

Reprint
as at 1 October 2007

Parole Amendment Act 2007

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Note

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

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

This Act is administered by the Ministry of Justice and Department of Corrections.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Parole Amendment Act 2007.

2 Commencement

This Act comes into force on a day to be appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates.

Section 2: sections 1–3, 4(2), (4)–(6), 5–15, 17–47, 50–66, and 68–74 brought into force, on 1 October 2007, by the Parole Amendment Act 2007 Commencement Order 2007 (SR 2007/256).

3 Principal Act amended

This Act amends the Parole Act 2002.

4 Interpretation

- (1) Section 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**initial period** means the period that commenced on 30 June 2002 and ended with the close of the day that is immediately before the commencement of section 48 of the Parole Amendment Act 2007

“**parole guidelines** means parole guidelines made by the Sentencing Council under the Sentencing Council Act 2007.”

(2) Section 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**residential restrictions** means the special conditions described in section 33

“**standard extended supervision conditions** means the standard extended supervision conditions set out in section 107JA.”

(3) Section 4(1) is amended by repealing the definitions of **long-term sentence** and **short-term sentence** and substituting the following definitions:

“**long-term sentence** means a sentence of imprisonment that is—

“(a) a determinate sentence, whenever imposed, that is longer than 12 months (subject to subsection (3)); or

“(b) an indeterminate sentence, whenever imposed; or

“(c) a notional single sentence that is longer than 12 months (subject to subsection (3))

“**short-term sentence** means a sentence of imprisonment that is—

“(a) a determinate sentence, whenever imposed, of 12 months or less (subject to subsection (3)); or

“(b) a notional single sentence of 12 months or less (subject to subsection (3))”.

(4) Section 4(1) is amended by repealing the definitions of **detention conditions**, **home detention**, and **standard detention conditions**.

(5) The definition of **special conditions** in section 4(1) is amended by adding “, and includes residential restrictions”.

(6) The definition of **variation** in section 4(1) is amended by omitting “or detention conditions”.

(7) Section 4 is amended by adding the following subsections:

“(3) For the purpose only of classifying a sentence (including a notional single sentence) in terms of the definitions of long-term sentence or short-term sentence, the length of every determinate sentence imposed in the initial period is deemed to be reduced by one half.

“(4) To avoid any doubt, subsection (3) is limited to the purpose stated in that subsection and does not otherwise affect the length of the sentence.”

5 Overview of release

- (1) Section 6 is amended by repealing subsection (3) and substituting the following subsection:
“(3) This subpart provides for 2 types of early release from a prison—
“(a) parole;
“(b) compassionate release.”
- (2) Section 6(5) is repealed.

6 Guiding principles

- (1) Section 7(2)(a) is amended by omitting “or detention conditions”.
- (2) Section 7(2)(b) is amended by inserting “, subject to any of sections 13 to 13AE,” after “must”.

7 Part applies to all offenders

- (1) Section 8(1)(c) is amended by omitting “or for home detention”.
- (2) Section 8(1)(d) is amended by omitting “or home detention,”.

8 General rules about information to be given to offenders

Section 13 is amended by inserting the following subsection after subsection (5):

- “(5A) Subsection (1) does not apply to any information that may not be disclosed under a confidentiality order made under section 13AB.”

9 New sections 13AA to 13AE inserted

The following sections are inserted after section 13:

“13AA Application for confidentiality order

- “(1) The Commissioner of Police or the chief executive may apply to the chairperson or to a panel convenor for an order under section 13AB (in this section and in sections 13AB to 13AE called a **confidentiality order**).
- “(2) Despite any other enactment, the power conferred by subsection (1) may not be delegated.
- “(3) Every application under subsection (1) must be supported by an affidavit sworn by the applicant.

“13AB Making of confidentiality order

- “(1) The chairperson or a panel convenor may make a confidentiality order if satisfied—
- “(a) that the information for which confidentiality is sought is relevant to a current matter concerning an offender; and
 - “(b) that disclosure of the information may—
 - “(i) endanger the safety of the person who is the source of the information or of any other person; or
 - “(ii) prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial.
- “(2) The order must identify the information that is to be kept confidential, and may do so by reference to 1 or more documents.
- “(3) The order may—
- “(a) forbid the disclosure or publication of the information to any person other than—
 - “(i) the members of the Board involved in considering and determining the current matter; and
 - “(ii) any officials specified in the order by name or position, being officials who require access to the information to perform their functions in relation to the Board’s determination of the current matter or the implementation of that determination:
 - “(b) forbid the disclosure or publication (other than to the persons mentioned in paragraph (a)) of any particulars that identify, or may lead to the identification of, any person who is the source of the information:
 - “(c) require the members of the Board involved in considering and determining the current matter to receive the information in the absence of any person other than—
 - “(i) any officials who are permitted access to the information under paragraph (a)(ii) and whose presence the members consider necessary; and

- “(ii) if the members receive the oral evidence of the person who is the source of the information, that person.
- “(4) To avoid doubt, anything that may not be disclosed or published under a confidentiality order may not be disclosed—
- “(a) to the offender; or
- “(b) to the offender’s counsel or other representative of the offender.
- “(5) The chairperson or the panel convenor who makes the confidentiality order must give the order and the information to which it relates to the members of the Board who will determine the current matter.
- “(6) In this section and in section 13AC, **current matter**, in relation to an offender, means a matter concerning the offender that is before the Board or is expected to come before the Board.

