Reprint
as at 3 June 2017

Administration of Community Sentences and Orders Act 2013

Public Act	2013 No 88
Date of assent	22 October 2013
Commencement	see section 2

Contents

		Page
1	Title	4
2	Commencement	4
	Part 1 **Amendments to Bail Act 2000**	
3	Principal Act amended	4
4	Exercise of discretion when considering bail pending appeal	4
	Part 2 **Amendments to Bail Act 2000 (as amended by Bail Amendment Act 2011)**	
5	Principal Act amended	5
6	Granting of bail to appellant in custody pending appeal to District Court presided over by District Court Judge	5
7	Granting of bail to appellant in custody pending appeal to High Court	5
8	Granting of bail to appellant in custody pending appeal to Court of Appeal or Supreme Court	6

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

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

9	New section 58 substituted		6
	58	Time on bail pending appeal not to be taken as time served	6
10	Surrender of appellant released on bail		7
11	New section 60 inserted		7
	60	Surrender of appellant released on bail from sentence of home detention	7

Part 3
Amendments to Sentencing Act 2002

12	Principal Act amended		8
13	New section 20A inserted		8
	20A	Subsequent community-based sentence or sentence of home detention	8
14	Effect of provisions concerning multiple sentences on powers of court		9
15	Pre-sentence reports		9
16	Additional requirements when considering sentence of community detention or home detention		9
17	Standard conditions of supervision		10
18	New section 54AA inserted		10
	54AA	When time ceases to run on sentence of supervision	10
19	Standard conditions of intensive supervision		10
20	New section 54KA inserted		10
	54KA	When time ceases to run on sentence of intensive supervision	10
21	Concurrent and cumulative sentences of community work		11
22	Offender must report to probation officer		11
23	New section 66A substituted		11
	66A	Probation officer may direct hours of work to be converted to training	11
24	Consequences of failing without excuse to complete training		12
25	Guidance on use of sentence of community detention		12
26	Conditions of community detention during sentence term		12
27	Variation or cancellation of sentence of community detention		12
28	New section 69IA inserted		13
	69IA	When time ceases to run on sentence of community detention	13
29	New section 69JA inserted		13
	69JA	Chief executive of Department of Corrections may vary offender's curfew address	13
30	Section 69K repealed		14
31	Jurisdiction and procedure		14
32	Commencement of community-based sentences		14
33	Sentence of home detention		15

34	Detention conditions applying to offender sentenced to home detention		15
35	Application for variation or cancellation of sentence of home detention		15
36	New section 80FA inserted		15
	80FA	Chief executive of Department of Corrections may vary offender's home detention address	16
37	Section 80H repealed		16
38	New section 80MA inserted		16
	80MA	Registrar must notify controlling officer and offender of resumption of sentence	17
39	Imposition of post-detention conditions on offender		17
40	Offence to breach detention conditions		17
41	Commencement of sentence of home detention		17
42	Time ceases to run in certain circumstances		17
	80ZB	Time ceases to run in certain circumstances	17
43	New sections 80ZG to 80ZGD substituted		18
	80ZG	Effect of subsequent sentence of imprisonment of not more than 12 months	18
	80ZGA	Effect of subsequent sentence of imprisonment of more than 12 months	19
	80ZGB	Period of suspension not counted towards sentence	19
	80ZGC	Resumption of sentence of home detention	20
	80ZGD	Effect of appeal on resumption of sentence of home detention	20
44	Sections 80ZG to 80ZGC apply to home detention sentence imposed on or after commencement date		21
45	Imposition of conditions on release of offender sentenced to imprisonment for short term		21

Part 4
Amendments to Parole Act 2002

46	Principal Act amended		22
47	Special conditions		22
48	Conditions applying to release at statutory release date		22
49	Release conditions applying to parole		22
50	Board may monitor compliance with conditions		22
51	Prior report on suitability of residential restrictions		22
52	New section 36 inserted		23
	36	Chief executive may approve alternative residence pending determination of application for variation of residential restrictions	23
53	Application for variation or discharge of conditions		23
54	Making recall application		24
55	Time ceases to run in certain circumstances		24

56 Commencement and expiry of extended supervision order 24
57 Suspension of conditions of extended supervision order 25

Part 5
Consequential amendments to other enactments

58 Amendment to Criminal Procedure Act 2011 25
403A Transitional provision regarding effect of appeal on sentence of home detention 25
59 Amendment to Sentencing Amendment Act 2007 25
60 Amendment to Summary Proceedings Act 1957 26

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Administration of Community Sentences and Orders Act 2013.

2 Commencement

(1) This Act, other than Parts 1 and 2, section 38, section 43 so far as it relates to section 80ZGD, and sections 45(1) and 58, comes into force on the day that is 3 months after the date on which it receives the Royal assent.

(2) Part 1, Part 2, section 38, section 43 so far as it relates to section 80ZGD, and section 58 come into force on the day after the date that this Act receives the Royal assent.

(3) Section 45(1) comes into force on a date appointed by the Governor-General by Order in Council.

