



Corrections Amendment Regulations 2017

Patsy Reddy, Governor-General

Order in Council

At Wellington this 29th day of May 2017

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 85(2), 200, and 202 of the Corrections Act 2004—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the advice of the Minister of Corrections who, in accordance with section 85(3) of that Act, is satisfied that—
 - (i) the use of pepper spray is compatible with the humane treatment of prisoners; and
 - (ii) the potential benefits from the use of pepper spray outweigh the potential risks.

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations	2
4 Regulation 120A revoked (Meaning of pepper spray)	2
5 Regulations 123A to 123C replaced	2
123A Meaning of pepper spray	2
123B Issue of pepper spray	2
123C Drawing and use of pepper spray	3
123D Keeping pepper spray secure	3

6	Consequential amendments to Arms Regulations 1992	3
---	---	---

Regulations

1 Title

These regulations are the Corrections Amendment Regulations 2017.

2 Commencement

These regulations come into force on 1 July 2017.

3 Principal regulations

These regulations amend the Corrections Regulations 2005 (the **principal regulations**).

4 Regulation 120A revoked (Meaning of pepper spray)

Revoke regulation 120A.

5 Regulations 123A to 123C replaced

Replace regulations 123A to 123C with:

123A Meaning of pepper spray

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

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

123B Issue of pepper spray

- (1) Pepper spray may be issued only to an officer and only if the officer has received adequate training in the use of pepper spray.
- (2) A security officer, or a staff member who is not an officer, must not, in any circumstance,—
 - (a) be issued pepper spray; or
 - (b) carry pepper spray while performing his or her functions.
- (3) Pepper spray may be issued only at the direction of—
 - (a) the manager of a prison; or
 - (b) an officer (other than the officer to whom the pepper spray is to be issued) who has received adequate training in the use of pepper spray, if it is impracticable for the manager to direct the issue of the pepper spray.

- (4) The issuing of pepper spray must comply with any further conditions or restrictions imposed by the chief executive.

123C Drawing and use of pepper spray

- (1) An officer who has been issued pepper spray may draw or use it while performing his or her functions—
- (a) in a prison; or
 - (b) on escort duty.
- (2) The officer may draw or use the pepper spray only against a prisoner and only if the officer has reasonable grounds for believing that the use of physical force is reasonably necessary for any of the purposes referred to in section 83(1) of the Act.
- (3) The officer must use the pepper spray in a way that minimises pain or injury to the prisoner, so far as that is consistent with protecting prison security or the safety of any person.
- (4) Officers trained in the use of pepper spray must undergo refresher courses, approved by the chief executive, at least once a year.
- (5) The drawing and use of pepper spray must also comply with any further conditions or restrictions imposed by the chief executive.

123D Keeping pepper spray secure

- (1) An officer must ensure that any pepper spray issued to him or her is kept secure.
- (2) The manager of a prison must ensure that pepper spray is securely stored at all times except when it is issued to an officer.

6 Consequential amendments to Arms Regulations 1992

- (1) This regulation amends the Arms Regulations 1992.
- (2) In regulation 30A(1), definition of **pepper spray**, replace “regulation 120A” with “regulation 123A”.
- (3) In regulation 30A(2), replace “for the purposes of regulations 121 to 123 of” with “in accordance with”.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

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

These regulations, which come into force on 1 July 2017, amend the Corrections Regulations 2005 (the **principal regulations**).

The principal regulations currently provide that pepper spray may be issued only if the prison manager (or another adequately trained officer in limited circumstances) reasonably believes that force is, or will be, necessary against a prisoner. The amendments allow pepper spray to be issued without this requirement, but only to officers who have received adequate training in its use and subject to any further conditions or restrictions imposed by the chief executive.

Security officers, and staff members who are not officers, continue to be prohibited from carrying pepper spray.

An officer to whom pepper spray has been issued must keep it secure, and the prison manager must ensure that it is securely stored when it is not issued to an officer.

The amendments allow officers who have been issued pepper spray to draw and use it both in the prison and while carrying out escort duty outside the prison.

The amendments also set out the following restrictions with respect to the drawing and use of pepper spray:

- pepper spray may not be drawn or used unless the officer has reasonable grounds for believing that physical force is reasonably necessary for any of the purposes in section 83(1) of the Act:
- pepper spray must be used in a way that minimises pain or injury to the prisoner so far as that is consistent with protecting prison security or a person's safety (as in the current provisions):
- the drawing and use of pepper spray are subject to any further conditions or restrictions imposed by the chief executive:
- officers trained in the use of pepper spray must undergo refresher courses (as in the current provisions).

The regulation that sets out the meaning of pepper spray is moved from regulation 120A to sit with the other regulations relating to pepper spray. It is amended to make it clear that pepper spray includes aerosol foam, gels, and other aerosol substances. It is also updated to include synthetic forms of pepper spray.

Consequential amendments are also made to the Arms Regulations 1992.

Regulatory impact statement

The Department of Corrections produced a regulatory impact statement on 20 March 2017 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- http://www.corrections.govt.nz/resources/policy_and_legislation/regulatory_impact_statement_corrections_amendment_regulations_2017.html
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 1 June 2017.

These regulations are administered by the Department of Corrections.