“**13AC Effect of confidentiality order**

- “(1) A person commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, or to imprisonment for a term not exceeding 3 months, or to both, who intentionally contravenes a confidentiality order.
- “(2) Despite any other enactment, the Board may hear a person whose identity may not be disclosed under a confidentiality order only if it is satisfied that procedures are in place to ensure that the hearing will not result in the disclosure of the person’s identity to any person who is not, in terms of the order, permitted to have access to that information.
- “(3) In any court proceeding that relates to the confidentiality order or to the related current matter, a person whose identity may not be disclosed under a confidentiality order has a privilege in information that discloses, or may lead to the disclosure of, the person’s identity.
- “(4) This section has effect despite anything in section 13 or 65, the Official Information Act 1982, or the Privacy Act 1993.

“13AD If confidentiality order not made

- “(1) If the chairperson or a panel convenor refuses to make a confidentiality order, he or she—
- “(a) must return to the applicant all documents constituting or relating to the application for the order; and
 - “(b) must not disclose to any person, or give any person access to, any matter relating to the application.
- “(2) This section has effect despite anything in section 13 or 65, the Official Information Act 1982, or the Privacy Act 1993.

“13AE Variation or rescission of confidentiality order

The chairperson or a panel convenor may, on the application of the person who applied for a confidentiality order or on the application of that person’s successor in office, vary or rescind the order if satisfied that, because of a change in circumstances, the variation is necessary or, as the case requires, the order is no longer necessary.”

10 Standard release conditions

- (1) Section 14(2) is repealed.
- (2) Section 14(3) is amended by inserting “, sentences of home detention (including post-detention conditions),” after “community based sentences,”.

11 Special conditions

- (1) Section 15(1) is amended by omitting “, or if the standard detention conditions apply to the offender”.
- (2) Section 15(3) is amended by inserting the following paragraph after paragraph (a):
“(ab) residential restrictions:”.

12 Electronic monitoring

- (1) Section 15A(1) is amended by omitting “(whether imposed as a special condition under section 15 or as a standard detention condition under section 36)” and substituting “imposed under section 15(3)(f)”.
- (2) Section 15A(2)(a) is amended by omitting “, detention conditions,”.

(3) Section 15A(2) is amended by adding the following paragraph:

“(d) to verify that the offender has not tampered or otherwise interfered with the ability of the electronic monitoring equipment to operate effectively and accurately.”

(4) Section 15A(4) is amended by repealing paragraph (c) and substituting the following paragraph:

“(c) the percentage of offenders who, while subject to an electronic monitoring condition attaching to an extended supervision order, were—

“(i) convicted for a breach of the condition; or

“(ii) convicted of any other offence.”

13 Release at statutory release date

Section 17(2) is amended by omitting “or who is on home detention”.

14 Conditions applying to release at statutory release date

Section 18 is amended by inserting the following subsection before subsection (2A):

“(2AA) Despite subsection (2)(a), if the Board imposes any special conditions on the offender that the Board considers incompatible with all or any of the standard release conditions, the Board may suspend the incompatible standard release conditions during the period in which those special conditions are in force, and time runs on the suspended conditions during that period.”

15 New section 23 substituted

Section 23 is repealed and the following section substituted:

“23 No consideration for parole of offenders on compassionate release

An offender who is released on compassionate release may not be considered for parole by the Board.”

16 Early referral and consideration for parole

- (1) Section 25(1) is amended by omitting “exceptional circumstances” and substituting “special circumstances relating to the offender”.
- (2) Section 25(5)(b) is amended by inserting “(as that section was in force in the initial period)” after “section 86”.

17 Direction for release on parole

Section 28 is amended by inserting the following subsection before subsection (1):

- “(1AA) In deciding whether or not to release an offender on parole, the Board must bear in mind that the offender has no entitlement to be released on parole and, in particular, that neither the offender’s eligibility for release on parole nor anything else in this Act or any other enactment confers such an entitlement.”

18 New section 29 substituted

Section 29 is repealed and the following section substituted:

“29 Release conditions applying to parole

- “(1) In releasing an offender on parole, the Board—
- “(a) must impose the standard release conditions on the offender; and
 - “(b) may impose any special conditions on that offender that the Board specifies.
- “(2) Despite subsection (1)(a), if the Board imposes any special conditions on the offender that the Board considers incompatible with all or any of the standard release conditions, the Board may suspend the incompatible standard release conditions during the period in which those special conditions are in force, and time runs on the suspended conditions during that period.
- “(3) The standard release conditions imposed on an offender are in force—
- “(a) in the case of an offender who is subject to 1 or more determinate sentences, for the period that the Board specifies; and

- “(b) in the case of an offender who is subject to an indeterminate sentence, for the rest of the offender’s life.
- “(4) The period that the Board specifies under subsection (3)(a) may not be less than 6 months and may not extend for more than 6 months after the offender’s statutory release date.
- “(5) If the Board imposes special conditions on an offender, the special conditions are in force for the period that the Board specifies for the conditions.
- “(6) Special conditions imposed on an offender who is subject to 1 or more determinate sentences may not be in force for a longer period than the offender’s standard release conditions.”

