

Returning Offenders (Management and Information) Bill

Government Bill

Explanatory note

General policy statement

The Bill establishes a regime for the identification and management of offenders returning to New Zealand after being sentenced to more than 1 year's imprisonment in an overseas jurisdiction.

Increasing numbers of offenders, including some who pose a risk to the safety of the public, are being removed or deported to New Zealand. At present, most offenders returning to New Zealand are not subject to any formal supervision or interaction with the New Zealand Police (the **Police**).

Interaction with Police (all returning offenders)

The Bill will require all offenders returning to New Zealand following an offence involving conduct that would constitute an imprisonable offence against New Zealand law (**returning offenders**) to provide the Police with identifying information (including photographs and fingerprints). This would supplement any information obtained from other jurisdictions in order for Police to have a reliable record of the offender's identity and to establish, among other things, whether they qualify for management by the Department of Corrections as a **returning prisoner** under this Bill. Offenders whose conduct would amount to an imprisonable offence in New Zealand will also be required to provide the Police with a sample of their DNA for the DNA profile databank. Similar powers to obtain information would have been available to the Police had the offender committed the offence in New Zealand.

Interaction with the Department of Corrections (returning prisoners only)

Returning prisoners will be managed in the community by the Department of Corrections (**Corrections**) on a comparable basis to offenders released with conditions from a sentence of imprisonment in New Zealand. Once the Commissioner of Police has identified an offender as meeting the criteria for a returning prisoner, and serves the

offender with a determination notice to that effect, the offender will automatically be subject to the standard release conditions provided in the Parole Act 2002. Offenders will have to be identified as returning prisoners within 6 months of their return to New Zealand.

Corrections will also be able to apply to the District Court for special release conditions to be imposed on the returning prisoner (including, on an interim basis, in advance of his or her arrival if the court considers it immediately necessary). The management of returning prisoners under standard and any special release conditions will assist their rehabilitation and reintegration into New Zealand, and reduce their risk of reoffending.

Other categories of returning offenders

Some returning offenders will not automatically qualify for management as a returning prisoner because they were released from an overseas prison into the supervision of a correctional agency more than 6 months before their return to New Zealand. Where these offenders were subject to monitoring or supervision immediately prior to their return, the Bill empowers a court, on application by Corrections, to impose conditions on these returning offenders to continue their management in the New Zealand community.

Some returning offenders may meet the criteria for the imposition of a public protection order under the Public Safety (Public Protection Orders) Act 2014 or an extended supervision order under the Parole Act 2002. In these cases, Corrections will be able to apply for these orders while the returning prisoner is subject to conditions under the Bill.

Departmental disclosure statement

The Ministry of Justice is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2015&no=98>

Regulatory impact statement

The Ministry of Justice produced a regulatory impact statement on 12 October 2015 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

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

- <http://www.justice.govt.nz/policy/regulatory-impact-statements>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the title clause.

Clause 2 is the commencement clause. It provides that the Bill comes into force on the day on which it receives the Royal assent.

Part 1

Preliminary provisions

Clause 3 sets out the purpose of the Bill.

Clause 4 is the interpretation provision. Two key terms used in the Bill are returning offender and returning prisoner. It is important to understand that returning prisoners are a subset of returning offenders. Because the Bill mirrors aspects of the Parole Act 2002, *clause 4(2)* is a default provision applying the interpretation of terms in the Parole Act to terms used in this Act where they are not otherwise defined.

Clause 5 is the standard provision referencing any transitional, savings, and related provisions which are contained in the Schedule to the Bill. As introduced, the Schedule contains no such provisions.

Clause 6 provides that the Act binds the Crown.

Part 2

Returning offenders: management and information

Subpart 1—Returning offenders

Clause 7 sets out who is a returning offender. A returning offender includes a returning prisoner. A returning offender is subject to the information-gathering regime provided for in *clauses 8 to 13* (which relate to taking identifying particulars of a returning offender) and *clauses 14 and 15* (which apply aspects of the Criminal Investigations (Bodily Samples) Act 1995 (the **1995 Act**) to returning offenders).