Part 1
Amendments to Bail Act 2000

3 Principal Act amended

This Part amends the Bail Act 2000.

4 Exercise of discretion when considering bail pending appeal

Section 14(1) is amended by inserting “or subject to a sentence of home detention” after “is in custody”.

Part 2
Amendments to Bail Act 2000 (as amended by Bail Amendment Act 2011)

5 Principal Act amended

This Part amends the Bail Act 2000 (as amended by the Bail Amendment Act 2011).

6 Granting of bail to appellant in custody pending appeal to District Court presided over by District Court Judge

(1) The heading to section 53 is amended by inserting "**or on home detention**" after "**custody**".

(2) Section 53 is amended by repealing subsection (1) and substituting the following subsection:

(1) This section applies if a person—

(a) is in custody under a conviction or sentence, or is subject to a sentence of home detention; and

(b) is appealing the conviction or sentence, or both, to a District Court presided over by a District Court Judge.

(3) Section 53(2) is amended by inserting ", or is subject to a sentence of home detention," after "custody".

(4) Section 53(4) is amended by omitting "34" and substituting "35".

(5) Section 53 is amended by repealing subsection (6) and substituting the following subsection:

(6) For the purposes of this section,—

(a) an appellant is not deemed to be in custody only under the conviction to which the appeal relates if a direction has been given under section 83 of the Sentencing Act 2002 that another sentence or term of imprisonment is to follow the sentence imposed on that conviction, and the appellant has not appealed against the conviction in respect of which that other sentence or term was imposed; and

(b) an appellant is not deemed to be subject to a sentence of home detention only under the conviction to which the appeal relates if a direction has been given under section 80B of the Sentencing Act 2002 that another sentence of home detention is to follow the sentence imposed on that conviction, and the appellant has not appealed against the conviction in respect of which that other sentence was imposed.

7 Granting of bail to appellant in custody pending appeal to High Court

(1) The heading to section 54 is amended by inserting "**or on home detention**" after "**custody**".

(2) Section 54 is amended by repealing subsection (1) and substituting the following subsection:

(1) This section applies if a person—

(a) is in custody under a conviction or is subject to a sentence of home detention; and

(b) is appealing the conviction or sentence, or both, to the High Court.

(3) Section 54(2) is amended by inserting ", or is subject to a sentence of home detention," after "custody".

(4) Section 54 is amended by repealing subsection (6) and substituting the following subsection:

(6) Section 53(6) applies for the purposes of this section.

8 Granting of bail to appellant in custody pending appeal to Court of Appeal or Supreme Court

(1) The heading to section 55 is amended by inserting "**or on home detention**" after "**custody**".

(2) Section 55 is amended by repealing subsection (1) and substituting the following subsection:

(1) This section applies if a person—

(a) is in custody under a conviction or is subject to a sentence of home detention; and

(b) is appealing the conviction or sentence, or both, to the Court of Appeal or the Supreme Court.

(3) Section 55(2) is amended by inserting ", or is subject to a sentence of home detention," after "custody".

(4) Section 55 is amended by repealing subsection (4) and substituting the following subsection:

(4) Section 53(6) applies for the purposes of this section.

9 New section 58 substituted

Section 58 is repealed and the following section substituted:

58 Time on bail pending appeal not to be taken as time served

(1) Section 95 of the Parole Act 2002 applies if an appellant is released on bail pending an appeal.

(2) For the purpose of calculating how much time an offender who is subject to a sentence of home detention has served, time ceases to run on the sentence during any period in which the offender is released on bail pending an appeal.

10 Surrender of appellant released on bail

(1) The heading to section 59 is amended by adding "**from sentence of imprisonment**".

(2) Section 59(1) is amended by omitting "defendant" and substituting "appellant".

(3) Section 59(2) is amended by omitting "a defendant" and substituting "an appellant".

11 New section 60 inserted

The following section is inserted after section 59:

60 Surrender of appellant released on bail from sentence of home detention

(1) An appellant who has been released from a sentence of home detention on bail pending the hearing of an appeal may surrender himself or herself and apply to a District Court Judge for the discharge of bail, and the District Court Judge may order that the appellant resume serving the sentence of home detention.

(2) If an appellant applies for the discharge of bail under subsection (1), the District Court Judge may,—

(a) if the appellant has been on bail for longer than 2 months, adjourn the matter to enable a probation officer to obtain the information required under subsection (3); and

(b) either—

(i) remand the appellant in custody; or

(ii) grant the appellant bail for the period of the adjournment.

(3) Before ordering that an appellant resume serving a sentence of home detention under subsection (1), the District Court Judge must, if the appellant has been on bail for longer than 2 months, consider information from a probation officer on—

(a) whether the home detention residence is still available and suitable; and

(b) whether every relevant occupant (as defined in section 26A(4)(a) of the Sentencing Act 2002) of the home detention residence consents, in accordance with section 26A(3)(d) of the Sentencing Act 2002, to the appellant resuming the sentence at the home detention residence.

