



# Cabinet Legislation Committee

## Minute of Decision

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### Pepper Spray: Corrections Amendment Regulations 2022 Amendment Regulations 2022

**Portfolio**                      **Corrections**

On 17 March 2022, the Cabinet Legislation Committee:

- 1        **noted** that on 20 October 2021, SWC agreed to amend the Corrections Regulations 2005 to:
  - 1.1        explicitly define pepper spray delivery mechanisms by adding broad definitions that describe the key characteristics of the devices currently in use (MK-3, MK-9, and MK-9 with extension wand) and specify which mechanisms can be used in both spontaneous and planned use of force;
  - 1.2        introduce the requirement that only the prison manager or acting prison manager may:
    - 1.2.1        authorise the planned use of pepper spray;
    - 1.2.2        authorise trained Corrections officers to use pepper spray in spontaneous use of force incidents at the discretion of the Corrections Officer;
  - 1.3        state that non-lethal weapons may not be used when that use would represent a use of force that is more than reasonably necessary in the circumstances, in keeping with the Corrections Act 2004 [SWC-21-MIN-0155];
- 2        **noted** that on 21 February 2022, Cabinet agreed to the submission to the Executive Council of the Corrections Amendment Regulations 2022 (the Amendment Regulations) [PCO 24369/5.0] and that they would come into effect on 1 April 2022;
- 3        **noted** that the Corrections Amendment Regulations 2022 Amendment Regulations 2022 will fix a technical error in the Corrections Amendment Regulations 2022 to give effect to the decisions referred to in paragraph 1, ensuring that the original Amendment Regulations are fit for purpose and that the Department of Corrections maintains access to pepper spray;
- 4        **noted** that a waiver of the 28-day rule is sought so that:
  - 4.1        the Corrections Amendment Regulations 2022 Amendment Regulations 2022 will enter into force on the day after the date of their notification in the Gazette;
  - 4.2        the original Amendment Regulations are corrected before they come into force on 1 April 2022;

- 5 **agreed** to waive the 28-day rule so that the Corrections Amendment Regulations 2022 Amendment Regulations 2022 will enter into force before 1 April 2022;
- 6 **authorised** the submission to the Executive Council of the Corrections Amendment Regulations 2022 Amendment Regulations 2022 [PCO 24627/2.0].

Rebecca Davies  
Committee Secretary

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**Present:**

Hon Dr Megan Woods  
Hon Andrew Little  
Hon David Parker  
Hon Poto Williams  
Hon Kris Faafoi  
Hon Michael Wood (Chair)  
Hon Kiri Allan  
Hon Meka Whaitiri  
Keiran McAnulty, MP (Senior Government Whip)

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG