specify—

(a) 1 or more classes of persons whose prisoner communications and information sources with prisoners must not be monitored, collected, used, or disclosed under this subpart; and

(b) the purpose for which the prisoner communications and information sources are exempt.

(2) The chief executive may, in writing, specify—

(a) a named individual (other than a prisoner) whose prisoner communications and information sources with 1 or more prisoners must not be monitored, collected, used, or disclosed under this subpart; and

(b) the purpose and the period for which the prisoner communications and information sources are exempt.

(3) The purpose of the exemption must take into account the following:

(a) the purpose of the corrections system set out in section 5 and the principles guiding the corrections system set out in section 6:

(b) the meaning of an intelligence purpose set out in section 127B:

(c) the general considerations set out in section 127H.

(4) A reason must be specified in the order, or in writing by the chief executive, for the exemption.

(5) An order under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Authorised intelligence persons

127G Authorised intelligence persons

(1) The chief executive may authorise an eligible employee to be an authorised intelligence person for the purpose of monitoring, collecting, using, and disclosing prisoner communications and information sources under this subpart.

(2) The chief executive must be satisfied that the eligible employee is suitable to exercise the powers and duties and perform the functions of an authorised intelligence person.

(3) The chief executive may impose, amend, and revoke conditions on the authorisation.

(4) A person who is authorised under subsection (1) ceases to be an authorised intelligence person if—

(a) the chief executive revokes the authorisation; or

(b) the person ceases to be an eligible employee.

General considerations

127H General considerations

As far as practicable in the circumstances, an authorised intelligence person must take the following considerations into account when monitoring, collecting, using, or disclosing prisoner communications and information sources under this subpart:

(a) the need to protect the privacy of prisoners and their correspondents and visitors:

(b) the benefits to prisoners of maintaining contact with persons and organisations outside the prison.

Monitoring, collecting, and using information under this subpart

127I Authorised intelligence person may monitor, collect, and use prisoner communications and information sources

(1) An authorised intelligence person may monitor, collect, and use prisoner communications and information sources if—

(a) it is reasonably necessary to do so for an intelligence purpose; and

(b) the monitoring, collection, and use of the prisoner communications and information sources are aimed at individuals who present a serious risk of harm to the good order, safety, and security of prisons or to public safety.

(2) Subsection (1) does not apply to the following:

(a) exempt prisoner communications and information sources:

(b) the making of recordings of prisoner calls (*see* section 127J):

(c) visits between a prisoner and a visitor (*see* section 127K).

127J Recording of prisoner calls

(1) Any prisoner call that is not an exempt prisoner call may be recorded for a purpose including, without limitation, an intelligence purpose.

(2) *See* section 127I(1) in relation to other types of monitoring, collection, and use under this subpart of a prisoner call and any recording of the prisoner call.

127K Monitoring of visits and use of information collected

(1) The chief executive may approve—

(a) the monitoring by an authorised intelligence person of visits between a prisoner and a visitor, including communications during the visits; and

(b) the collection by an authorised intelligence person of information from communications during the visits.

(2) The chief executive must have reasonable grounds, based on information previously collected under section 127I or 127J, to believe that the monitoring and collection of information under subsection (1) is necessary for an intelligence purpose and it is likely that information communicated in the visit may—

(a) threaten the security, good order, and discipline of the prison; or

(b) threaten the safety of any person; or

(c) promote or encourage the commission of an offence, or involve, or facilitate the commission or possible commission of, an offence.

(3) An authorised intelligence person may, for an intelligence purpose, if it is reasonably necessary to do so, monitor and use information that is collected under this section.

(4) An authorised intelligence person must not, in respect of a visit between a prisoner and a person whose communications are exempt under this subpart,—

(a) monitor the visit or communications during the visit; or

(b) monitor, collect, or use information from communications during the visit.

127L Monitoring of exempt prisoner communications and information sources

An authorised intelligence person who is monitoring, collecting, or using prisoner communications and information sources under this subpart and who forms the view that there are reasonable grounds to believe that the prisoner communications and information sources are exempt prisoner communications and information sources must—

(a) promptly stop monitoring, collecting, or using them; and

(b) ensure that all practicable steps are taken to destroy any information collected under this subpart.