(4) If a District Court Judge orders that the appellant resume serving the sentence of home detention,—

(a) the appellant must go to and remain at the home detention residence unless absent in accordance with section 80C(3)(a) or (b) of the Sentencing Act 2002; and

(b) the sentence of home detention resumes when the appellant has arrived at the home detention residence under paragraph (a).

Part 3
Amendments to Sentencing Act 2002

12 Principal Act amended

This Part amends the Sentencing Act 2002.

13 New section 20A inserted

The following section is inserted after section 20:

20A Subsequent community-based sentence or sentence of home detention

(1) This section applies to an offender who, while serving a community-based sentence or sentence of home detention (the **first sentence**), is sentenced to another community-based sentence or sentence of home detention (the **second sentence**) in respect of another offence.

(2) The court must, when imposing the second sentence,—

(a) impose a sentence that would be permitted in combination with the first sentence under section 19; or

(b) defer the commencement of the second sentence until the first sentence has been served; or

(c) cancel the first sentence; or

(d) cancel the first sentence and substitute any other sentence that could have been imposed on the offender at the time when the offender was convicted of the offence for which the sentence was imposed so that the sentences are a permitted combination of sentences under section 19.

(3) When cancelling the first sentence under subsection (2)(c) or (d), the court must, when imposing the second sentence or substituting the first sentence with another sentence, as the case may be, take into account the portion of the first sentence that remains unserved.

(4) A court—

(a) must not cancel a first sentence under subsection (2)(c) or (d) if that sentence has been imposed by a higher court; and

(b) if it considers the first sentence should be cancelled, must refer the matter to the court that imposed the first sentence.

(5) For the purposes of this section, an offender is to be treated as serving a sentence of home detention until the offender is no longer subject to any post-detention conditions imposed under section 80N (if any).

(6) Sections 54, 54K, 68, 69I, and 80F (which relate to the variation or cancellation of community-based sentences and a sentence of home detention) do not apply to a cancellation under this section.

(7) If the second sentence is a sentence of home detention or community detention and the court defers, under subsection (2)(b), the commencement of that sentence for more than 2 months, a probation officer must—

(a) review the suitability of the home detention residence or curfew address; and

(b) ensure every relevant occupant consents, in accordance with section 26A(3), to the offender resuming the sentence at the home detention residence or curfew address; and

(c) if necessary, apply to the court for a variation or cancellation of the sentence under section 69I or 80F or obtain from the chief executive of the Department of Corrections a variation of the curfew address or home detention residence under section 69JA or 80FA.

(8) In this section, **relevant occupant** has the meaning given to it by section 26A(4)(a).

14 Effect of provisions concerning multiple sentences on powers of court

Section 21 is amended by omitting "sections 19 and 20" and substituting "sections 19, 20, and 20A".

15 Pre-sentence reports

Section 26 is amended by repealing subsection (1) and substituting the following subsection:

(1) Except as provided in section 26A, if an offender who is charged with an offence punishable by imprisonment is found guilty or pleads guilty, the court may direct a probation officer to prepare a report for the court in accordance with subsection (2).

16 Additional requirements when considering sentence of community detention or home detention

(1) The heading to section 26A is amended by omitting "**Additional requirements**" and substituting "**Pre-sentence reports**".

(2) Section 26A is amended by repealing subsection (1) and substituting the following subsections:

(1) If the court is considering a sentence of community detention or home detention, the court must direct a probation officer to prepare a pre-sentence report for the court in accordance with subsection (2).

(1A) If a probation officer intends to recommend to the court a sentence of community detention or home detention, the probation officer must prepare a pre-sentence report in accordance with subsection (2) and provide it to the court.

(3) Section 26A(2) is amended by omitting "subsection (1) applies" and substituting "subsection (1) or (1A) applies".

(4) Section 26A is amended by adding the following subsection:

(5) Section 26(3), (4), and (5) apply, with any necessary modifications, to a report prepared under this section.

17 Standard conditions of supervision

Section 49(1) is amended by repealing paragraph (a) and substituting the following paragraph:

(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 the sentence is imposed unless the start date of the sentence has been deferred under section 20A(2)(b), in which case the offender must report not later than 72 hours after that date:

18 New section 54AA inserted

The following section is inserted after section 54:

54AA When time ceases to run on sentence of supervision

For the purpose of calculating how much time an offender has served on a sentence of supervision,—

(a) time ceases to run on the sentence during any period between the date on which an application under section 54(1)(a) is lodged and the date on which the application is determined by the court; but

(b) some or all of the period between those dates may be regarded by the court as time served, as the court thinks appropriate in the circumstances, after taking into account—

(i) the extent (if any) to which the offender has complied with any conditions of the sentence; and

(ii) the amount of time (if any) that the offender has spent in custody.