Taking identifying particulars from returning offenders

Clause 8 limits information gathering under *clauses 9 to 11* to obtaining information for present or future use by the Police for a lawful purpose. The information to be obtained under those clauses are identifying particulars of a person. The term identifying particulars is defined in *clause 4* to have the same meaning as in section 32(5) of the Policing Act 2008. There are 2 stages to obtaining identifying particulars from a returning offender: the Police may request the offender to provide them (*clause 9*) but should the offender refuse, the Police have the power to detain the offender (*clause 10*) and take the identifying particulars (*clause 11*). There are important limits on the power of detention: it can only be exercised on or within 6 months after the offender's return to New Zealand (*clause 10(1)*) and a person can be detained only for so long as is reasonably necessary in the circumstances for the Police to take his or her identifying particulars (*clause 10(2)*). Those identifying particulars may be stored

by the Police (*clause 12*). *Clause 13* provides for offences for failing to comply with a direction of a constable exercising the power to detain and take identifying particulars (*clause 13(1)*) and for providing false or misleading information knowing it to be so (*clause 13(2)*).

Obtaining bodily samples from returning offenders

Clause 14 authorises obtaining a bodily sample from a returning offender by a data-bank compulsion notice issued under the 1995 Act. There are 2 prerequisites for this to occur. First, the offender's conviction in an overseas jurisdiction of an offence for conduct that constitutes an imprisonable offence in New Zealand must have been a ground of the offender's removal or deportation to New Zealand (*clause 14(1)(a)*). Secondly, the offender's conviction for that offence must be a conviction which would, if entered by a New Zealand court, be one to which Part 3 of the 1995 Act applies under section 4 of that Act (*clause 14(1)(b)*). *Clause 15* sets out a number of express modifications of the 1995 Act to adapt it for obtaining a bodily sample from a returning offender.

Subpart 2—Returning prisoners

General

Clause 16 sets out who is a returning prisoner. A returning prisoner is a person who has been determined to be a returning prisoner by the Commissioner of Police in accordance with the criteria listed in *clause 17(1)*. Whereas a returning offender is a person who has a qualifying conviction, whether or not he or she has been sentenced to imprisonment as a result, a returning prisoner is a person who has been sentenced to imprisonment for a term of more than 1 year for the qualifying conviction (*clause 17(1)(b)*).

Commissioner's determination that person is returning prisoner

Clauses 18 to 23 relate to the Commissioner's determination that a person is a returning prisoner. *Clause 18* prescribes a time limit (6 months after return to New Zealand), *clause 19* requires a notice (the **determination notice**) to be served on the returning prisoner, and *clause 20* sets out the contents of the determination notice. A consequence of determination as a returning prisoner is that the person in question is made subject to the standard release conditions set out in the Parole Act 2002 and may be subject to court-imposed special conditions under *clause 26*. Accordingly, the determination notice is intended to inform that person of those conditions, the period for which he or she will be subject to them, the steps that he or she must take, and his or her right to apply for a Commissioner's review of the determination. *Clause 21* provides for the issue of a warrant for entry to premises to serve a determination notice. Under *clause 22*, a returning prisoner may challenge the determination by applying to the Commissioner for a review of the decision, but may only challenge it on factual grounds. An application for review does not suspend the operation of the applicant's release conditions pending the outcome of the review (*clause 23*).

Consequences of determination as returning prisoner

Clause 24 provides that a returning prisoner is subject to standard release conditions from the time of service on that person of a determination notice. The period for which the release conditions apply varies according to the length of the relevant sentence (*clause 24(2)*). The standard release conditions are set out or referred to in *clause 25*. The condition contained in *clause 25(a)* is an adaptation of the condition contained in section 14(1)(a) of the Parole Act 2002. The remaining conditions are the conditions set out in section 14(1)(b) to (i) of the Parole Act 2002.