127M Monitoring that is incidental to other work

(1) This section applies to a person who is undertaking, with the chief executive's authority, work comprising the administration, installation, maintenance, repair, testing, or upgrading of a system—

(a) by or from which recordings, copies, printouts, transcripts, or translations of prisoner communications and information sources are made; or

(b) in which recordings, copies, printouts, transcripts, or translations of prisoner communications and information sources collected under this subpart are stored.

(2) The person may listen to, watch, read, or examine prisoner communications and information sources (including exempt prisoner communications and information sources) if doing so is necessary for, or incidental to, the effective undertaking of the work concerned.

Disclosure

127N Disclosure of prisoner communications and information sources to eligible employees

(1) This section applies to the disclosure to eligible employees of prisoner communications and information sources collected under this subpart.

(2) An authorised intelligence person may disclose the prisoner communications and information sources to—

(a) another authorised intelligence person for a purpose described in section 127O(2) to (7):

(b) an eligible employee (who is not an authorised intelligence person) for a purpose described in section 127O(2), (6), or (7).

(3) An authorised intelligence person may also disclose prisoner communications and information sources to an eligible employee (who is or is not an authorised intelligence person) so that the employee may translate, transcribe, or interpret the prisoner communications and information sources.

(4) An eligible employee (who is not an authorised intelligence person) may disclose the prisoner communications and information sources to another eligible employee (including an authorised intelligence person) for an intelligence purpose.

127O Disclosure of prisoner communications and information sources to persons other than eligible employees

(1) This section applies to the disclosure to persons other than eligible employees of prisoner communications and information sources monitored, collected, or used under this subpart.

(2) An authorised intelligence person may disclose the prisoner communications and information sources for an intelligence purpose.

(3) An authorised intelligence person may disclose the prisoner communications and information sources if they believe on reasonable grounds that the disclosure—

(a) is necessary to avoid prejudice to the maintenance of the law by a public sector agency (as defined in section 7(1) of the Privacy Act 2020),

including the prevention, detection, investigation, prosecution, and punishment of offences); or

(b) is necessary for the conduct of proceedings (already commenced or reasonably in contemplation) before a court or tribunal; or

(c) is necessary to prevent or lessen a serious threat (as defined in section 7(1) of the Privacy Act 2020) to—

(i) public health or public safety; or

(ii) the life or health of any person; or

(d) has been authorised by the Privacy Commissioner under section 30 of the Privacy Act 2020.

(4) An authorised intelligence person may disclose the prisoner communications and information sources to an intelligence and security agency only if the authorised intelligence person believes, on reasonable grounds, that the disclosure is necessary to enable the agency to perform any of its functions under section 10, 11, 13, or 14 of the Intelligence and Security Act 2017.

(5) An authorised intelligence person may disclose the prisoner communications and information sources to a public sector agency or contracted provider for the purpose of enabling an employee of the agency or contracted provider to translate, transcribe, or interpret the prisoner communications and information sources.

(6) An authorised intelligence person or an eligible employee may disclose the prisoner communications and information sources if disclosure is—

(a) authorised by another provision of this Act; or

(b) required by any other legislation (including the Official Information Act 1982 and the Privacy Act 2020).

(7) An authorised intelligence person or an eligible employee may disclose the prisoner communications and information sources to the prisoner concerned.

127P Employee must not knowingly disclose prisoner communications and information sources

Disclosure to eligible employees

(1) An authorised intelligence person must not knowingly disclose prisoner communications and information sources collected under this subpart to an eligible employee except under section 127N(2) or (3).

(2) An eligible employee (who is not an authorised intelligence person) must not knowingly disclose prisoner communications and information sources collected under this subpart to another eligible employee except under section 127N(4).

Disclosure to persons other than eligible employees

(3) In subsections (4) and (5), **B** means a person other than an eligible employee.

(4) An authorised intelligence person must not knowingly disclose prisoner communications and information sources monitored, collected, or used under this subpart to B except under section 127O(2) to (7).

(5) An eligible employee (who is not an authorised intelligence person) must not knowingly disclose prisoner communications and information sources monitored, collected, or used under this subpart to B except under section 127O(6) or (7).

Warnings

127Q Warnings

Warnings generally

(1) The chief executive must take all practicable steps to ensure that when, or promptly after, prisoners are received in a prison, they are informed that prisoner communications and information sources may be monitored, collected, used, and disclosed under this subpart.