19 New sections 29A and 29B inserted

The following sections are inserted after section 29:

“29A Release conditions for person to whom extended supervision order applies

The Board, when directing the release on parole of an offender in respect of whom an extended supervision order is made must—

- “(a) take into account, when setting any special conditions, the nature of the conditions to which the offender will be subject under the extended supervision order, when those conditions are reactivated under section 107P(2) on his or her statutory release date; and
- “(b) direct that the release conditions imposed last until the offender’s statutory release date.

“29B Board may monitor compliance with conditions

- “(1) If the Board is satisfied that, because of the special circumstances of an offender (other than an offender subject to an extended supervision order), it is desirable for the Board to do so, the Board may determine to monitor, during the specified period, the offender’s compliance with the release conditions imposed on the offender.
- “(2) In monitoring the conditions, the Board may on each occasion do either or both of the following:

- “(a) ask the Department of Corrections for a progress report on the offender’s compliance with the conditions:
 - “(b) require the offender to attend a hearing notified to the offender in writing.
- “(3) Each power specified in subsection (2) may be exercised on 1 or more occasions during the specified period, but may not be exercised more frequently than at 3-monthly intervals.
- “(4) A hearing that an offender is required to attend under subsection (2)(b)—
- “(a) is a special condition imposed on the offender; and
 - “(b) is conducted in accordance with any directions given by the Board, including, without limitation, that the offender attend otherwise than in person (for instance, by telephone or video link); and
 - “(c) is not subject to sections 43 to 50B; but
 - “(d) is subject to section 13 (which is about the information to be given to, or withheld from, the offender).
- “(5) At a hearing that an offender is required to attend under subsection (2)(b), the Board may, if it considers it appropriate to do so, take 1 or more of the following actions:
- “(a) vary any special conditions previously imposed on the offender:
 - “(b) impose new special conditions on the offender:
 - “(c) if the offender is on parole or compassionate release, and if the Board is satisfied of the matters stated in section 62, make an order in respect of the offender that has the same effect as an interim recall order under that section.
- “(6) Sections 57 and 58 apply, with any necessary modifications, to any action taken under subsection (5)(a) or (b).
- “(7) In this section, **specified period**, in relation to an offender released from detention, means a period of—
- “(a) 12 months from the date of release, if the offender is released on parole or compassionate release:
 - “(b) 6 months from the date of release, if the offender is released at the statutory release date.”

20 New heading and sections 33 to 35 substituted

- (1) The heading above section 33 is repealed, and the following heading substituted: “*Residential restrictions*”.
- (2) Sections 33 to 37 are repealed and the following sections substituted:

“33 Residential restrictions

- “(1) The Board may impose on an offender the special conditions referred to in section 15(3)(ab) (**residential restrictions**) if the residence in which it is proposed that the offender reside is in an area in which a residential restriction scheme is operated by the chief executive.
- “(2) An offender on whom residential restrictions are imposed is required—
 - “(a) to stay at a specified residence:
 - “(b) to be under the supervision of a probation officer and to co-operate with, and comply with any lawful direction given by, that probation officer:
 - “(c) to be at the residence—
 - “(i) at times specified by the Board; or
 - “(ii) at all times:
 - “(d) to submit, in accordance with the directions of a probation officer, to the electronic monitoring of compliance with his or her residential restrictions:
 - “(e) to keep in his or her possession the licence issued under section 53(3) and, if requested to do so by a member of the police or a probation officer, must produce the licence for inspection.
- “(3) Any conditions imposed under subsection (2)(c)(ii) may not be imposed for longer than the shortest of the following periods:
 - “(a) the period for which the standard release conditions apply:
 - “(b) 12 months:
 - “(c) if those conditions have previously been imposed on the offender in respect of the same release from detention, 12 months less the time for which those conditions have previously been imposed.
- “(4) An offender may, despite any conditions imposed under subsection (2)(c), leave the residence to which the residential restrictions relate—

- “(a) to seek urgent medical or dental treatment; or
 - “(b) to avoid or minimise a serious risk of death or injury to the offender or any other person; or
 - “(c) for humanitarian reasons approved by a probation officer.
- “(5) In any case where the conditions are of the kind specified in subsection (2)(c)(ii), the offender may, with the approval of a probation officer, leave the residence to which the residential restrictions relate—
- “(a) to comply with any special conditions; or
 - “(b) to seek or engage in employment; or
 - “(c) to attend training or other rehabilitative or reintegrative activities or programmes; or
 - “(d) to attend a restorative justice conference or other process relating to the offender’s offending; or
 - “(e) to carry out any undertaking arising from any restorative justice process; or
 - “(f) for any other purpose specifically approved by the probation officer.
- “**34 Prior report on suitability of residential restrictions**
- “(1) Before the Board imposes residential restrictions on an offender, the Board must request and consider a report from a probation officer on the matters specified in subsection (2).
- “(2) The matters are as follows:
- “(a) the nature of the offence or offences for which the offender is currently serving a sentence of imprisonment or has previously been convicted:
 - “(b) the likelihood that the residential restrictions will prevent further offending on the part of the offender:
 - “(c) the likelihood that the offender’s rehabilitation and reintegration will be assisted by residential restrictions:
 - “(d) the suitability of the proposed residence, including the safety and welfare of the occupants of the residence where the offender is to reside.
- “(3) Before completing the report requested under subsection (1), the probation officer must—
- “(a) ensure that every relevant occupant of the residence where it is proposed that the offender reside is aware of

- the nature of the offender's past and current offending;
and
- “(b) tell every relevant occupant that the reason for giving that information is to enable the occupant to make an informed decision about whether to consent to having the offender reside at the residence; and
 - “(c) tell every relevant occupant that the information provided about the offender must not be used for any purpose other than that described in paragraph (b); and
 - “(d) obtain the consent of every relevant occupant to having the offender reside at the residence; and
 - “(e) inform every relevant occupant of their right to withdraw their consent, at any time, to having the offender reside at the residence.
- “(4) In subsection (3), **relevant occupant** means, in relation to a residence that the probation officer is considering as a suitable residence for an offender subject to residential restrictions,—
- “(a) in the case of a family residence, every person of or over the age of 16 who ordinarily lives there; and
 - “(b) in the case of any other residence, every person whom the probation officer identifies as being a relevant occupant for the purpose of subsection (3).
- “**35 Residential restrictions only to be imposed if residence suitable and occupants consent**
- The Board may impose residential restrictions only if satisfied on reasonable grounds that—
- “(a) the residence in which it is proposed that the offender reside is suitable; and
 - “(b) the relevant occupants (as defined in section 34(4)) of the residence in which the offender will reside—
 - “(i) understand the residential restrictions that will apply to the offender; and
 - “(ii) consent to the offender residing in the residence in accordance with those conditions; and
 - “(iii) have been informed of their right to withdraw their consent, at any time, to having the offender reside in the residence; and

“(c) the offender has been made aware of and understands the residential restrictions, and he or she agrees to comply with them.”

21 New section 38 substituted

Sections 38 to 40A are repealed and the following section is substituted:

“38 Residential restrictions do not affect entitlements under Social Security Act 1964

The fact that a person is subject to residential restrictions does not, of itself, affect any entitlement the person may have under the Social Security Act 1964.”

22 Application of procedures set out in sections 43 to 50

Section 42 is amended by omitting from paragraph (b) “; or” and also by repealing paragraph (c).

23 Start of process

- (1) Section 43(1) is amended by omitting “or home detention” and also by repealing paragraph (d).
- (2) Section 43(2)(d) is repealed.

24 Information for victims

Section 44(d) is repealed.

25 Decision on type of hearing

Section 45 is amended by repealing subsection (7) and substituting the following subsection:

- “(7) Notification under subsection (5) or (6) must include,—
- “(a) if the hearing is to be an unattended one,—
 - “(i) a summary of the reasons for deciding that the hearing will be unattended; and
 - “(ii) advice to the offender on the offender’s right to an interview under section 47; and
 - “(iii) advice to the offender on the offender’s right to seek a review under section 46; and

“(b) if the hearing is to be an attended one, notice of the date of the hearing and relevant information about the rights of people attending.”

26 Review of decision on type of hearing

(1) Section 46 is amended by repealing subsections (1) and (2) and substituting the following subsections:

“(1) An offender who has been notified, under section 45(5), of the decision that the hearing will be unattended may seek a review of the decision by writing to the Board within 10 days of the date of the notice.

“(2) A panel convenor other than the one allocated to conduct the particular hearing must review the decision as soon as practicable.”

(2) Section 46(3) is amended by omitting “Board” and substituting “panel convenor”.

(3) Section 46(5) is amended by omitting “person” and substituting “offender”.

27 New section 47 substituted

Section 47 is repealed and the following section substituted:

“47 Interviews of offender before hearings

“(1) If a hearing is to be an unattended hearing, the offender must be given an opportunity to have an interview before the hearing with 1 member of the panel allocated to conduct the hearing.

“(2) The member conducting the interview may conduct the interview at whatever place and in whatever manner he or she considers appropriate (subject to subsection (3)).

“(3) The offender may have a support person with him or her, and the support person may, with the consent of the offender and the permission of the member conducting the interview, speak in support of the offender.”

28 Decisions must be notified

(1) Section 50(1)(a) is amended by omitting “or to commence home detention”.

(2) Section 50 is amended by omitting “or detention” in each place where it appears.

29 Decisions to be notified to certain victims

Section 50B(2) is amended by omitting “or detention”.

30 Date of release

Section 51(3) is amended by omitting “, or to start home detention,”.

31 Release of offenders released at statutory release date

Section 52(1) is amended by omitting “or from home detention”.

32 Licence issued on release

(1) Section 53(1) is amended by omitting “or from home detention”.

(2) Section 53(1)(a) is amended by omitting “(if any)”.

(3) Section 53 is amended by repealing subsection (3) and substituting the following subsection:

“(3) An offender subject to residential restrictions must, before the restrictions come into force, be issued with a licence that sets out—

“(a) the residential restrictions; and

“(b) the date or dates on which they, or any of them, come into force and cease to be in force; and

“(c) the obligations to comply with the directions given by a probation officer; and

“(d) the consequences of non-compliance with the conditions; and

“(e) the statutory provisions under which the conditions may be varied or discharged.”

(4) Section 53(4) is amended by omitting “or detention conditions”.

33 New section 54 substituted

Section 54 is repealed and the following section substituted:

“54 Police must be advised

“(1) Before an offender is released from detention in a prison, the chief executive must advise the police of—

“(a) the date on which the offender is to be released; and

- “(b) the offender’s release conditions; and
- “(c) the offender’s statutory release date.

“(2) Before an offender becomes subject to residential restrictions, the chief executive must advise the police of the date on which the restrictions commence and the date on which they cease to apply.”

34 Application for variation or discharge of conditions

- (1) Section 56(1) is amended by omitting “or detention conditions”.
- (2) Section 56(2) is amended by omitting “or detention condition”.

35 Application of section 56 during epidemic

Section 56A is amended by omitting “or detention condition”.

36 Procedure for determining applications

Section 57(2) is amended by inserting “, or withheld from,” after “to be given to”.

37 Board determines application for variation or discharge

- (1) Section 58(1) is amended by omitting “or detention condition”.
- (2) Section 58(2)(b) is amended by omitting “or detention”.

38 Making recall application

- (1) Section 60(2)(c) is amended by omitting “, home detention,”.
- (2) Section 60 is amended by inserting the following subsection after subsection (2):

“(2A) The Commissioner of Police may make a recall application in respect of any offender described in subsection (1) or (2) on the ground stated in section 61(a).”
- (3) Section 60 is amended by repealing subsection (4) and substituting the following subsection:

“(4) When a recall application is made, the sentence to which the application relates ceases to run, except for the period (if any) between the lodgement of the application and the date of its

determination during which the offender is under legal custody in accordance with the Corrections Act 2004.”

39 Grounds for recall

- (1) Section 61(b) is amended by omitting “or detention conditions”.
- (2) Section 61(c) is amended by inserting “, whether or not this has resulted in a conviction” after “imprisonment”.
- (3) Section 61 is amended by repealing paragraph (d) and substituting the following paragraph:
“(d) in the case of an offender who is subject to residential restrictions,—
 - “(i) the offender is jeopardising the safety of any person at his or her residence; or
 - “(ii) a suitable residence in an area in which a residential restriction scheme is operated by the chief executive is no longer available; or
 - “(iii) the offender no longer wishes to be subject to residential restrictions; or”.

40 Making interim recall order

Section 62(1) is amended by repealing paragraph (c) and substituting the following paragraph:

- “(c) in the case of an offender who is subject to residential restrictions,—
 - “(i) a suitable residence in an area in which a residential restriction scheme is operated by the chief executive is no longer available; or
 - “(ii) the offender no longer wishes to be subject to residential restrictions.”

41 Procedure for determining recall applications

Section 65(3) is amended by inserting “, or withheld from,” after “to be given to”.

42 Board may make final recall order

Section 66(4)(b) is amended by omitting “or detention conditions”.

43 Review of decisions

Section 67(2) is amended by inserting the following paragraphs before paragraph (a):

- “(aa) a decision under section 13AB to make, or refuse to make, a confidentiality order; or
- “(aab) a decision under section 13AE to vary or rescind, or to refuse to vary or rescind, a confidentiality order; or”.

44 Powers of court on appeal

Section 70(2)(b)(ii) is amended by omitting “or standard detention”.

45 Offence to breach conditions

- (1) Section 71(1) is amended by omitting “release conditions or detention conditions” and substituting “standard release conditions or any special conditions”.
- (2) Section 71(2) is amended by omitting “, home detention,”.

46 New section 72 substituted

Section 72 is repealed and the following section substituted:

“72 Offence to refuse entry to residence specified under residential restrictions

- “(1) This section applies to a residence (the **residence**) in which an offender is required to reside under residential restrictions.
- “(2) Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$5,000, who refuses or fails, without reasonable excuse, to allow a probation officer who has identified himself or herself to enter into the residence if the offender is required to be in the residence at the time that the probation officer seeks entry.
- “(3) Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$5,000, who refuses or fails, without reasonable excuse, to allow an authorised person to enter into the residence for the purpose of servicing or inspecting any equipment used in the electronic monitoring of the offender’s

compliance with the residential restrictions (whether or not the offender is required to be in the residence at that time).

- “(4) For the purposes of subsection (3), an authorised person is a person who—
- “(a) is a probation officer and has identified himself or herself; or
 - “(b) accompanies a person described in paragraph (a); or
 - “(c) is authorised in writing by a probation officer and has produced that written authority to an occupant of the residence.”

47 Arrest without warrant

Section 73(2) is amended by omitting “or detention conditions”.

48 Non-parole periods

- (1) Section 84 is amended by repealing subsections (1) and (2) and substituting the following subsections:

- “(1) The non-parole period of a long-term sentence (being a determinate sentence other than a notional single sentence or a sentence to which subsection (2) applies) is,—
- “(a) if the sentence is imposed after the initial period, 12 months or two-thirds of the length of the sentence (whichever is longer);
 - “(b) if the sentence is imposed in the initial period, one-third of the length of the sentence.

- “(2) The non-parole period of a sentence in respect of which the court has imposed a minimum term of imprisonment (whether under section 86 (as in force in the initial period), 89, or 103 of the Sentencing Act 2002) is the minimum term imposed.”

- (2) Section 84(5) is amended by repealing paragraph (a) and substituting the following paragraph:

- “(a) every short-term sentence within the notional single sentence must be treated as if it had a non-parole period of—
- “(i) two-thirds of its length, if the sentence is imposed after the initial period;
 - “(ii) one-third of its length, if the sentence is imposed in the initial period; and.”

49 New section 86 substituted

Section 86 is repealed and the following section substituted:

“86 Release date of sentence

- “(1) The release date of every determinate sentence, including every notional single sentence, is its sentence expiry date.
- “(2) For the purpose of applying subsection (1), the length of every short-term sentence imposed in the initial period (other than any such sentence imposed in that period that forms part of a notional single sentence that is a long-term sentence) is deemed to be reduced by one half.
- “(3) An indeterminate sentence does not have a release date.
- “(4) This section is subject to section 87.”

50 Meaning of pre-sentence detention

- (1) Section 91(5) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) under legal custody in accordance with the Corrections Act 2004 and serving a sentence of imprisonment; or”.
- (2) Section 91 is amended by repealing subsection (6) and substituting the following subsection:
- “(6) In subsection (5)(a), serving a sentence of imprisonment includes time spent in a prison following an application for a recall order, but only if—
- “(a) a final recall order is made following that application; and
- “(b) the offender was not, immediately before the application for the recall order was made, subject to conditions related to the offender’s home detention under a direction of the Board given before the commencement of section 72 of the Parole Amendment Act 2007 or in accordance with that section, whether those conditions were suspended or not.”

51 Time ceases to run in certain circumstances

- (1) Section 94(b) is amended by omitting “leave” and substituting “release”.
- (2) Section 94(b) is amended by omitting “; and”.
- (3) Section 94(c) is repealed.

52 Application of this Part to offenders subject to pre-cd sentences

Section 97(1)(b) is amended by inserting “(as in force before the commencement of section 72 of the Parole Amendment Act 2007)” after “section 35”.

53 Variation and cancellation of final release dates

Section 106(6) is amended by inserting “(directed by the Board before the commencement of section 72 of the Parole Amendment Act 2007 or in accordance with that section)” after “home detention”.

54 Overview of Part

Section 107A(c) is amended by omitting “standard release conditions” and substituting “standard extended supervision conditions”.

55 Meaning of relevant offence

- (1) Section 107B(2) is amended by inserting the following paragraph after paragraph (o):
“(oa) section 135 (indecent assault), but only if the victim of the offence was under the age of 16 at the time of the offence.”
- (2) Section 107B(2)(v) is repealed.

56 Meaning of eligible offender

- Section 107C is amended by adding the following subsection:
“(3) In this section, detention conditions has the same meaning as it had in section 4 before the commencement of section 72 of the Parole Amendment Act 2007.”

57 Chief executive may apply for extended supervision order

- Section 107F is amended by adding the following subsection:
“(3) To avoid doubt, in addressing the matters listed in subsection (2), the health assessor may take into account any statement of the offender or any other person concerning any conduct of the offender, whether or not that conduct constitutes an offence and whether or not the offender has been charged with, or convicted of, an offence in respect of that conduct.”

58 Procedure following application for extended supervision order

Section 107G(5)(b) is amended by inserting “unless the parties otherwise consent” after “8 days”.

59 Hearings relating to extended supervision orders

Section 107H is amended by inserting the following subsection after subsection (6):

“(6A) For the purposes of this section, a court may direct that the offender concerned be detained in the custody of the court for a period, not exceeding 2 hours, that may be necessary to enable the order to be drawn up and a copy given to the offender.”

60 New section 107IA inserted

The following section is inserted after section 107I:

“107IA Court may impose special conditions on interim basis

- “(1) When a sentencing court makes an extended supervision order in respect of an offender, the court may, on the application of the chief executive, make an order imposing on the offender any special conditions that the Board may impose under section 107K.
- “(2) The court may make an order under subsection (1) only if satisfied that there may not be sufficient time, before the extended supervision order comes into force, for the Board to determine which (if any) special conditions should be imposed on the offender.
- “(3) An order under subsection (1) may do either or both of the following:
- “(a) suspend any or all of the standard extended supervision conditions that would otherwise apply to the offender:
 - “(b) cancel or vary any special conditions that currently apply to the offender.
- “(4) An order under subsection (1)—
- “(a) takes effect when the extended supervision order to which it relates comes into force; and
 - “(b) expires when the special conditions imposed by the order end as provided by section 107L(2A).

- “(5) The court may, on the application of the chief executive, or on the application of the offender, cancel or vary a subsisting order under subsection (1) if satisfied that the cancellation or variation needs to be made before the Board determines which (if any) special conditions should be imposed on the offender.
- “(6) Any variation under subsection (5) has effect as an order under subsection (1).
- “(7) Section 107K applies with all necessary modifications to an order under subsection (1).”

61 New sections 107J and 107JA substituted

Section 107J is repealed and the following sections are substituted:

“107J Conditions of extended supervision order

- “(1) The conditions of an extended supervision order are—
- “(a) the standard extended supervision conditions set out in section 107JA; and
 - “(b) any special conditions imposed by the Board under section 107K, which apply for the period determined by the Board.
- “(2) The standard extended supervision conditions—
- “(a) apply throughout the term of the order (except as provided in section 107K(3) and section 107O); and
 - “(b) must be treated for the purpose of sections 56 to 58 as having been imposed by the Board.