Clause 26 provides for the imposition on a returning offender of special conditions, in addition to the standard release conditions imposed under *clauses 24 and 25*. Like standard release conditions, special conditions are a subset of release conditions generally. Special conditions may be imposed by a court on the application of the chief executive of the Department of Corrections. Again, *clause 26* mirrors the provisions contained in section 15 of the Parole Act 2002. Under *clause 27*, a court may impose interim special conditions to meet the necessity of special conditions in force immediately a returning prisoner returns to New Zealand.

Clause 28 provides that a court may vary or discharge release conditions, *clause 30* sets out when release conditions end, and *clause 31* provides that it is an offence to breach a release condition without reasonable excuse. In each of these provisions, the reference to release conditions captures (by virtue of the definition of release condition in *clause 4(1)*) both standard release conditions and special conditions. *Clause 29* sets out the effect on release conditions when a returning prisoner is subsequently imprisoned in New Zealand. Broadly speaking, the release conditions continue in parallel with imprisonment or subsequent release conditions but do not have effect for the period of imprisonment and do not apply to the extent that subsequent release conditions apply.

Subpart 3—Returning offender who returns to New Zealand more than 6 months after release from custody

Subpart 3 applies to a returning offender who would qualify as a returning prisoner but for the fact that he or she is returning or has returned to New Zealand more than 6 months after his or her release from custody. A court may impose release conditions, that is, both standard release conditions and special conditions, on the returning offender if he or she was subject to corresponding release conditions immediately before his or her return to New Zealand (*clause 32(1)*).

Subpart 4—Amendments to other Acts

Clause 35 amends sections 107C and 107F of the Parole Act 2002 to allow extended supervision orders to be made in respect of returning prisoners and persons to whom *subpart 3 of Part 2* of the Bill applies.

Clause 36 amends section 7 of the Public Safety (Public Protection Orders) 2014 to allow public protection orders to be made in respect of returning prisoners and persons to whom *subpart 3 of Part 2* of the Bill applies.

Clause 37 provides for a review of the operation of the Act within 2 years of its commencement by the Justice and Electoral Committee established by the House of Representatives.

Hon Amy Adams

Returning Offenders (Management and Information) Bill

Government Bill

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**Returning Offenders (Management and Information)
Bill**

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The Parliament of New Zealand enacts as follows:

1	Title	
	This Act is the Returning Offenders (Management and Information) Act 2015 .	
2	Commencement	
	This Act comes into force on the day on which it receives the Royal assent.	
	Part 1	5
	Preliminary provisions	
3	Purpose	
	The purpose of this Act is to obtain information from returning offenders and establish release conditions for offenders returning to New Zealand following a prison sentence of more than 1 year in an overseas jurisdiction.	10
4	Interpretation	
(1)	In this Act, unless the context otherwise requires,—	
	1995 Act means the Criminal Investigations (Bodily Samples) Act 1995	
	chief executive means the chief executive of the Department of Corrections	
	Commissioner means the Commissioner of Police	15
	constable has the meaning given to it in section 4 of the Policing Act 2008	
	court means the District Court	
	Customs place has the meaning given to it in section 9(1) of the Customs and Excise Act 1996	
	detain , in relation to a person, includes to move the person to a Customs place, Police station, or any other place being used for Police purposes	20
	determination notice means a notice served under section 19	
	identifying particulars has the same meaning as in section 32(5) of the Policing Act 2008	
	overseas jurisdiction —	25
(a)	excludes the islands and territories within the Realm of New Zealand; but	
(b)	includes the self-governing state of the Cook Islands, the self-governing state of Niue, Tokelau, and the Ross Dependency	
	Parole Act means the Parole Act 2002	30
	Police means the New Zealand Police	
	release condition means a standard release condition or a special condition	
	relevant sentence means the sentence referred to in section 17(1)(b)	
	returning offender has the meaning given to it in section 7	

- returning prisoner** has the meaning given to it in **section 16**
- sentence of life imprisonment** has the meaning given to it in **section 24(3)**
- special condition** means a condition imposed by a court under **section 26(1) or 27(1)**
- standard release condition** means a condition that is set out or referred to in **section 25.** 5
- (2) In this Act, unless the context otherwise requires, a term that is used but not defined, but that is defined in the Parole Act, has the same meaning as in that Act.
- 5 Transitional, savings, and related provisions** 10
- The transitional, savings, and related provisions (if any) set out in **Schedule 1** have effect according to their terms.
- 6 Act binds the Crown**
- This Act binds the Crown.