(2) The chief executive must ensure that there are prominently placed in every prison written notices warning prisoners of the monitoring, collection, use, and disclosure of prisoner communications and information sources under this subpart.

Additional requirements for prisoner calls

(3) The chief executive must ensure that at the start of every outward prisoner call that is being or is to be monitored or collected, the prisoner hears, or there is transmitted to the device to which the call is made, a message to the effect that the call may be monitored or collected.

Additional requirements for visits

(4) The chief executive must ensure that there are prominently placed in visiting areas in every prison written notices—

(a) warning prisoners and visitors that their visits may be monitored, and that communications in the visits may be monitored and collected; and

(b) stating in general terms the purposes for which collected information may be monitored, used, and disclosed under this subpart.

(5) The chief executive must ensure that a prisoner and their visitor are informed—

(a) if the chief executive has approved the monitoring of, and the collection of information from, visits between the prisoner and their visitor; and

(b) that the information collected may be monitored, used, and disclosed under this subpart.

Additional requirements for mail

(6) The chief executive must ensure that there are prominently placed in every prison written notices warning prisoners of the monitoring, collecting, using, and disclosing of mail under this subpart.

Disposal of records collected under this subpart

127R Disposal of record held by department delayed pending resolution of complaint

(1) This section applies to a record that was obtained from the collection of prisoner communications and information sources under this subpart and is held by the department.

(2) If the Privacy Commissioner has notified the chief executive in writing that a complaint has been made under the Privacy Act 2020 in relation to a record described in subsection (1), the record must not be disposed of until the Privacy Commissioner has notified the chief executive in writing that the complaint—

(a) has not been proceeded with; or

(b) has been finally disposed of.

(3) If an Ombudsman has notified the chief executive in writing that a complaint has been made under the Ombudsmen Act 1975 or the Official Information Act 1982 in relation to a record described in subsection (1), the record must not be disposed of until the Ombudsman has notified the chief executive in writing that the complaint—

(a) has not been proceeded with; or

(b) has been finally disposed of.

(4) In this section and section 127S, **record** has the meaning given in section 4 of the Public Records Act 2005.

127S Disposal of records held by Police and other agencies

(1) This section applies to a record that was obtained from the disclosure of information under section 127O.

(2) The Commissioner of Police must ensure that every record held by the New Zealand Police is disposed of as soon as practicable if the information is not required, or is no longer required, by the New Zealand Police for the purpose of its functions.

(3) The Director-General of an intelligence and security agency must ensure that every record held by the agency is disposed of as soon as practicable if the information is not required, or is no longer required, by the agency for the purpose of its functions.

(4) The chief executive or board of a public service agency (except an intelligence and security agency) must ensure that every record held by the public service agency is disposed of as soon as it appears that no proceedings or disciplinary proceedings (or no further proceedings or disciplinary proceedings) will be taken in which the record would be likely required to be produced in evidence.

(5) Nothing in subsection (2), (3), or (4) applies to any record adduced in proceedings in any court or tribunal.

(6) For the purpose of subsection (4),—

(a) **public service agency** has the meaning given to it in section 5 of the Public Service Act 2020:

(b) if the information referred to in subsection (4) is held by a departmental agency or an interdepartmental executive board (within the meaning of those terms in section 5 of the Public Service Act 2020), compliance with that subsection is the responsibility of the agency's host department or the board's servicing department.

Evidence and privilege

127T Notice to be given of intention to produce evidence in disciplinary proceeding

(1) Particulars of prisoner communications and information sources monitored, collected, or used under this subpart must not be received in evidence in any proceedings against a prisoner for a disciplinary offence, unless the party intending to adduce the evidence has given the person reasonable notice of the party's intention to do so.

(2) The party intending to adduce the evidence must also give the person the following:

(a) a statement of—

(i) the time, place, and date of the prisoner communications and information sources; and

(ii) the names and addresses of the relevant parties to the prisoner communications and information sources, if they are known:

(b) a transcript of the recording, if the party intends to adduce the evidence in the form of a recording:

(c) a written statement setting out the full particulars of the prisoner communications and information sources, if the party intends to adduce oral evidence of the prisoner communications and information sources.