“107JA Standard extended supervision conditions

- “(1) The standard extended supervision conditions are—
- “(a) the offender must report in person to a probation officer in the probation area in which the offender resides as soon as practicable, and not later than 72 hours, after commencement of the extended supervision order;
 - “(b) the offender must report to a probation officer as and when required to do so by a probation officer, and must notify the probation officer of his or her residential address and the nature and place of his or her employment when asked to do so:

- “(c) the offender must obtain the prior written consent of a probation officer before moving to a new residential address:
 - “(d) if consent is given under paragraph (c) and the offender is moving to a new probation area, the offender must report in person to a probation officer in the new probation area in which the offender is to reside as soon as practicable, and not later than 72 hours, after the offender’s arrival in the new area:
 - “(e) the offender must not reside at any address at which a probation officer has directed the offender not to reside:
 - “(f) the offender must obtain the prior written consent of a probation officer before changing his or her employment:
 - “(g) the offender must not engage, or continue to engage, in any employment or occupation in which the probation officer has directed the offender not to engage or continue to engage:
 - “(h) the offender must take part in a rehabilitative and reintegrative needs assessment if and when directed to do so by a probation officer:
 - “(i) the offender must not associate with, or contact, a person under the age of 16 years, except in the presence and under the supervision of an adult who—
 - “(i) has been informed about the relevant offending:
 - “(ii) has been approved in writing by a probation officer as suitable to undertake the role of supervision:
 - “(j) the offender must not associate with, or contact, a victim of the offender without the prior written approval of a probation officer:
 - “(k) the offender must not associate with, or contact, any person or class of person specified in a written direction given to the offender for the purposes of this paragraph.
- “(2) In this section, **contact**, includes communicating, or attempting to communicate, with a person by any means, such as by telephone or via the internet.”

62 Board may impose special conditions

Section 107K is amended by repealing subsections (1) to (3) and substituting the following subsections:

- “(1) At any time before an extended supervision order expires or is cancelled, and whether or not it has come into force, the Board may, on an application by the chief executive or a probation officer, impose on the offender any special condition that the Board is entitled to impose under section 15.
- “(2) Any residential restrictions imposed on the offender may include a requirement that the offender submit to being accompanied and monitored, for up to 24 hours a day, by an individual who has been approved, by a person authorised by the chief executive, to undertake person-to-person monitoring.
- “(3) When the Board imposes special conditions under this section,—
- “(a) the Board must specify the duration of those conditions which may (subject to paragraph (b)) be for the full term of the order, or any lesser period; and
- “(b) any residential restrictions may apply only within the first 12 months of the term of the order; and
- “(c) if the Board considers that any special conditions imposed on the offender are incompatible with all or any of the standard extended supervision conditions, the Board may (despite section 107J(1)(a)) suspend those incompatible standard extended supervision conditions during the period in which those special conditions are in force, and time runs on the suspended conditions during that period.”

63 Commencement and expiry of extended supervision order

- (1) Section 107L(1)(a) is amended by inserting “under a sentence of imprisonment” after “detained”.
- (2) Section 107L is amended by repealing subsection (2) and substituting the following subsections:
- “(2) Any standard release conditions to which the offender is subject when the extended supervision order comes into force are discharged.
- “(2A) Any special conditions (including any special conditions imposed under section 107IA) to which the offender is subject

when an extended supervision order comes into force continue in force—

- “(a) until the date that is 3 months after the date on which the extended supervision order comes into force; or
- “(b) if an application is made to the Board seeking the imposition of special conditions under section 107K within that 3-month period, until the Board—
 - “(i) imposes 1 or more of those conditions; or
 - “(ii) imposes any other special condition that the Board is entitled to impose under section 15; or
 - “(iii) declines to impose any special conditions.”

64 Suspension of conditions of extended supervision order

(1) Section 107P is amended by repealing subsection (1) and substituting the following subsection:

- “(1) The conditions of an offender’s extended supervision order are suspended, and time ceases to run on the order during—
 - “(a) any period that the offender is under legal custody in accordance with the Corrections Act 2004; and
 - “(b) any subsequent period following the offender’s release (if applicable) until the offender’s statutory release date.”

(2) Section 107P(2)(a) is amended by inserting “and in place of any other release conditions that would otherwise apply” after “statutory release date”.

65 Effect of new sentence on offender subject to extended supervision order

Section 107Q(1) is amended by inserting “or a sentence of home detention” after “community-based sentence”.

66 Functions of Board

- (1) Section 109(1)(b) is repealed.
- (2) Section 109(1)(d)(iii) is repealed.
- (3) Section 109(1)(e)(i) is amended by omitting “and detention conditions”.
- (4) Section 109(1)(e)(ii) is amended by omitting “, home detention,”.

(5) Section 109(1) is amended by inserting the following paragraph after paragraph (d):

“(da) to monitor the compliance by offenders with their release conditions in accordance with section 29B.”.

67 New sections 109A and 109B inserted

The following sections are inserted after section 109:

“109A Board must follow parole guidelines

“(1) In directing the release of an offender and imposing any conditions on an offender, the Board must follow any parole guidelines that are relevant to the offender’s case unless the Board is satisfied that it would be contrary to the interests of justice to do so.

“(2) Whenever the Board declines to follow relevant parole guidelines, the Board must state in writing in its order or determination why it considers that following the guidelines would be contrary to the interests of justice.

“109B Application of parole guidelines

A parole guideline applies to the release of an offender on or after the date on which the guideline comes into force, whether or not the guideline was in force when the offender’s sentence was imposed or when the offence to which the sentence relates was committed.”