Part 2 15

Returning offenders: management and information

Subpart 1—Returning offenders

- 7 Who is returning offender**
- A **returning offender**—
- (a) is a person who has been convicted in an overseas jurisdiction of an offence for conduct that constitutes an imprisonable offence in New Zealand and, being liable for deportation or removal as a result of that conviction, has returned to New Zealand; and
- (b) includes a returning prisoner.
- Taking identifying particulars from returning offenders* 25
- 8 Purpose of obtaining information for use by Police for any lawful purpose**
- The purpose of **sections 9 to 11** is to enable the Police to obtain information that may be used now or in the future by the Police for any lawful purpose.
- Compare: 2008 No 72 ss 32(1), 33(1)
- 9 Police may request returning offender to provide identifying particulars** 30
- The Police may, as soon as is reasonably practicable, request a returning offender to provide identifying particulars and may detain the offender under **section 10** if the offender refuses.

- 10 Police may detain returning offender for purpose of taking identifying particulars**
- (1) A constable may, for the purpose of taking the identifying particulars of a returning offender, detain the offender on, or at any time within 6 months after, the offender's return to New Zealand. 5
- (2) A constable may detain an offender under **subsection (1)** only for a period that is no longer than is reasonably necessary in the circumstances for a constable to take the identifying particulars of the offender.
- (3) A constable may use reasonable force, if it is necessary, to detain an offender under **subsection (1)**. 10
Compare: 1996 No 27 s 148A(1), (6)
- 11 Police may take identifying particulars**
- A constable may take the identifying particulars of a returning offender who has been detained under **section 10** but—
- (a) must do so in a manner that is reasonable in the circumstances; and 15
- (b) may only use reasonable force that may be necessary to secure those identifying particulars.
- Compare: 2008 No 72 s 32(3)
- 12 Storage, etc, on Police information recording system of identifying particulars** 20
- (1) The identifying particulars of a returning offender that are provided in response to a request under **section 9** or otherwise taken under **section 11** may be entered, recorded, and stored on a Police information recording system.
- (2) However, photographs or visual images of a returning offender, and impressions of that person's fingerprints, palm-prints, or footprints, that are provided in response to a request under **section 9** or obtained under **section 11** in error must be destroyed as soon as practicable. 25
- (3) In **subsection (2)**, **error** includes mistaken identity or mistake as to whether a person meets the criteria for a returning offender. 30
Compare: 2008 No 72 s 34
- 13 Offence of failing to comply with constable's direction**
- (1) A person who, after being cautioned, fails to comply with a direction of a constable exercising his or her powers under **section 10 or 11**—
- (a) commits an offence; and
- (b) is liable on conviction to imprisonment for a term not exceeding 6 months, to a fine not exceeding \$5,000, or to both. 35

- (2) A person who, in response to a request under **section 9** or otherwise under **section 11**, provides information to the Police knowing that the information is false or misleading in a material particular—
- (a) commits an offence; and
 - (b) is liable on conviction to imprisonment for a term not exceeding 6 months, to a fine not exceeding \$5,000, or to both.

Compare: 2008 No 72 s 32(4)

Obtaining bodily samples from returning offenders

14 Criminal Investigations (Bodily Samples) Act 1995 applies to certain returning offenders 10

- (1) For the purpose of obtaining a bodily sample by a databank compulsion notice under Part 3 of the 1995 Act from a returning offender, a constable who is of or above the level of position of inspector may issue a databank compulsion notice requiring the offender to give a bodily sample if—
- (a) a ground of the offender’s removal or deportation to New Zealand was the offender’s conviction in an overseas jurisdiction of an offence for conduct that constitutes an imprisonable offence in New Zealand; and 15
 - (b) that conviction would, if entered in a New Zealand court, be a conviction to which Part 3 of the 1995 Act applies under section 4 of that Act.
- (2) For the purpose stated in **subsection (1)**, Parts 3 to 5 of the 1995 Act apply— 20
- (a) with all necessary modifications; and
 - (b) subject to the express modifications set out in **section 15**.