127U Privileged evidence not to be given in court unless waiver of privilege obtained

(1) This subsection applies to evidence that—

(a) has been obtained by monitoring, collecting, using, or disclosing prisoner communications and information sources under this subpart; and

(b) but for the monitoring, collecting, using, or disclosing would have been privileged by virtue of—

(i) subpart 8 of Part 2 of the Evidence Act 2006; or

(ii) any rule of law conferring privilege on communications of a professional character between a barrister or solicitor and a client.

(2) Evidence to which subsection (1) applies remains privileged, and must not be given in any court except with the consent of the person entitled to waive the privilege.

37 Section 131 amended (Attempting or aiding commission of offence against discipline)

In section 131, after "counsels,", insert "incites,".

38 Section 133 amended (Powers of hearing adjudicator in relation to offences against discipline)

After section 133(4), insert:

(4A) Instead of imposing any penalty under subsection (3) or (4) in relation to an offence that has been proved, the hearing adjudicator may order that—

(a) the prisoner appear for a hearing for the imposition of any penalties in relation to the offence if the prisoner is called to appear; and

(b) the prisoner be called to appear only if the prisoner commits a subsequent offence against discipline within a period set out in the order that does not exceed 3 months beginning on the day the order is made.

(4B) However, if the offence proved is the subsequent offence described in subsection (4A), the hearing adjudicator may not make an order under subsection (4A) in respect of the subsequent offence.

39 New section 133A inserted (Hearing adjudicator may proceed with hearing without prisoner present)

After section 133, insert:

133A Hearing adjudicator may proceed with hearing without prisoner present

(1) Despite section 133(2), the hearing adjudicator may proceed with a hearing without the prisoner present if—

(a) the adjudicator is satisfied that the prisoner has refused to attend the hearing; or

(b) the adjudicator requires the prisoner to leave the hearing on the grounds of the prisoner's disruptive behaviour.

(2) Before making a decision under subsection (1)(a), the hearing adjudicator must receive evidence from an officer that the prisoner has been given the opportunity to attend the hearing and has refused.

(3) If the hearing adjudicator decides to proceed with a hearing without the prisoner present, the adjudicator must record in writing the decision and reasons for it.

(4) Despite section 136(1), there is no right to appeal to a Visiting Justice solely against a decision of a hearing adjudicator under subsection (1) to proceed with a hearing without the prisoner present.

40 New section 135A inserted (Imposition of penalties on prisoner who is called to appear before hearing adjudicator)

After section 135, insert:

135A Imposition of penalties on prisoner who is called to appear before hearing adjudicator

(1) This section applies to a prisoner—

(a) for whom an order was made under section 133(4A) or 137(4A) in relation to an offence (the **first offence**); and

(b) who is required to appear for a hearing—

(i) for a subsequent offence against discipline that is alleged to have been committed during the period specified in the order; and

(ii) for the imposition of any penalties in relation to the first offence if the subsequent offence is proved.

(2) If the subsequent offence is proved, the hearing adjudicator may, with respect to the first offence,—

(a) impose on the prisoner 1 or more penalties under section 133(3) or (4) or both (whether the first offence was proved under section 133 or 137); or

(b) decide not to impose any penalties on the prisoner if, in the adjudicator's opinion, it is not in the interests of justice to impose any penalty on the prisoner for the first offence.

(3) If the prisoner is dissatisfied with a decision of the hearing adjudicator under subsection (2)(a),—

(a) the prisoner may, no later than 14 days after the date of the decision, request that the decision be referred by way of appeal to a Visiting Justice; and

(b) on receiving the request, the prison manager must promptly refer it to a Visiting Justice; and

(c) section 136(5) and (6) applies to the matter.

41 Section 136 amended (Right to appeal to Visiting Justice against decision of hearing adjudicator)

(1) Replace section 136(4)(b) with:

(b) either—

(i) confirm the penalty or any section 133(4A) order imposed by the adjudicator; or

(ii) if in the Visiting Justice's opinion the circumstances require it, impose in its place any penalty or any section 133(4A) order that could have been imposed by the adjudicator.

(2) Replace section 136(5)(b) with:

(b) if in their opinion the circumstances require it, impose in its place any penalty or any section 133(4A) order that could have been imposed by the adjudicator.

(3) After section 136(5), insert:

(5A) If the appeal to the Visiting Justice relates only to a section 133(4A) order made by a hearing adjudicator, the Visiting Justice—

(a) must consider whether the order is appropriate in the circumstances; and

(b) may—

(i) confirm the order; or

(ii) if in the Visiting Justice's opinion the circumstances require it, impose in its place 1 or more penalties under section 133(3) or (4) or both that could have been imposed by the adjudicator.