19 Standard conditions of intensive supervision

Section 54F(1) is amended by repealing paragraph (a) and substituting the following paragraph:

(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 the sentence is imposed unless the start date of the sentence has been deferred under section 20A(2)(b), in which case the offender must report not later than 72 hours after that date:

20 New section 54KA inserted

The following section is inserted after section 54K:

54KA When time ceases to run on sentence of intensive supervision

For the purpose of calculating how much time the offender has served on a sentence of intensive supervision,—

(a) time ceases to run on the sentence during any period between the date on which an application under section 54K(1)(a) is lodged and the date on which the application is determined by the court; but

(b) some or all of the period between those dates may be regarded by the court as time served, as the court thinks appropriate in the circumstances, after taking into account—

(i) the extent (if any) to which the offender has complied with any conditions of the sentence; and

(ii) the amount of time (if any) that the offender has spent in custody.

21 Concurrent and cumulative sentences of community work

Section 57(2A) is amended by inserting "or concurrently" after "cumulatively".

22 Offender must report to probation officer

Section 59(a) is amended by inserting "or, if the start date of the sentence has been deferred under section 20A(2)(b) or 57A, within 72 hours of the specified start date" after "imposed".

23 New section 66A substituted

Sections 66A and 66B are repealed and the following section is substituted:

66A Probation officer may direct hours of work to be converted to training

(1) This section applies to sentences of community work of at least 80 hours.

(2) A probation officer may direct that a specified number of hours of work, not exceeding 20% of the total number of hours of work ordered by the court to be undertaken, be spent in training in basic work and living skills.

(3) In determining whether to give a direction under this section, the probation officer must take account of—

(a) the benefits of skill development to the offender for reducing the likelihood of reoffending; and

(b) the need to hold the offender accountable to the community by making compensation to it.

(4) A probation officer must not give a direction under this section unless—

(a) it is reasonably practicable for the offender to undertake training in basic work and living skills (having regard to the availability of that training in the place where the offender lives); and

(b) the offender consents to undertake that training.

(5) Any hours spent by the offender training in basic work and living skills under a direction given under this section must, for all legal purposes, be treated as hours of authorised community work undertaken by the offender under his or her sentence.

(6) Subsection (5) is subject to section 66C.

24 Consequences of failing without excuse to complete training

Section 66C is amended by omitting "section 66B" and substituting "section 66A".

25 Guidance on use of sentence of community detention

Section 69C is amended by adding the following subsection:

(3) Before imposing a sentence of community detention on an offender, a court must consider the pre-sentence report prepared by a probation officer in accordance with section 26A.

26 Conditions of community detention during sentence term

(1) Section 69E(1) is amended by repealing paragraph (b) and substituting the following paragraph:

(b) the offender must report in person to a probation officer in the probation area in which the offender resides—

(i) as soon as practicable and not later than 24 hours after the sentence is imposed unless the 24 hours elapses on a weekend or a public holiday, in which case the offender must report on the next working day; or

(ii) not later than 24 hours after the start date of the sentence if the sentence has been deferred under section 20A(2)(b) unless the 24 hours elapses on a weekend or a public holiday, in which case the offender must report on the next working day:

(2) Section 69E(1) is amended by adding the following paragraph:

(f) the offender must, if required to submit to the electronic monitoring of his or her sentence, remain during the curfew period within the area defined by the probation officer.

(3) Section 69E is amended by inserting the following subsection after subsection (3):

(3A) A probation officer must define the area within which an offender subject to electronic monitoring is required to remain at the curfew address during the curfew period and show that area to the offender and advise the relevant occupants (as defined in section 26A(4)(b)) of that area.

27 Variation or cancellation of sentence of community detention

Section 69I is amended by inserting the following subsection after subsection (3):

(3A) When an application is made under this section for variation of conditions on the ground specified in subsection (1)(b) and there is no suitable alternative

curfew address available, the court may do either or both of the following things:

(a) issue to a constable a warrant for the offender's arrest:

(b) bail the offender or remand the offender in custody if the application cannot be determined immediately.

28 New section 69IA inserted

The following section is inserted after section 69I:

69IA When time ceases to run on sentence of community detention

For the purpose of calculating how much time an offender has served on a sentence of community detention,—

(a) time ceases to run on the sentence during any period between the date on which an application under section 69I(1)(a) is lodged and the date on which the application is determined by the court; but

(b) some or all of the period between those dates may be regarded by the court as time served, as the court thinks appropriate in the circumstances, after taking into account—

(i) the extent (if any) to which the offender has complied with any conditions of the sentence; and

(ii) the amount of time (if any) that the offender has spent in custody.

29 New section 69JA inserted

The following section is inserted after section 69J:

69JA Chief executive of Department of Corrections may vary offender's curfew address

(1) The chief executive of the Department of Corrections may vary an offender's curfew address if—

(a) the curfew address is no longer available or suitable because of a change in circumstances; and

(b) an alternative address is suitable; and

(c) every relevant occupant (as defined in section 26A(4)(b)) at the alternative address has given their informed consent to the offender remaining at that address during the curfew period; and

(d) the alternative address is in an area in which a community detention scheme is administered by the Department of Corrections; and

(e) the offender has given written consent to the change in address.

(2) A probation officer may, subject to subsection (3), approve a provisional curfew address at which the offender must remain during the curfew period pending a decision by the chief executive under subsection (1).

