

Parole (Extended Supervision Orders) Amendment Bill

Government Bill

As reported from the Law and Order
Committee

Commentary

Recommendation

The Law and Order Committee has examined the Parole (Extended Supervision Orders) Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

The Parole (Extended Supervision Orders) Amendment Bill seeks to amend the Parole Act 2002 by allowing extended supervision orders to be renewed as often as they are needed, and by expanding the scope of extended supervision orders to include high-risk sex offenders against adults and very high-risk violent offenders.

Those on an extended supervision order live in the community, subject to a set of standard conditions in addition to any special conditions that the Parole Board may impose. Currently, such supervision is limited to ten years' duration, and applies only to high-risk child sex offenders.

Extended supervision orders were introduced in 2003 to manage high-risk child sex offenders after they had completed their sentence of imprisonment. Extended supervision orders have been given to 332 offenders, and 251 are operating at present.

The bill also proposes a few minor amendments to the extended supervision order regime. The amendments would give the Courts, rather than the Parole Board, control over the imposition of intensive monitoring of offenders for the first 12 months of their extended supervision orders. They would clarify that only the highest-risk offenders would be eligible for extended supervision orders, and make them subject to mandatory review by the Courts. It would also introduce a requirement that the Parole Board review any high-impact conditions imposed on an offender every 2 years.

New Zealand Bill of Rights Act 1990

We carefully considered a report from the Attorney-General on the consistency of this bill with the New Zealand Bill of Rights Act 1990 (NZBORA). Recent changes to Parliament's Standing Orders now require select committees to consider these reports.

In keeping with the approach set out by the Standing Orders Committee, we sought specific evidence from the Attorney General's office on the inconsistencies the Attorney-General has found between the bill and the NZBORA.

The Attorney-General is primarily concerned that the bill breaches section 26 of the NZBORA, which protects against double jeopardy, effectively punishing someone twice for the same offence.

Extended supervision orders are designed to protect the community from high-risk offenders, not to punish offenders for past offences. However, the Parole Act 2002 treats extended supervision orders as a criminal justice process; therefore an extended supervision order could be interpreted as a form of penalty, and thus in breach of the protection against double jeopardy.

However, it can be argued that an extended supervision order is not necessarily a "punishment". Some, but not all, offenders at the end of extended supervision orders have requested that the orders be continued to protect the community and also themselves. They have considered that a continued order would help them to remain in the community, and provide them with an element of protection. It was

reported to us that such offenders consider the restrictive conditions of an order to be rehabilitative rather than punitive.

We considered the implications of bringing extended supervision orders under a civil regime, similar to the public protection orders proposed in the Public Safety (Public Protection Orders) Bill. We heard that this would involve in effect duplicating the current regime, and there might be problems aligning the criminal and civil regimes. Even though a civil regime would be acceptable under the NZBORA, this would have little practical effect.

We are not convinced that this is the best way to keep the public safe. We believe that currently the best option is to leave extended supervision orders under the criminal regime. We believe this would provide the best means of protecting public safety and upholding the rights of victims. We do not lightly breach the NZBORA. However, in this instance ten years of experience with the extended supervision orders demonstrate that they work effectively to achieve their primary objective of protecting the community. The bill also includes safeguards that would prevent the abuse of these powers, given to authorities, under this legislation.

Commencement date

We recommend changing the commencement date in clause 2 so that the bill would come into force the day after receiving Royal assent.

Overseas offenders

We recommend amending clauses 7 and 9 to ensure that overseas offenders who continued to pose a serious risk to public safety would be eligible for extended supervision orders even if the sentence to which they had been subject was indeterminate, and to make express provision for applications for extended supervision orders in respect of overseas offenders.

Clarifying “severe disturbance in behavioural functioning”

We recommend including in clause 12 of the bill a list of behavioural characteristics of an eligible violent offender indicative of a “severe disturbance in behavioural functioning”. The Public Safety (Public

Protection Orders) Bill defines this concept, but this is not suitable for extended supervision orders, because it sets an inappropriately high threshold. Without a reference to what constitutes “severe disturbance in behavioural functioning”, specifically in respect of violent offenders, the court would have to define those behaviours, and might adopt the public protection orders terminology. We consider that including types of “severe disturbance in behavioural functioning” appropriate to the specific context of extended supervision orders is necessary.

Applications for intensive monitoring

We recommend amending clause 12 to require an application for intensive monitoring to be considered by the High Court, and to be made at the same time as the application for the extended supervision order. Requiring the High Court to consider extended supervision orders along with any intensive monitoring application would align this bill with similar provisions in the Public Safety (Public Protection Orders) Bill.

Under the bill as introduced there is no clear timeline for an intensive monitoring application, so an offender might not have adequate time to respond. Requiring the application for intensive monitoring to be made at the same time as the application for the extended supervision order would give the offender time to respond to the intensive monitoring application.

Changes to Privacy Act 1993

We recommend amendments to clause 25 of the bill that would amend the Privacy Act 1993. Under the bill as introduced, the Department of Corrections would not be authorised to receive information from the police about an offender subject to a protection order, restraining order, or non-contact order while also subject to an extended supervision order; and the New Zealand Police would not be authorised to receive information from Corrections on an offender subject to an extended supervision order. This is clearly undesirable, and our proposed amendments to Schedule 5 of the Privacy Act would expressly authorise these organisations to receive this information.