(4) After section 136(6), insert:

(7) If there is an appeal under this section against any section 133(4A) order made by the hearing adjudicator,—

(a) the time period for the subsequent offence continues to run during the period specified in the order; but

(b) the prisoner may not be called to appear for imposition of any penalty under section 135A(2) unless the order is confirmed on appeal.

(8) In this section, **section 133(4A) order** means an order under section 133(4A).

42 Section 137 amended (Powers of Visiting Justice in relation to offences by prisoners)

(1) After section 137(4), insert:

(4A) Instead of imposing any penalty under subsection (3) or (4) in relation to an offence that has been proved, the Visiting Justice may order that—

(a) the prisoner appear for a hearing for the imposition of any penalties in relation to the offence if the prisoner is called to appear; and

(b) the prisoner be called to appear only if the prisoner commits a subsequent offence against discipline within a period set out in the order that does not exceed 3 months beginning on the day the order is made.

(4B) However, if the offence proved is the subsequent offence described in subsection (4A), the Visiting Justice may not make an order under subsection (4A) in respect of the subsequent offence.

(2) In section 137(5),—

(a) replace "Despite subsections (3) and (4)," with "Despite subsections (3), (4), and (4A),"; and

(b) replace "may only impose 1 or more of the penalties set out in section 133(3) and any applicable penalty set out in section 133(4)" with

"may only impose 1 or more penalties under section 133(3) or (4), or both, or make an order under section 133(4A)".

(3) In section 137(5)(b), replace "section 135(3)." with "section 135(3); or".

(4) After section 137(5)(b), insert:

(c) the offence proved was the subsequent offence described in section 133(4A), in which case the Visiting Justice may not make an order under section 133(4A) in respect of the subsequent offence.

43 New sections 138A and 138B inserted

After section 138, insert:

138A Visiting Justice may proceed with hearing without prisoner present

(1) Despite section 137(2), the Visiting Justice may proceed with a hearing without the prisoner present if—

(a) the Visiting Justice is satisfied that the prisoner has refused to attend the hearing; or

(b) the Visiting Justice requires the prisoner to leave the hearing on the grounds of the prisoner's disruptive behaviour.

(2) Before making a decision under subsection (1)(a), the Visiting Justice must receive evidence from an officer that the prisoner has been given the opportunity to attend the hearing and has refused.

(3) If the Visiting Justice decides to proceed with a hearing without the prisoner present, the Visiting Justice must record in writing the decision and reasons for it.

138B Imposition of penalties on prisoner who is called to appear before Visiting Justice

(1) This section applies to a prisoner—

(a) for whom an order was made under section 133(4A) or 137(4A) in relation to an offence (the **first offence**); and

(b) who is required to appear for a hearing—

(i) for a subsequent offence against discipline that is alleged to have been committed during the period specified in the order; and

(ii) for the imposition of any penalties in relation to the first offence if the subsequent offence is proved.

(2) If the subsequent offence is proved, the Visiting Justice may, with respect to the first offence,—

(a) impose on the prisoner 1 or more penalties—

(i) under section 133(3) or (4) or both, if the first offence was proved under section 133; or

(ii) under section 137(3) or (4) or both, if the first offence was proved under section 137; or

(b) decide not to impose any penalties on the prisoner if, in the Visiting Justice's opinion, it is not in the interests of justice to impose any penalty on the prisoner for the first offence.

44 Section 139 replaced (Mode of hearing or reaching decisions)

Replace section 139 with:

139 Use of remote access facilities

(1) Any hearing or application under any of sections 133 to 138B may be conducted or determined with all or any of the interested persons participating by audiovisual link.

(2) Any interested person may participate by a remote access facility other than an audiovisual link if the hearing adjudicator or Visiting Justice considers that—

(a) it is not reasonably practicable for the participant to appear by audiovisual link; and

(b) it is not contrary to the interests of justice to use the other remote access facility.

(3) If the hearing adjudicator or Visiting Justice decides to proceed with a hearing with 1 or more interested persons participating by a remote access facility other than an audiovisual link, the adjudicator or Visiting Justice must record in writing the decision and reasons for it.