(3) If the chief executive does not vary a curfew address within 10 days after a provisional curfew address is approved under subsection (2),—

(a) a probation officer must approve another provisional curfew address at which the offender must remain during the curfew period pending a decision by the chief executive under subsection (1); or

(b) a probation officer must apply to the court for an order under section 69I(3) at the earliest opportunity and the offender must, unless the probation officer directs otherwise, remain at the provisional curfew address approved under subsection (2) during the curfew period pending the decision of the court.

(4) If the chief executive does not vary a curfew address within 10 days after the probation officer has approved a provisional curfew address under subsection (3)(a),—

(a) the probation officer must apply to the court for an order under section 69I(3) at the earliest opportunity; and

(b) the offender must, unless the probation officer directs otherwise, remain at the provisional curfew address approved under subsection (3)(a) during the curfew period pending the decision of the court.

30 Section 69K repealed

Section 69K is repealed.

31 Jurisdiction and procedure

(1) Section 72(1) is amended by repealing paragraph (c) and substituting the following paragraphs:

(c) to a District Court presided over by a Judge or Community Magistrate if the sentence was imposed by a Community Magistrate; or

(d) to a District Court presided over by any Judge, in any other case.

(2) Section 72 is amended by repealing subsection (3) and substituting the following subsection:

(3) If an application under section 54, 54K, 68, or 69I has been lodged in a court by a probation officer, a probation officer or a constable may, for the purpose of having the offender brought before the court dealing with the application, apply to a court or a Registrar for the issue of a warrant to arrest the offender and the court or Registrar may issue a warrant for arrest.

32 Commencement of community-based sentences

(1) Section 75(2)(a) is amended by inserting "this section and" after "subject to".

(2) Section 75 is amended by adding the following subsection:

(3) If a community-based sentence is imposed as a second sentence and deferred under section 20A(2)(b),—

(a) the community-based sentence commences on the date that the first sentence is completed; or

(b) if the offender is subject to post-detention conditions imposed in respect of the first sentence, the community-based sentence commences on the date that the offender is no longer subject to those conditions.

33 Sentence of home detention

Section 80A is amended by inserting the following subsection after subsection (2):

(2A) Before imposing a sentence of home detention on an offender, a court must consider the pre-sentence report prepared by a probation officer in accordance with section 26A.

34 Detention conditions applying to offender sentenced to home detention

(1) Section 80C(2) is amended by inserting the following paragraph after paragraph (d):

(da) the offender must, if required to submit to the electronic monitoring of his or her sentence, remain within the area defined by the probation officer; and

(2) Section 80C is amended by inserting the following subsection after subsection (5):

(5A) A probation officer must define the area within which an offender subject to electronic monitoring is required to remain at the home detention residence and show that area to the offender and advise the relevant occupants (as defined in section 26A(4)(a)) of that area.

35 Application for variation or cancellation of sentence of home detention

Section 80F is amended by inserting the following subsection after subsection (4):

(4A) When an application is made under this section for variation of conditions on the ground specified in subsection (1)(c) and there is no suitable alternative residence available, the court may do either or both of the following things:

(a) issue to a constable a warrant for the offender's arrest:

(b) bail the offender or remand the offender in custody if the application cannot be determined immediately.

36 New section 80FA inserted

The following section is inserted after section 80F:

80FA Chief executive of Department of Corrections may vary offender's home detention address

(1) The chief executive of the Department of Corrections may vary an offender's home detention address if—

(a) the home detention address is no longer available or suitable because of a change in circumstances; and

(b) an alternative address is suitable; and

(c) every relevant occupant (as defined in section 26A(4)(a)) at the alternative address has given their informed consent to the offender remaining at that address while serving his or her home detention sentence; and

(d) the alternative address is in an area in which a home detention scheme is administered by the Department of Corrections; and

(e) the offender has given written consent to the change in address.

(2) A probation officer may, subject to subsection (3), approve a provisional home detention address at which the offender must remain pending a decision by the chief executive under subsection (1).

(3) If the chief executive does not vary a home detention address within 10 working days after a provisional home detention address is approved under subsection (2),—

(a) the probation officer must approve another provisional home detention address at which the offender must remain pending a decision by the chief executive under subsection (1); or

(b) the probation officer must apply to the court for an order under section 80F(4) at the earliest opportunity and the offender must, unless the probation officer directs otherwise, remain at the provisional home detention address approved under subsection (2) pending the decision of the court.

(4) If the chief executive does not vary a home detention address within 10 days after the probation officer has approved a provisional home detention address under subsection (3)(a),—

(a) the probation officer must apply to the court for an order under section 80F(4) at the earliest opportunity; and

(b) the offender must, unless the probation officer directs otherwise, remain at the provisional home detention address approved under subsection (3)(a) pending the decision of the court.

37 Section 80H repealed

Section 80H is repealed.

38 New section 80MA inserted

The following section is inserted after section 80M:

80MA Registrar must notify controlling officer and offender of resumption of sentence

If the outcome of an offender's appeal against a sentence of home detention is unsuccessful and the offender has been granted bail under section 53, 54, or 55 of the Bail Act 2000, the Registrar of the appeal court must—

(a) notify the controlling officer (within the meaning of section 27 of the Corrections Act 2004) of the probation area in which the sentence is to be served of the date on which the sentence is to resume; and

(b) notify the offender of that date if he or she is not present in court at the time the appeal is disposed of.