15 Express modification of Part 3 of 1995 Act

Part 3 of the 1995 Act is modified for the purpose stated in **section 14(1)** as follows: 25

- (a) section 39(3)(a) must be read as requiring the notice to be served on, or as soon as is reasonably practicable after, the returning offender’s return to New Zealand;
- (b) in sections 39A(3), 39C(2), and 46A(1), a reference to being on parole subject to residential restrictions imposed under section 15 of the Parole Act must be read as a reference to being subject to residential restrictions imposed under **section 26 or 27** of the Returning Offenders (Management and Information) Act **2015**: 30
- (c) section 39C(3)(a) does not apply if the returning offender and the constable have agreed that the returning offender give the bodily sample immediately on his or her return to New Zealand: 35

- (d) section 39C(3)(b) and (4)(b)(ii) must be read as if those provisions referred to 6 months from the date of the returning offender's return to New Zealand:
- (e) in sections 41, 41B, 44, 45, and 47, **appropriate court** means the District Court: 5
- (f) sections 41(2)(d) and 42(4) do not apply if a returning offender and the constable have agreed that the returning offender give the bodily sample immediately on his or her return to New Zealand:
- (g) section 41(2)(e)(i) and (ii)(B) must be read as if those provisions referred to 6 months from the date of the returning offender's return to New Zealand. 10

Subpart 2—Returning prisoners

General

16 Who is returning prisoner

A **returning prisoner** is a person who has been determined by the Commissioner to be a returning prisoner in accordance with the criteria set out in **section 17**. 15

17 Criteria for determination that person is returning prisoner

- (1) The Commissioner must determine that a person is a returning prisoner if the Commissioner is satisfied that the person— 20
 - (a) has been convicted in an overseas jurisdiction of an offence for conduct that constitutes an imprisonable offence in New Zealand; and
 - (b) has, in respect of that conviction, been sentenced to—
 - (i) a term of imprisonment of more than 1 year; or
 - (ii) 2 or more terms of imprisonment that are cumulative, the total term of which is more than 1 year; and 25
 - (c) is returning or has returned to New Zealand within 6 months after his or her release from custody during or at the end of the sentence.
- (2) In **subsection (1)**, **release from custody** means release from custody in a prison or, if a person is detained in an immigration or other facility following release from prison, release from that facility. 30
- (3) To avoid doubt, a person who is released at the end of a prison sentence and has been in the community for more than 6 months is not a returning prisoner, even though he or she is later detained in an immigration or other facility.

*Commissioner's determination that person is returning prisoner***18 Time for Commissioner to determine that person is returning prisoner**

A determination by the Commissioner that a person is a returning prisoner must not be made later than 6 months after that person's return to New Zealand.

5

19 Determination notice

(1) The Commissioner must serve a written notice on a person (**P**) who has been determined to be a returning prisoner.

(2) The notice must be served,—

- (a) if practicable, on P's return to New Zealand; or 10
- (b) if service on P's return to New Zealand is not practicable, as soon as is reasonably practicable after P's return to New Zealand; but
- (c) in any event, not later than 6 months after P's return to New Zealand.

(3) The notice must state the information set out in **section 20**.

