



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Corrections Amendment Bill: Approval for Introduction

Portfolio Corrections

On 8 June 2023, the Cabinet Legislation Committee:

- 1 **noted** that in August 2022, the Cabinet Social Wellbeing Committee (SWC) approved the release of the discussion document, Consultation on options to improve rehabilitation, reintegration, and safety outcomes for the corrections system [SWC-22-MIN-0137];
- 2 **noted** that following public consultation and further analysis, in December 2022, SWC agreed to a suite of policy decisions amending the Corrections Act 2004 (the Act) to:
 - 2.1 modernise and future-proof the Act to clarify Corrections' powers to monitor prisoner communications and activities for intelligence purposes;
 - 2.2 ensure the internal disciplinary process in prisons is effective;
 - 2.3 strengthening processes for the authorisation and use of non-lethal weapons on prisoners;
 - 2.4 supporting improved rehabilitation and reintegration outcomes for Māori;
 - 2.5 enabling the mixing of remand accused and convicted prisoners, with the consent of the remand accused prisoner;
 - 2.6 enabling greater use of body imaging technology;
 - 2.7 include other miscellaneous amendments, and minor and technical amendments;

[SWC-22-MIN-0244]
- 3 **noted** that the Corrections Amendment Bill gives effect to the decisions referred to above;

Additional amendments identified during drafting

- 4 **noted** that in December 2022, SWC authorised the Minister of Corrections to make any further decisions on minor and technical matters in line with the policy decisions agreed above [SWC-22-MIN-0244];
- 5 **noted** that in March 2023, the Minister of Corrections agreed to the following four additional minor and technical amendments for inclusion in the Bill, using powers delegated by Cabinet referred to in paragraph 4 above;

- 5.1 slightly expand Corrections' ability to withhold harmful material sent by mail, including images, drawings or pictures, if these meet existing withholding criteria for communications contained in mail in the Act;
 - 5.2 update references in the Act that currently refer to the repealed Evidence Amendment Act 1980, to confirm that all privileges provided for in subpart 8 of Part 2 of the Evidence Act 2006 are available to prisoners, despite prisoner communications being monitored;
 - 5.3 update section 122 of the Act to apply to all forms of communication that Corrections will be able to monitor under the changes to these powers being made in the Bill;
 - 5.4 update existing provisions about the destruction of phone recordings by other agencies to ensure all prisoner information that is disclosed for intelligence purposes is retained and disposed of appropriately by Corrections and other intelligence agencies;
- 6 **agreed** that the Bill will state that it is a principle of the Act that the views of an offender's family and of the hapū and iwi of a Māori offender may, where appropriate and so far as is reasonable and practicable, be taken into account in the decision about which prison the offender is detained in;
- 7 **agreed** that the new principle for the corrections system to promote the wellbeing of Māori and others in the corrections system, will include through the provision of mātauranga Māori;
- 8 **noted** that in December 2022, in relation to enabling greater use of body imaging technology, SWC agreed to require that any data collected during an imaging technology scan must be deleted so far as reasonably practicable within 24 hours [SWC-22-MIN-0244];
- 9 **agreed to recommend** that Cabinet:
- 9.1 rescind the decision referred to in paragraph 8 above; and instead
 - 9.2 agree to require that any image produced as a result of an imaging technology search must be disposed of within 24 hours;
- 10 **noted** that in December 2022, SWC:
- 10.1 agreed to allow the Minister of Corrections (the Minister) to authorise Corrections to use technology such as Artificial Intelligence for the purpose of monitoring and collecting information from prisoner communications and activities, if the Minister is satisfied that the benefits of using the technology outweigh any risks, and that the use of the technology will not have a disproportionate impact on any one group as far as is reasonably practicable;
 - 10.2 agreed to create a regulation making power for detail to be set out in the Corrections Regulations 2005 (the Regulations) about what the Minister must consider to be satisfied that the benefits of using technology such as Artificial Intelligence outweigh any risks

[SWC-22-MIN-0244]

- 11 **agreed to recommend** that Cabinet:
- 11.1 rescind the decisions referred to in paragraph 10 above; and
 - 11.2 agree that the Corrections Amendment Bill 2023 not include specific drafting relating to the use of artificial intelligence, as previously agreed to in paragraph 10 above;
- 12 **noted** that Corrections will continue to work with other agencies, including the Office of the Privacy Commissioner, on an all of government approach to the use of artificial intelligence technologies;
- 13 **agreed** that the Bill will state that regulations will prescribe the classes of prisoners to whom the requirement to develop a case management plan applies and set out the detail of those plans;
- 14 **noted** that the Corrections Amendment Bill 2023 holds a category four priority on the 2023 Legislation Programme;

Introduction

- 15 **approved** the Corrections Amendment Bill [PCO 24524/16.0] for introduction, subject to final approval of the government caucus, and sufficient support in the House of Representatives;
- 16 **agreed** that the Bill be:
- 16.1 introduced in the week of 12 June 2023;
 - 16.2 referred to the Justice Select Committee for consideration;
- 17 **noted** that PCO will continue to make drafting changes to address outstanding matters and minor and technical amendments up until the Cabinet meeting on 12 June 2023;
- 18 **agreed** that PCO can continue to make minor and technical changes to the Corrections Amendment Bill 2023 up until its introduction.

Rebecca Davies
Committee Secretary

Present:

Hon Kelvin Davis
Hon Dr Ayesha Verrall
Hon Michael Wood
Hon Andrew Little
Hon Kieran McAnulty (Chair)
Hon Willow-Jean Prime
Hon Dr Duncan Webb
Hon Dr Deborah Russell
Tangi Utikere, MP (Chief Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG
Department of Corrections