45 Section 146 amended (Offences in relation to mail, information, and images)

In section 146, replace "118" with "127P".

46 New sections 180E and 180F and cross-heading inserted

After section 180D, insert:

Disclosure of prisoner information for taxation purposes

180E Information may be disclosed for taxation purposes

(1) The purpose of this section is to facilitate the disclosure of information, by the department to the Commissioner, for the purposes of the administration or enforcement of the Inland Revenue Acts.

(2) For the purpose of this section, the chief executive may supply to the Commissioner the information specified in subsection (3) in respect of every prisoner who is or was in the legal custody of the chief executive under this Act.

(3) The information is as follows:

(a) identifying information about the prisoner:

(b) the name and address of the prison in which the prisoner is or was detained:

(c) whether the prisoner is on remand or has been sentenced:

(d) details of the prisoner's sentence (including relevant dates such as the start date of sentence, the date on which the prisoner is eligible for parole, and their statutory release date).

(4) No specified information may be supplied under this section except under an agreement entered into between the Commissioner and the chief executive under section 180F.

(5) Nothing in this section limits the operation of the Privacy Act 2020.

(6) For the purposes of this section and section 180F,—

Commissioner means the Commissioner of Inland Revenue as defined in section 3(1) of the Tax Administration Act 1994

identifying information, in relation to any person, includes the person's full name, date and place of birth, sex or gender, location, citizenship, unique identifying number used by the department, and any known alias

Inland Revenue Acts means the Acts listed in Schedule 1 of the Tax Administration Act 1994

specified information means the information specified in subsection (3).

180F Agreement for disclosing prisoner information for taxation purposes

(1) An agreement entered into under this section for disclosing specified information about prisoners must set out the operational details about how the information is to be disclosed.

(2) Without limiting subsection (1), the agreement must—

(a) specify the manner in which the information may be disclosed; and

(b) set out how the information privacy principles, as set out in section 22 of the Privacy Act 2020, will be complied with.

(3) Before an agreement is concluded, reviewed, or amended, the department and the Commissioner must consult the Privacy Commissioner.

(4) An agreement under this section applies to the specified information held by the department in respect of prisoners, whether the information was obtained before or after the agreement came into force.

47 Section 190 amended (Matters to be included in annual report)

(1) In section 190(1)(c), after "prisoner calls", insert "or other prisoner communications and information sources".

(2) In section 190(1)(d), delete "under section 117(1) and (2)".

(3) In section 190(1)(e)(i), replace "section 117(1) and (2)" with "section 127N".

(4) After section 190(1)(e), insert:

(ea) state, in relation to the year to which the report relates,—

(i) the intelligence priorities for the department and any themes and trends:

(ii) the methods the department used to monitor prisoner communications and information sources:

(iii) the number of requests made to the chief executive to monitor visits and the number of requests that were approved or declined:

(iv) the agencies to whom disclosures were made under subpart 4A of Part 2:

(v) the number of eligible employees who were authorised intelligence persons; and

(eb) include a report on the types of programmes for which accused prisoners and convicted prisoners were mixed and the number of prisoners who were mixed for those programmes; and

48 Section 190A amended (Minister may approve subsidies for voluntary groups)

In section 190A(1)(a), after "employment-related", insert "non-offence-based,".

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

(1) After section 202(a), insert:

(aa) despite section 5(1)(b) and any international obligations and standards, regulating the mixing of prisoners in any of the following circumstances:

(i) mixing of accused and convicted persons for non-offence-based programmes if it is not practicable or therapeutic to provide the programmes separately:

(ii) mixing of accused and convicted persons who are allowed to keep their children with them in prison if it is not practicable or therapeutic to keep the persons separate:

(iii) mixing of young persons (within the meaning given in the Oranga Tamariki Act 1989) and adult prisoners if it is in the best interests of the young persons:

(2) In section 202(j), replace "non-lethal" with "less-lethal".

50 Section 203 amended (Regulations relating to treatment of prisoners)

After section 203(ba), insert:

(bb) prescribing, in relation to case management plans,—

(i) the purpose of and basis for the plans; and

(ii) the class or classes of prisoners to whom case management plans apply; and

(iii) the matters that must be included in the plans (and different matters may be prescribed for different classes of prisoners); and

(iv) the periods in which the plans must be reviewed (and different periods may be prescribed for different classes of prisoners):

(bc) prescribing matters that must be included in non-offence-based programmes, and different matters may be prescribed for different programmes and different classes of prisoners:

51 New Schedule 1AA inserted

Insert the Schedule 1AA set out in Schedule 1 of this Act as the first schedule to appear after the last section of the principal Act.