20 Content of determination notice

15

A determination notice must—

- (a) state that the person named in the notice (**P**) has been determined by the Commissioner to be a returning prisoner for the purposes of this Act; and
- (b) state that P is subject to release conditions under this Act; and 20
- (c) state the period for which P is subject to release conditions; and
- (d) set out the standard release conditions and any special condition or interim special condition; and
- (e) state that P must report to a probation officer at a probation service centre within 72 hours of service of the notice; and 25
- (f) provide information about how to contact a probation officer; and
- (g) state that P may be required to provide identifying particulars; and
- (h) explain P's right under **section 22** to apply to the Commissioner for a review of the determination; and
- (i) state the grounds on which P may apply for a Commissioner's review; and 30
- (j) state the time limit for applying for a Commissioner's review; and
- (k) state that P's release conditions are not suspended on account of a Commissioner's review; and
- (l) state that, on the application of the chief executive, a court may impose 1 35
or more special conditions on P; and

- (m) record the date on which the notice is served and the identity of the person who serves it.

21 Entry to premises to serve determination notice

A court may, on the application of the Commissioner, issue a warrant for entry to any premises where a returning prisoner is reasonably believed to be present if the court is satisfied that a person has refused or refuses to allow the Police to enter those or any other premises in order to prevent or avoid service of a determination notice. 5

22 Review of Commissioner's determination

- (1) A returning prisoner may apply to the Commissioner to review a determination under **section 17** on the ground that— 10
- (a) the returning prisoner does not meet 1 or more of the criteria set out in **section 17(1)**; or
 - (b) the determination notice incorrectly states the period for which the returning prisoner is subject to release conditions; or 15
 - (c) the determination notice was served more than 6 months after a person's return to New Zealand.
- (2) The application must be made within 15 working days after service on the returning prisoner of the determination notice.
- (3) The review must be a factual inquiry only and must be completed within 20 working days after receipt of the application. 20
- (4) The Commissioner must—
- (a) give the applicant a reasonable opportunity to state his or her case before the Commissioner makes a decision; and
 - (b) confirm, modify, or revoke the determination notice; and 25
 - (c) notify the applicant of his or her decision in writing without unreasonable delay.
- (5) Nothing in this section affects the right of a returning prisoner to apply for judicial review of the Commissioner's determination under **section 17**.

23 Review does not suspend release conditions 30

An application for a review under **section 22** does not affect the operation of the applicant's release conditions, which remain in force during the period of review.

Consequences of determination as returning prisoner

24 Returning prisoner subject to standard release conditions 35

- (1) A returning prisoner is subject to standard release conditions from the time of service on that person of a determination notice.

- (2) The period for which a returning prisoner is subject to standard release conditions is,—
- (a) if the relevant sentence is imprisonment for a term that is more than 1 year but not more than 2 years, 6 months:
 - (b) if the relevant sentence is imprisonment for a term that is more than 2 years but not more than 5 years, 1 year: 5
 - (c) if the relevant sentence is imprisonment for a term that is more than 5 years but is not a sentence of life imprisonment, 2 years:
 - (d) if the relevant sentence is a sentence of life imprisonment, 5 years.
- (3) In **subsection (2), sentence of life imprisonment**— 10
- (a) means an indeterminate sentence under which a person is liable to imprisonment for the rest of his or her life following conviction for an offence; and
 - (b) includes a sentence that is, or corresponds to, a sentence of preventive detention. 15

25 Returning prisoner must comply with standard release conditions

A returning prisoner must comply with the following conditions (the **standard release conditions**) during the period for which he or she is subject to release conditions:

- (a) the returning prisoner must report to a probation officer at the probation service centre stated in the determination notice as soon as practicable, and not later than 72 hours after service of the determination notice: 20
- (b) with all necessary modifications, the standard release conditions set out in section 14(1)(b) to (i) of the Parole Act.

Compare: 2002 No 10 s 14(1) 25

26 Returning prisoner must comply with special conditions imposed by court

- (1) A court may, on the application of the chief executive, impose 1 or more special conditions on a returning prisoner and the returning prisoner must comply with those conditions during the period for which those conditions are imposed. 30
- (2) A court must not impose a special condition for a longer period than the period for which the standard release conditions apply to the returning prisoner.
- (3) A court must not impose a special condition unless it is designed to—
 - (a) reduce the risk of reoffending by the returning prisoner; or
 - (b) facilitate or promote the rehabilitation and reintegration of the returning prisoner; or 35
 - (c) provide for the reasonable concerns of victims of the returning prisoner.