39 Imposition of post-detention conditions on offender

(1) Section 80N(2)(a) is amended by omitting "and 80U" and substituting "80U, and 80ZG".

(2) Section 80N is amended by adding the following subsection:

(6) If the court imposes a home detention sentence cumulatively on an existing sentence, or imposes a concurrent sentence of home detention, any post-detention conditions imposed with the first home detention sentence commence only after both sentences have been completed.

40 Offence to breach detention conditions

Section 80S is amended by repealing paragraph (b) and substituting the following paragraphs:

(b) fails to return to a home detention residence when required to do so under section 80ZG(6)(b); or

(c) fails to report when required to do so under section 80ZGC(3)(a) or 80ZGD(2).

41 Commencement of sentence of home detention

(1) Section 80X(1) is amended by omitting "section 80W" and substituting "section 20A(2)(b) or 80W".

(2) Section 80X(3) is amended by omitting "section 80W" and substituting "section 20A(2)(b) or 80W".

42 Time ceases to run in certain circumstances

Section 80ZB is repealed and the following section substituted:

80ZB Time ceases to run in certain circumstances

For the purpose of calculating how much time an offender who is subject to a sentence of home detention has served,—

(a) time ceases to run on the sentence during any period between the date on which an application under section 80F(1)(a) is lodged and the date on which the application is determined by the court; but

(b) some or all of the period between those dates may be regarded by the court as time served, as the court thinks appropriate in the circumstances, after taking into account—

(i) the extent (if any) to which the offender has complied with any detention conditions; and

(ii) the amount of time (if any) that the offender has spent in custody.

43 New sections 80ZG to 80ZGD substituted

Section 80ZG is repealed and the following sections are substituted:

80ZG Effect of subsequent sentence of imprisonment of not more than 12 months

(1) This section applies if an offender who is subject to a sentence of home detention is subsequently sentenced to—

(a) a term of imprisonment of not more than 12 months; or

(b) 2 or more terms of imprisonment to be served concurrently, the total term of which is not more than 12 months; or

(c) 2 or more terms of imprisonment that are cumulative, the total term of which is not more than 12 months.

(2) If this section applies, the court must either—

(a) order that the sentence of home detention be suspended; or

(b) order that the sentence of home detention be suspended for the duration of the period in which the offender is detained under the sentence or sentences of imprisonment.

(3) If the court suspends the sentence of home detention under subsection (2)(b), it may, if it thinks fit and subject to subsection (4), remit, suspend, or vary any detention or post-detention conditions of the sentence imposed by the court, or impose additional detention or post-detention conditions.

(4) The court may not impose post-detention conditions on an offender under subsection (3) unless the court that sentenced the offender to home detention imposed post-detention conditions.

(5) The court must not vary any existing detention or post-detention condition or impose any new detention or post-detention condition of a kind referred to in section 80D(4)(b) or 80P(2)(b) (which involve prescription medication) unless the offender—

(a) has been fully advised by a person who is qualified to prescribe that medication about the nature and likely or intended effect of any variation or new condition in relation to the medication and any known risks; and

(b) consents to taking the prescription medication.

(6) If the court suspends the sentence of home detention under subsection (2)(b),—

(a) a probation officer must, before the statutory release date of the sentence of imprisonment,—

(i) review the suitability of the home detention residence; and

(ii) ensure every relevant occupant (as defined in section 26A(4)(a)) of the home detention residence consents, in accordance with section 26A(3), to the offender resuming the sentence at the home detention residence; and

(iii) if necessary, apply for a variation or cancellation of the sentence under section 80F or obtain from the chief executive of the Department of Corrections a variation of the home detention residence under section 80FA; and

(b) the offender must go to and remain at the home detention residence after being released from detention, unless absent in accordance with section 80C(3)(a) or (b); and

(c) the sentence of home detention resumes when the offender has arrived at the home detention residence under paragraph (b).

(7) If, for the purpose of subsection (6)(a)(iii), the probation officer makes an application for variation of the sentence under section 80F and approves an alternative residence pending determination of the application—

(a) the offender must go and remain at the alternative address until the application is decided; and

(b) once the application is decided, subsection (6)(b) and (c) apply accordingly.

80ZGA Effect of subsequent sentence of imprisonment of more than 12 months

(1) Subsection (2) applies if an offender who is subject to a sentence of home detention is subsequently sentenced to—

(a) a term of imprisonment of more than 12 months; or

(b) 2 or more terms of imprisonment to be served concurrently, the total term of which is more than 12 months; or

(c) 2 or more terms of imprisonment that are cumulative, the total term of which is more than 12 months.

(2) If this section applies, the sentence of home detention is suspended.

80ZGB Period of suspension not counted towards sentence

No period during which a sentence of home detention is suspended under section 80ZG(2) or 80ZGA(2) is counted towards the period of home detention imposed under section 80A(3).