Consequential amendments

52 Consequential amendments

Amend the legislation specified in Schedule 2 as set out in that schedule.

Part 2
Amendments to Corrections Regulations 2005

53 Principal regulations

This Part amends the Corrections Regulations 2005.

54 Regulation 3 amended (Interpretation)

In regulation 3, revoke the definition of **accused prisoner**.

55 Regulation 48 amended (Assessment of risk when security classification reviewed)

In regulation 48(e)(i), replace “management plan” with “case management plan”.

56 Regulation 52J amended (Criteria for review)

In regulation 52J(a)(i), replace “management plan” with “case management plan”.

57 Regulation 62 amended (Treatment of segregated prisoners)

In regulation 62(2), replace “prisoner management plan” with “case management plan”.

58 Regulation 63 amended (Prisoners at risk of self-harm)

In regulation 63(7), replace “management plan” with “case management plan”.

59 Regulation 84 amended (Copying of correspondence)

After regulation 84(1)(d), insert:

(da) it is copied for an intelligence purpose under subpart 4A of Part 2 of the Act; or

60 Regulation 113 amended (Visits not to be recorded without necessary approvals)

Replace regulation 113(2) with:

(2) Subclause (1) does not forbid the use of security surveillance cameras or other technology in a prison if—

(a) the cameras or other technology—

(i) record only visual images; or

(ii) record sound and visual images for an intelligence purpose under subpart 4A of Part 2 of the Act; and

(b) notices are prominently displayed in visiting areas that inform visitors that they are in use in those areas.

61 Part 9 heading amended

In the Part 9 heading, replace "**non-lethal**" with "**less-lethal**".

62 Cross-heading above regulation 119A amended

In the cross-heading above regulation 119A, replace "*Non-lethal*" with "*Less-lethal*".

63 Regulation 119A amended (When non-lethal weapons may be used)

(1) In the heading to regulation 119A, replace "**non-lethal**" with "**less-lethal**".

(2) In regulation 119A(1) and (2), replace "section 83(1)" with "section 83(1) or 85(1A)".

64 Regulation 119B amended (Warning before use of non-lethal weapon)

(1) In the heading to regulation 119B, replace "**non-lethal**" with "**less-lethal**".

(2) In regulation 119B, replace "non-lethal" with "less-lethal".

65 Cross-heading above regulation 127 amended

In the cross-heading above regulation 127, replace "*non-lethal*" with "*less-lethal*".

66 Regulation 128 amended (Reporting use of force or non-lethal weapon)

(1) In the heading to regulation 128, replace "**non-lethal**" with "**less-lethal**".

(2) In regulation 128(1), replace "non-lethal" with "less-lethal" in each place.

67 Regulation 129 amended (Minimum requirements)

(1) In regulation 129, replace "non-lethal" with "less-lethal".

(2) In regulation 129(a), (b), (c), (d), (e), and (f), replace "non-lethal" with "less-lethal".

68 Regulation 158 amended (Privileges)

In regulation 158(c) and (f), replace "management plan" with "case management plan".

69 Schedule 7 amended

(1) In Schedule 7, after clause 24, insert:

24A Clauses 23 and 24 are subject to sections 133A and 138A of the Act.

(2) In Schedule 7, after clause 31, insert:

31A If the prisoner has refused to attend the disciplinary hearing and the hearing proceeds without the prisoner present,—

(a) a not-guilty plea must be entered on behalf of the prisoner; and

(b) the person who is holding the hearing may receive any information that the prisoner wishes to provide in support of the prisoner's case.

(3) In Schedule 7, replace clause 43 with:

43 A hearing to decide whether a disciplinary hearing should be adjourned may be held by a remote access facility if—

(a) the following people agree in writing to the holding of the hearing by way of the remote access facility:

(i) the prisoner charged with the disciplinary offence; and

(ii) the person prosecuting the disciplinary offence; and

(iii) the person holding the disciplinary hearing; and

(b) for a hearing to be held by a remote access facility other than an audiovisual link, the requirements in section 139(2) and (3) of the Act are met.