- (4) The kinds of special conditions that the court may impose include, without limitation and with all necessary modifications, the conditions set out in section 15(3)(a) to (f) of the Parole Act.
- (5) If a court imposes a special condition that is—
- (a) an electronic monitoring condition, section 15A of the Parole Act applies with all necessary modifications: 5
 - (b) a residential restriction, sections 33 to 36 of the Parole Act apply with all necessary modifications.
- (6) A court must not impose a special condition requiring the returning prisoner to take prescription medicine unless the returning prisoner— 10
- (a) has been fully advised, by a person who is qualified to prescribe that medication, about the nature and likely or intended effect of the medication and any known risks; and
 - (b) consents to taking the prescription medication.
- (7) A returning prisoner does not breach his or her conditions for the purposes of **section 31(1)** if he or she withdraws consent to taking prescription medication. 15

Compare: 2002 No 10 s 15(1)–(3), (4), (5)

27 Interim special conditions

- (1) A court may, on the application of the chief executive, impose 1 or more interim special conditions if the court is satisfied that, subject to **section 26(3)**, the imposition of special conditions is immediately necessary from the time that a returning prisoner returns to New Zealand. 20
- (2) The chief executive may certify that the returning prisoner has a conviction for an offence in respect of conduct that would be a relevant sexual or violent offence for the purpose of Part 1A of the Parole Act 2002 in New Zealand, and that 1 or more interim special conditions is immediately necessary for any of the purposes specified in **section 26(3)**, and in that case the court must impose that special condition or conditions unless it is satisfied that they are unnecessary. 25 30
- (3) For the purposes of **subsections (1) and (2)**, and to avoid doubt, a court may impose interim special conditions on the information that is then available to the court, even though that information is incomplete or additional information is still being sought.
- (4) The application may be made, and the conditions may be imposed, before or after the returning prisoner returns to New Zealand. 35
- (5) The application may be made without notice and a court must not require that notice be given.
- (6) Interim special conditions imposed under this section expire after 30 working days after the returning prisoner returns to New Zealand, but a court may ex- 40

tend the expiry of the conditions by a reasonable period to allow an application under **section 26(1)** to be finally determined.

28 Court may vary or discharge release conditions

- (1) A court may vary or discharge—
- (a) a special condition, on the application of a returning prisoner or a probation officer: 5
 - (b) a standard release condition, on the application of a probation officer.
- (2) A court must not discharge a standard release condition with effect from a date that is less than 6 months after the date of service of the determination notice.
- (3) When a probation officer applies for the variation or discharge of a release condition, the probation officer may suspend the condition until the application is determined. 10

Compare: 2002 No 10 s 56

29 Effect of subsequent sentence of imprisonment

- (1) This section applies when a returning prisoner is— 15
- (a) subject to release conditions imposed under this Act; and
 - (b) sentenced to a term of imprisonment in New Zealand beginning before the end of the period for which he or she is subject to release conditions under this Act (the **subsequent sentence**).
- (2) The release conditions imposed under this Act— 20
- (a) do not have effect for the period of imprisonment under the subsequent sentence; and
 - (b) do not have effect to the extent that release conditions imposed in relation to the subsequent sentence apply; but
 - (c) continue to run for purposes of the relevant period in **section 24(2)**. 25

30 When release conditions end

Release conditions end when—

- (a) the period for which the returning prisoner is subject to release conditions expires; or
- (b) the release conditions are discharged; or 30
- (c) a public protection order is imposed on the returning prisoner under the Public Safety (Public Protection Orders) Act 2014; or
- (d) an extended supervision order is imposed on the returning prisoner under Part 1A of the Parole Act.