68 Panel conveners

(1) Section 114(3)(a) is amended by omitting “release conditions, parole, or home detention” and substituting “release conditions or parole”.

(2) Section 114(3)(d) is amended by omitting “under section 67” and substituting “under sections 46(2) and 67”.

69 Decisions of Board

Section 116(3) is amended by omitting “or detention”.

70 Information before Board

Section 117 is amended by adding the following subsection:

“(3) This section is subject to sections 13AA to 13AE.”

71 New heading and sections 118A to 118D inserted

The following heading and sections are inserted after section 118:

“Summoning witnesses

“118A Power to summon witnesses

- “(1) The chairperson or a panel convenor may, for the purposes of any matter before the Board, issue a summons requiring any person to—
- “(a) attend and give evidence; and
 - “(b) produce any books, papers, documents, records, or things in the person’s possession or control that are relevant to the subject of the matter before the Board.
- “(2) The chairperson or panel convenor may not exercise the power conferred by subsection (1) on the basis of an application or request, but may do so only on his or her own initiative.
- “(3) A witness is not required to attend and give evidence or produce any things in accordance with a summons issued under subsection (1) unless, at the time of the service of the summons or at some other reasonable time before the day on which the attendance of the witness would, apart from this subsection, be required, there is tendered or paid to the witness a sum in respect of the witness’s allowances and travelling expenses in accordance with the scale prescribed for the time being by regulations made under the Summary Proceedings Act 1957.
- “(4) The summons must be in writing and state the place and time at which the witness is required to attend.

“Compare: 1908 No 25 s 4D

“118B Service of summons

- “(1) A summons to a witness may be served by—
- “(a) delivering it to the witness; or
 - “(b) leaving it at the witness’s usual place of residence; or
 - “(c) posting it by registered post addressed to the witness at the witness’s usual place of residence.
- “(2) The summons must be served at least 10 days before the day on which the witness is required to attend.

“(3) A summons served under subsection (1)(c) must be treated as having been served at the time when the letter would be delivered in the ordinary course of post.

“Compare: 1908 No 25 s 5

“**118C Protection of witnesses**

Every witness giving evidence before the Board has the same privileges and immunities as a witness in a court of law.

“Compare: 1908 No 25 s 6

“**118D Offences**

“(1) Every person commits an offence who, after being summoned to attend to give evidence before the Board or to produce to it any books, papers, documents, records, or things, without sufficient cause,—

“(a) fails to attend in accordance with the summons; or

“(b) refuses to be sworn or to give evidence, or having been sworn refuses to answer any question that the person is lawfully required by any member of the Board to answer concerning the subject of the matter before the Board; or

“(c) fails to produce any such book, paper, document, record, or thing.

“(2) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$10,000.

“Compare: 1908 No 25 s 9”.

72 Transitional provisions relating to home detention

(1) In this section,—

home detention has the same meaning as it had in section 4 of the principal Act before the commencement of this section

specified application means any application for home detention that the Board receives—

(a) before the commencement of this section and that has not been determined as at that commencement; or

(b) on or after that commencement from an offender who has leave to apply under section 97 of the Sentencing Act 2002

- specified offender** means an offender who is serving his or her sentence on home detention—
- (a) on or after the commencement of this section, under a direction of the Board given before that commencement; or
 - (b) after that commencement, under a direction of the Board that is authorised by subsection (2).
- (2) The principal Act, as in force immediately before the commencement of this section, applies to any specified application and accordingly governs—
- (a) the consideration of the application; and
 - (b) the exercise of any powers in respect of the application and the offender to whom it relates.
- (3) The principal Act, as in force immediately before the commencement of this section, applies to the home detention of a specified offender and accordingly governs—
- (a) the offender's rights, liabilities (including, without limitation, the offender's liability to recall), and obligations in respect of that home detention; and
 - (b) the exercise of any powers in respect of that home detention (including, without limitation, powers to impose, vary, or discharge conditions, and to release the offender on parole).
- (4) To avoid doubt, nothing in this section prevents the application, in respect of a specified application or a specified offender, of sections 7(2)(b), 13(5A), 13AA to 13AE, 60(2A), 61(c), 67(2), 117(3), and 118A to 118D of the principal Act as amended or inserted by this Act.

73 Transitional provisions relating to hearings

Sections 44, 47, and 49 of the principal Act, as in force immediately before the commencement of this section, continue to apply to any matter that relates to a hearing in respect of which the Board has, before that commencement, given 1 or more notices under section 43(2) of the principal Act.

74 Transitional provision relating to extended supervision order

- (1) The standard extended supervision conditions set out in section 107JA do not apply to a person who is subject to an extended supervision order made before the commencement of this section.
 - (2) In relation to an extended supervision order made before the commencement of this section and to the person in respect of whom it is made, each reference to standard extended supervision conditions in sections 107J and 107K must be read as a reference to standard release conditions.
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Notes**1 General**

This is an eprint of the Parole Amendment Act 2007. It incorporates all the amendments to the Parole Amendment Act 2007 as at 1 October 2007. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see "Making online legislation official" under "Status of legislation on this site" in the About section of this website.

3 List of amendments incorporated in this eprint (most recent first)

Parole Amendment Act 2007 Commencement Order 2007 (SR 2007/256)