80ZGC Resumption of sentence of home detention

(1) This section applies to a sentence of home detention that is suspended under section 80ZG(2) or 80ZGA(2).

(2) The sentence of home detention is suspended until the earlier of the following events:

(a) it resumes under subsection (3); or

(b) it resumes under section 80ZG(6)(c); or

(c) it is cancelled under subsection (5).

(3) If the sentence or sentences of imprisonment are quashed and that results in the offender no longer being detained under a sentence of imprisonment,—

(a) the offender must report to a probation officer as soon as practicable and not later than 72 hours after being released from detention; and

(b) the sentence of home detention resumes when the offender has reported as required under paragraph (a).

(4) The Registrar of the court in which the sentence or sentences of imprisonment are quashed must notify the chief executive of the Department of Corrections.

(5) If the sentence of home detention does not resume under section 80ZG(6)(c) or subsection (3), it is cancelled when the offender ceases to be detained under the sentence or sentences of imprisonment.

80ZGD Effect of appeal on resumption of sentence of home detention

(1) This section applies if—

(a) an offender has, on or after the commencement of this section, lodged an appeal against—

(i) a sentence of home detention imposed before or after that commencement; or

(ii) the conviction on which that sentence is based; or

(iii) both; and

(b) the offender has been granted bail under section 53, 54, or 55 of the Bail Act 2000; and

(c) the outcome of the appeal is that—

(i) the appeal is dismissed; or

(ii) the appeal is deemed pursuant to rules of court to be dismissed; or

(iii) leave to appeal is refused; or

(iv) neither the sentence of home detention nor the conviction on which it was made is set aside when the appeal is determined.

(2) If this section applies,—

(a) the court to which the appeal is made must specify a date on which the offender must report to a probation officer and that date must be not earlier than 10 working days after the outcome of the appeal is determined and must fall on a working day; and

(b) the offender must report to a probation officer on that date; and

(c) the sentence of home detention resumes when the offender has reported to the probation officer on that date.

(3) If the offender has been on bail for more than 2 months, the probation officer must, before the sentence of home detention resumes,—

(a) review the suitability of the home detention address; and

(b) ensure every relevant occupant consents, in accordance with section 26A(3), to the offender resuming the sentence at the home detention residence; and

(c) if necessary, apply to the court for a variation or cancellation of the sentence under section 80F or obtain from the chief executive of the Department of Corrections a variation of the home detention residence under section 80FA.

(4) This section does not apply if the offender is detained under a sentence of imprisonment.

44 Sections 80ZG to 80ZGC apply to home detention sentence imposed on or after commencement date

Sections 80ZG to 80ZGC of the principal Act (as inserted by section 43) apply only in relation to a sentence of home detention imposed on or after the commencement of this section.

45 Imposition of conditions on release of offender sentenced to imprisonment for short term

(1) *[Repealed]*

(2) Section 93 is amended by inserting the following subsection after subsection (2A):

(2AB) If the court imposes special conditions on an offender, the special conditions may apply for as long as, but no longer than, the standard conditions apply to the offender.

Section 45(1): repealed, on 3 June 2017, by section 3(2) of the Statutes Repeal Act 2017 (2017 No 23).

Part 4
Amendments to Parole Act 2002

46 Principal Act amended

This Part amends the Parole Act 2002.

47 Special conditions

Section 15 is amended by inserting the following subsection after subsection (3):

(3A) If the Board imposes on an offender special conditions relating to residential restrictions (specified under subsection (3)(ab)),—

(a) the offender's probation officer must define the area of the residence specified under section 33(2)(a) within which the offender must remain and show that area to the offender and advise every relevant occupant (as defined in section 34(4)) of the residence of that area; and

(b) the offender must remain within that area.

48 Conditions applying to release at statutory release date

Section 18 is amended by repealing subsection (2A) and substituting the following subsection:

(2A) If an offender in respect of whom an extended supervision order is made is released at his or her statutory release date, or released early under section 52, the Board may impose special conditions, the duration of which are determined by section 107L(2A).

49 Release conditions applying to parole

Section 29(3)(b) is amended by adding ", unless the release conditions are varied or discharged by the Board under section 58".

50 Board may monitor compliance with conditions

Section 29B is amended by inserting the following subsection after subsection (6):

(6A) Sections 63 and 65 to 66A apply, with any necessary modifications, in respect of an order made under subsection (5)(c) as if—

(a) the order were an interim recall order made under section 62; and

(b) a recall application had been made.

51 Prior report on suitability of residential restrictions

(1) Section 34(1) is amended by omitting "a probation officer" and substituting "the chief executive".

(2) Section 34 is amended by inserting the following subsections after subsection (1):

(1A) Nothing in subsection (1) prevents the chief executive from providing a report on the matters specified in subsection (2) without receiving a request from the Board.

(1B) Despite subsection (1), if the chief executive provides a report on the matters specified in subsection (2) without a request from the Board, the Board must consider that report as if it were a report requested by the Board under subsection (1).