31 Offence to breach release conditions

- (1) A returning prisoner who is subject to a release condition under this Act and who, without reasonable excuse, breaches that condition commits an offence.
- (2) A person who commits an offence under this section is liable on conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$2,000. 5

Compare: 2002 No 10 s 71

Subpart 3—Returning offender who returns to New Zealand more than 6 months after release from custody

32 Who subpart applies to 10

- (1) This subpart applies to a returning offender who—
 - (a) meets the criteria set out in **section 17(1)** for a returning prisoner, except that he or she is returning or has returned to New Zealand more than 6 months after his or her release from custody in prison; and
 - (b) was, immediately before his or her return to New Zealand from the relevant overseas jurisdiction, subject to—
 - (i) monitoring, supervision, or other conditions for the relevant sentence; or
 - (ii) conditions imposed under an order in the nature of an extended supervision order or public protection order. 20
- (2) In **subsection (1)(b)**, immediately before his or her return to New Zealand includes, if the offender was in detention immediately before his or her return to New Zealand, immediately before the offender was first so detained. 15

33 Court may impose conditions on returning offender

- (1) On the application of the chief executive, a court may impose any conditions on a returning offender to whom this subpart applies and must, if it does so, specify when the conditions end. 25
- (2) The court may impose conditions if it is satisfied that the conditions are—
 - (a) necessary to facilitate the rehabilitation and reintegration of the returning offender; or
 - (b) necessary to reduce the risk of reoffending by the returning offender; or
 - (c) necessary for both purposes in **paragraphs (a) and (b)**. 30
- (3) The conditions must not be imposed more than 6 months after the returning offender's return to New Zealand.

34 Sections 26 to 31 apply to returning offender to whom this subpart applies 35

In relation to a returning offender to whom this subpart applies, **sections 26 to 31** apply, with all necessary modifications, as if—

- (a) the returning offender were a returning prisoner; and
- (b) the reference in those provisions to a release condition or a special condition were a reference to a condition imposed under **section 33(1)**.

Subpart 4—Amendments to other Acts and review

- 35 Parole Act 2002 amended** 5
- (1) This section amends the Parole Act 2002.
 - (2) In section 107C(1)(b)(iii), after “New Zealand”, insert “; or”.
 - (3) After section 107C(1)(b), insert:
 - (c) has been convicted of a relevant offence and in respect of that offence has been determined to be a returning prisoner under the Returning Offenders (Management and Information) Act **2015**: 10
 - (d) is a person to whom **subpart 3 of Part 2** of the Returning Offenders (Management and Information) Act **2015** applies.
 - (4) In section 107F(1)(c), after “New Zealand”, insert “; or”.
 - (5) After section 107F(1)(c), insert: 15
 - (d) where the offender is a person described in **section 107C(1)(c) or (d)**, at any time before the end of the period for which the offender is subject to release conditions under the Returning Offenders (Management and Information) Act **2015**.
- 36 Public Safety (Public Protection Orders) Act 2014 amended** 20
- (1) This section amends the Public Safety (Public Protection Orders) Act 2014.
 - (2) In section 7(1)(d)(iii), after “New Zealand”, insert “; or”.
 - (3) After section 7(1)(d), insert:
 - (e) the person—
 - (i) has committed a serious sexual or violent offence; and 25
 - (ii) in respect of that offence,—
 - (A) has been determined to be a returning prisoner under the Returning Offenders (Management and Information) Act **2015**; or
 - (B) is a returning offender to whom **subpart 3 of Part 2** of 30
 - that Act applies; and
 - (iii) is subject to release conditions under the Returning Offenders (Management and Information) Act **2015**.

37 Review by Justice and Electoral Committee

- (1) The Justice and Electoral Committee established by the House of Representatives (the **Committee**) must, 2 years after the commencement of this Act, review the operation of this Act and prepare a report on that review.
- (2) The Committee must present the report to the House of Representatives as soon as practicable after it has been completed. 5

**Schedule 1
Transitional, savings, and related provisions**

s 5

**Part 1
Provisions relating to Act as enacted**

5

1 No transitional, savings, or related provisions for Act as enacted

There are no transitional, savings, or related provisions for this Act, as enacted.