

Corrections (Use of Court Cells) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill amends the Corrections Act 2004 to enable the temporary accommodation of corrections prisoners in court cells, as a last resort, when there is insufficient accommodation in the prison system.

In the past, court cells have been used during severe accommodation shortages to house overflow corrections prisoners. This was enabled by notices in the *Gazette* declaring 10 blocks of court cells, with a total of 101 cells, to be parts of existing corrections prisons. However, these *Gazette* notices do not provide sufficient authority to house corrections prisoners in court cells. Rather, the cells may only be used in this way if environmental requirements of the Resource Management Act 1991 (the **RMA**) are met. In most cases, it would be necessary to obtain approval under the RMA because the overnight accommodation of prisoners in court cells is unlikely to comply with the applicable district plan.

The Bill provides that the requirements of section 9 of the RMA do not apply to the detention of prisoners in court cell blocks that are declared by notice in the *Gazette* to be parts of corrections prisons.

The Bill does not contain restrictions on the accommodation of overflow prisoners in court cells. However, administrative safeguards will be put in place to ensure that this will only occur if it is strictly

necessary, that the normal functioning of the courts will not be compromised, and that prisoners will continue to receive their statutory entitlements.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides for the Bill (once enacted) to come into force on the day after the date on which it receives the Royal assent.

Clause 3 states that this Act amends the Corrections Act 2004.

Clause 4 amends section 32 by inserting *new subsection (2A)*. That subsection ensures that if a court cell block has been declared, by notice in the *Gazette*, to be a part of a corrections prison, then section 9 of the Resource Management Act 1991 does not prevent that cell block being used to detain prisoners.

Clause 5 makes a consequential amendment to section 4 of the Resource Management Act 1991, to signal that section 9 of that Act does not apply to the detention of prisoners in a court cell block that is declared by notice in the *Gazette* to be a part of a corrections prison.

Regulatory impact statement

A copy of the regulatory impact statement relating to the policy behind this Bill is available on the Department of Corrections' website at <http://www.corrections.govt.nz/news-and-publications/statutory-reports/regulatory-impact-statments/use-of-court-cells-for-over-flow-prisoners.html> and on The Treasury's website at <http://www.treasury.govt.nz/publications/informationreleases/ris>.

Hon Judith Collins

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Corrections (Use of Court Cells) Amendment Act **2009**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5
- 3 Principal Act amended**
This Act amends the Corrections Act 2004.

4 Establishment of prisons

Section 32 is amended by inserting the following subsection after subsection (2):

“(2A) Nothing in section 9 of the Resource Management Act 1991 applies to the detention of prisoners in a court cell block that is declared by notice in the *Gazette* to be a part of a corrections prison.” 5

5 Consequential amendment to Resource Management Act 1991

(1) This section consequentially amends the Resource Management Act 1991. 10

(2) Section 4 is amended by inserting the following subsection after subsection (3):

“(3A) Section 9 does not apply to the detention of prisoners in a court cell block that is declared by notice in the *Gazette* to be a part of a corrections prison.” 15
