

**Reprint
as at 19 September 2011**



**Corrections (Mothers with Babies)
Amendment Act 2008**

Public Act 2008 No 88
Date of assent 25 September 2008
Commencement see section 2

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Department of Corrections.

The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Corrections (Mothers with Babies) Amendment Act 2008.

2 Commencement

This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

Section 2: this Act brought into force, on 19 September 2011, by the Corrections (Mothers with Babies) Amendment Act 2008 Commencement Order 2011 (SR 2011/315).

3 Principal Act amended

This Act amends the Corrections Act 2004.

4 Purpose

The purpose of this Act is to amend the Corrections Act 2004 to provide for the best interests of the child by enabling young children of female prisoners to be placed with their mothers in prison until they turn 24 months old, for the purposes of bonding, feeding, and maintaining continuity of care, provided that certain criteria and conditions are met.

5 New sections 81A to 81C inserted

The following sections are inserted after section 81:

“81A Request and approval for placement of child with mother

“(1) A female prisoner who is the mother of a child less than 24 months old, or who is expecting a child, may request the chief executive’s approval to keep the child with her until the day after the date on which the child turns 24 months if she—

“(a) was the child’s primary caregiver before being imprisoned or is likely to be the child’s primary caregiver on release; and

“(b) does not have a conviction for an offence involving sexual or violent offending against children; and

“(c) agrees to undergo screening for the purposes of identifying any mental health and substance abuse issues.

- “(2) The chief executive may approve a request under subsection (1) if—
- “(a) the chief executive is satisfied that the mother meets the criteria set out in subsection (1); and
 - “(b) the chief executive considers that placing the child with the mother—
 - “(i) is in the best interests of the child; and
 - “(ii) is not inconsistent with any court order relating to the child or any application or proceeding before the court (whether pending or existing) relating to the child; and
 - “(c) the mother enters into a parenting agreement under section 81B with the chief executive in relation to the child’s placement; and
 - “(d) the chief executive is satisfied that there are appropriate facilities available to accommodate the child’s placement.
- “(3) In considering whether placing the child with the mother is in the best interests of the child, the chief executive must have regard to the principles in section 5 of the Care of Children Act 2004 to the extent that those principles are relevant.
- “(4) The chief executive must—
- “(a) consult the chief executive of the department responsible for administering the Children, Young Persons, and Their Families Act 1989 before deciding whether to approve a child’s placement; and
 - “(b) seek the advice of a child development specialist before deciding whether to approve or end a child’s placement, unless it is clear from the circumstances that it is not necessary to seek that advice.
- “(5) The chief executive may end the child’s placement if the chief executive considers that—
- “(a) subsection (2)(b)(i) or (ii) is not being met; or
 - “(b) the mother’s responsibilities under the parenting agreement are not being met.
- “(6) In this section and sections 81B and 81C, unless the context otherwise requires, **child’s placement** or **placement** means the placement of a child with his or her mother in prison in accordance with this section.

“81B Parenting agreements

A parenting agreement to which section 81A(2)(c) relates must include, without limitation, all of the following:

- “(a) notice that the mother is responsible for the care of her child while the child is in prison:
- “(b) identification of an alternative caregiver who will care for the child when the placement ends or in an emergency:
- “(c) the chief executive’s agreement to—
 - “(i) provide parenting information, education, and support to the mother; and
 - “(ii) attend to arrangements for the child to receive any necessary health and well-being checks and any treatment required as a result of those checks; and
 - “(iii) facilitate the mother’s access to any treatment or counselling required to support the mother to care for her child:
- “(d) for the purpose of ensuring that the best interests of the child are met, the mother’s agreement to—
 - “(i) attend any parenting education programmes specified; and
 - “(ii) facilitate arrangements for the child to receive any necessary health and well-being checks and any treatment required as a result of those checks; and
 - “(iii) participate in any treatment or counselling required to address any mental health or substance abuse issues identified; and
 - “(iv) attend any programmes identified in her management plan; and
 - “(v) co-operate in a planned separation from the child when the placement ends.

“81C Accommodation and feeding of children placed with their mothers

- “(1) The chief executive must ensure that, to the extent practicable within the resources available, every prison in which female prisoners are imprisoned provides appropriate facilities for the

accommodation of children under the age of 24 months, and that those facilities support the development needs of those children.

- “(2) The chief executive must ensure that every child who is placed with his or her mother in prison is,—
- “(a) if the child is breastfed, provided sufficient opportunity to be breastfed; and
 - “(b) if the child is fed by other means, provided sufficient opportunity to be fed.”

6 Regulations relating to treatment of prisoners

Section 203 is amended by repealing paragraph (c) and substituting the following paragraph:

- “(c) prescribing conditions relating to the care of children of female prisoners who are allowed to remain with or visit their mothers in prison:”.

7 Consequential amendments to Corrections Regulations 2005

- (1) This section amends the Corrections Regulations 2005.
- (2) The heading above regulation 170 is amended by omitting “*babies*” and substituting “*young children*”.
- (3) Regulations 170, 172, and 173 are revoked.
- (4) Regulations 171, 175, 177, and 178 are amended by omitting “baby’s” in each place where it appears and substituting in each case “child’s”.
- (5) The heading above regulation 175 is amended by omitting “*baby*” and substituting “*child*”.
- (6) Regulations 171, 175, and 178 are amended by omitting “6 months” in each place where it appears and substituting in each case “24 months”.
- (7) Regulations 171 and 174 to 178 are amended by omitting “baby” in each case where it appears and substituting in each case “child”.
- (8) Regulation 186 is amended by adding the following subclause:

“(6) This regulation does not apply to female accused prisoners who are allowed to keep their children with them in prison under section 81A of the Act.”

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Notes

1 *General*

This is a reprint of the Corrections (Mothers with Babies) Amendment Act 2008. The reprint incorporates all the amendments to the Act as at 19 September 2011, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint
(most recent first)***

Corrections (Mothers with Babies) Amendment Act 2008 Commencement
Order 2011 (SR 2011/315)