(4) In Schedule 7, clause 44, replace "telephone conference, electronic device, or video link" with "a remote access facility".

(5) In Schedule 7, clause 50, replace "proven" with "proven, or as to whether to impose any penalty further to an order made under section 133(4A) or 137(4A) of the Act,".

Schedule 1
New Schedule 1AA inserted

s 51

Schedule 1AA
Transitional, savings, and related provisions

s 3A

Part 1
Provisions relating to Corrections Amendment Act 2024

1 Interpretation

In clauses 3 to 5, unless the context otherwise requires, **commencement date** means the day after Royal assent of the Corrections Amendment Act 2024.

2 Management plans continue as case management plans

(1) A management plan that has been devised for a prisoner under section 51 and is in operation immediately before the commencement date is to be considered on or after the commencement date as a case management plan that was devised in accordance with the Corrections Amendment Act 2024.

(2) In this clause,—

commencement date means the date on which section 11 of the Corrections Amendment Act 2024 comes into force

prisoner means a prisoner who has been received in a prison before the commencement date and continues to be in a prison on or after the commencement date.

3 Restrictions in at-risk management plans continue to apply

(1) This clause applies to an at-risk management plan for a prisoner that—

(a) was established before the commencement date and has not been revoked; and

(b) specifies any restriction on the opportunity for the prisoner to associate with other prisoners.

(2) The restrictions in the at-risk management plan referred to in subclause (1)(b) continue to apply until they are revoked or replaced by a direction given under section 61CA.

4 Informing prisoners who have already been received in prison

(1) This clause applies to prisoners who have been received in a prison before the commencement date and continue to be in a prison on or after the commencement date.

(2) The chief executive must take all practicable steps to ensure that the prisoners are promptly informed that prisoner communications and information sources may be monitored, collected, used, and disclosed under subpart 4A of Part 2.

5 Subpart 4A of Part 2 applies to prisoner calls monitored before commencement date

Definitions for purpose of this clause

(1) In this clause,—

prisoner call means a prisoner call (as defined in section 111) that—

(a) has been monitored under section 113 before the commencement date; but

(b) has not been disposed of before that date

public service agency has the meaning given in section 127S(6)(a)

recording means a recording (as defined in section 111) that has not been disposed of before the commencement date

section 111 means section 111 of this Act as in force before the commencement date

section 113 means section 113 of this Act as in force before the commencement date.

Disclosure of prisoner call or recording

(2) A prisoner call or recording may be disclosed on or after the commencement date under sections 127N(2) to (4) and 127O(2) to (7).

Prohibitions on disclosure

(3) The prohibitions on disclosure in section 127P apply to a prisoner call or recording on or after the commencement date as if it had been collected under subpart 4A of Part 2.

Disposal of prisoner call and recording

(4) A prisoner call or recording that is held by the department must, for purposes of disposal, be treated on or after the commencement date as if it had been collected under subpart 4A of Part 2.

(5) A prisoner call or recording that is held by the department must be treated on or after the commencement date under section 127R as if it had been collected under subpart 4A of Part 2.

(6) A prisoner call or recording that is held by New Zealand Police or a public service agency must be treated on or after the commencement date under section 127S as if it were a record obtained from the disclosure of information under section 127O.

Production of prisoner call or recording in evidence in disciplinary proceeding

(7) Section 127T applies to the production of a prisoner call or recording in evidence in a disciplinary proceeding on or after the commencement date as if the prisoner call or recording had been collected under subpart 4A of Part 2.

Prisoner call and recording subject to privilege

(8) A prisoner call or recording is subject to privilege in accordance with section 127U on or after the commencement date as if it had been collected under subpart 4A of Part 2.

Schedule 2
Consequential amendments

s 52

Crimes Act 1961 (1961 No 43)

In section 216B(4), replace "section 113" with "section 127I or 127J".

Criminal Procedure Act 2011 (2011 No 81)

In section 168B(2), replace "sections 111 to 122" with "section 127I or 127J".

Legislative history

21 June 2023	Introduction (Bill 264–1)
27 June 2023	First reading and referral to Justice Committee
28 May 2024	Reported from Justice Committee (Bill 264–2)
25 June 2024	Second reading
28 August 2024	Committee of the whole House (Bill 264–3)
24 September 2024	Third reading
30 September 2024	Royal assent

This Act is administered by the Department of Corrections.

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