(3) Section 34(3) is amended by omitting "Before completing the report requested under subsection (1), the probation officer must—" and substituting "Before completing the report under this section, the chief executive must—".

(4) Section 34(4) is amended by omitting "the probation officer" in each place where it appears and substituting in each case "the chief executive".

52 New section 36 inserted

The following section is inserted after section 35:

36 Chief executive may approve alternative residence pending determination of application for variation of residential restrictions

(1) This section applies if an offender who is subject to residential restrictions or a probation officer intends to apply or has applied to the Board under section 56 for a variation of residential restrictions.

(2) If this section applies, the chief executive may approve an alternative residence at which the offender must stay at all times or at times specified by the Board, pending the determination of the application.

(3) If the chief executive approves an alternative residence before the application has been made, a probation officer must apply to the Board under section 56 within 5 working days of the chief executive's approval being given.

(4) Subsection (3) does not apply if an offender makes the application within the 5-day period specified in subsection (3).

(5) If the chief executive considers there is no suitable alternative residence available,—

(a) a probation officer must apply to the Board under section 56 at the earliest opportunity; or

(b) the chief executive must make a recall application to the Board under section 60.

(6) In subsections (2) to (4), an **application** means application to the Parole Board under section 56 for a variation of residential restrictions.

53 Application for variation or discharge of conditions

Section 56 is amended by adding the following subsection:

(5) Subsection (4) does not apply to an application for variation or discharge of standard release conditions imposed on an offender who is subject to an indeterminate sentence.

54 Making recall application

Section 60 is amended by repealing subsection (4) and substituting the following subsections:

(4) When a recall application is made, the sentence to which the recall application relates ceases to run as follows:

(a) if a final recall order is made, for the period between the lodgement of the application and the making of the order during which the offender was at large:

(b) if an interim recall order is made but the Board does not make a final recall order, for the period between the making of the interim recall order and the date of the determination of the application during which the offender was at large.

(5) When a recall application is made, the sentence to which the recall application relates continues to run as follows:

(a) 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:

(b) if an interim recall order is made, for the period between the lodgement of the application and the making of the interim recall order:

(c) if no interim or final recall order is made, for the period between the lodgement of the application and the date of its determination.

55 Time ceases to run in certain circumstances

Section 94 is amended by repealing paragraph (b) and substituting the following paragraph:

(b) for an offender on parole or compassionate release, as provided in section 60(4).

56 Commencement and expiry of extended supervision order

Section 107L is amended by inserting the following subsection after subsection (1):

(1A) If an offender is released early under section 52 and the offender is subject to an extended supervision order made in the circumstances described in subsection (1)(a), then—

(a) the extended supervision conditions and any special conditions (including any special conditions imposed under section 107IA) come into force on the offender's actual release date; but

(b) time does not begin to run on the order until the offender's statutory release date.

57 Suspension of conditions of extended supervision order

Section 107P is amended by inserting the following subsection after subsection (2):

(2A) If an offender is released early under section 52 and the offender is subject to an extended supervision order that is reactivated in the circumstances described in subsection (2)(a), then—

(a) the extended supervision conditions and any special conditions (including any special conditions imposed under section 107IA) are reactivated on the offender's actual release date; but

(b) time does not begin to run on the order until the offender's statutory release date.

Part 5
Consequential amendments to other enactments

58 Amendment to Criminal Procedure Act 2011

(1) This section amends the Criminal Procedure Act 2011.

(2) The following section is inserted after section 403:

403A Transitional provision regarding effect of appeal on sentence of home detention

If, in any proceeding to which section 397 applies, a person is convicted and sentenced to home detention and on or after the date that this section comes into force either party appeals a determination to which the sentence relates, section 397(2) has effect subject to the following:

(a) the sentence of home detention is not suspended just because a notice of appeal or application for leave to appeal has been given unless the appeal court expressly directs that the sentence be suspended; and

(b) section 399 of the Crimes Act 1961 and section 124 of the Summary Proceedings Act 1957 (as each of those provisions read before the commencement date) do not apply; and

(c) the person sentenced to home detention may apply for bail and the provisions of the Bail Act 2000 (as those provisions read before the commencement date) apply except that sections 54, 55, 58 and 59A of the Bail Act (as those provisions read at the time of the appeal) apply with any necessary modifications.

59 Amendment to Sentencing Amendment Act 2007

(1) This section amends the Sentencing Amendment Act 2007.

(2) Section 49(3) is repealed.

60 Amendment to Summary Proceedings Act 1957

(1) This section amends the Summary Proceedings Act 1957.

(2) Section 106E(9) is amended by omitting "Section 19 of the Sentencing Act 2002 applies" and substituting "Sections 19 and 20A of the Sentencing Act 2002 apply".

Reprints notes

1 General

This is a reprint of the Administration of Community Sentences and Orders Act 2013 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 Legal status

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 Editorial and format changes

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also http://www.pco.parliament.govt.nz/editorial-conventions/.

4 Amendments incorporated in this reprint

Statutes Repeal Act 2017 (2017 No 23): section 3(2)

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2017