We also recommend adding extended supervision orders to the victims of violent offenders orders list in the Privacy Act.

Reviews where extended supervision order is suspended

We recommend amending clause 20 to make it clear that reviews would not be required while an extended supervision order was suspended. If an extended supervision order were suspended, for example while the offender was in custody, there would be no need to review the order.

We also recommend some minor amendments of a technical or consequential nature.

Appendix

Committee process

The Parole (Extended Supervision Orders) Amendment Bill was referred to the Law and Order Committee of the 50th Parliament on 3 July 2014. The closing date for submissions was 22 October 2014. We received and considered four submissions from interested groups and individuals. We heard one submission in Wellington.

We heard evidence from Crown Law, who represented the Attorney-General, on the Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 on the Parole (Extended Supervision Orders) Amendment Bill.

We received advice from the Department of Corrections and the New Zealand Police.

Committee membership

Mike Sabin (Chairperson)

Jacinda Ardern

Kanwaljit Singh Bakshi

Mahesh Bindra

David Clendon

Ian McKelvie

Jenny Salesa

Lindsay Tisch

Jonathan Young

Hon Phil Goff was a member of the committee for this item of business.

Su'a William Sio was a member of the committee for this item of business.

**Parole (Extended Supervision Orders)
Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

text deleted unanimously

Hon Peseta Sam Lotu-Iga

Parole (Extended Supervision Orders) Amendment Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Parole (Extended Supervision Orders) Amendment Act **2014**.

2 Commencement

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This Act comes into force on ~~1 December 2014~~ the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Parole Act 2002 (the **principal Act**).

Part 1

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Amendments to principal Act

4 Section 15 amended (Special conditions)

(1) Replace section 15(2)(c) with:

“(c) provide for the reasonable concerns of victims of the offender; or

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“(d) comply, in the case of an offender subject to an extended supervision order, with an order of the court, made under **section 107IAB**, to impose an intensive monitoring condition.”

(2) After section 15(3)(f), insert:

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“(g) an intensive monitoring condition, which must, and may only, be imposed if a court orders (under **section 107IAB**) the imposition of an intensive monitoring condition.”

5 Section 107A amended (Overview of Part)

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(1) In section 107A(a), replace “certain sexual offences” with “certain offences”.

(2) In section 107A(b), replace “may last for up to 10 years” with “may last for not more than 10 years at a time”.

6 Section 107B amended (Meaning of relevant offence)

- (1) In the heading to section 107B, after “**offence**”, insert “, **relevant sexual offence, and relevant violent offence**”.
- (2) Replace section 107B(1) to (2A) with:
 - “(1) In this Part, **relevant offence** means any of the following: 5
 - “(a) an offence specified in **subsection (2), (2A)**, or (3):
 - “(b) an attempt to commit any offence specified in **subsection (2) or (2A)** (but only if the offence is not itself specified as an attempt and the provision does not itself provide that the offence may be completed on an attempt): 10
 - “(c) a conspiracy to commit any offence specified in **subsection (2) or (2A)**:
 - “(d) an offence committed overseas that would come within the description of any offence described in **subsection (2) or (2A)**, or **paragraph (b) or (c)** of this subsection, if it had been committed in New Zealand: 15
 - “(e) an offence that is equivalent to an offence specified in **subsection (2) or (2A)** but that was committed against a provision of the Crimes Act 1961 that has been repealed. 20
 - “(2) In this Part, an offence against any of the following sections of the Crimes Act 1961 is a **relevant sexual offence**:
 - “(a) section 128B(1) (sexual violation):
 - “(b) section 129(1) (attempted sexual violation):
 - “(c) section 129(2) (assault with intent to commit sexual violation): 25
 - “(d) section 129A(1) (sexual connection with consent induced by certain threats):
 - “(e) section 129A(2) (indecent act with consent induced by certain threats), but only if the victim of the offence was under the age of 16 at the time of the offence: 30
 - “(f) section 130(2) (incest):
 - “(g) section 131(1) and (2) (sexual connection with dependent family member):
 - “(h) section 131(3) (indecent act on dependent family member), but only if the victim of the offence was under the age of 16 at the time of the offence: 35
 - “(i) section 131B (meeting young person following sexual grooming):

- “(j) section 132(1), (2), and (3) (sexual conduct with child under 12):
- “(k) section 134(1), (2), and (3) (sexual conduct with young person under 16):
- “(l) section 135 (indecent assault): 5
- “(m) section 138(1), (2), and (4) (sexual exploitation of person with significant impairment):
- ~~“(n) section 139 (indecent act between woman and girl):~~
- ~~“(o) section 140 (indecent with boy under 12):~~
- ~~“(p) section 140A (indecent with boy between 12 and 16):~~ 10
- “(q) section 142A (compelling another person to do indecent act with animal):
- “(r) section 143 (bestiality):
- “(s) section 144A(1) (sexual conduct with children and young people outside New Zealand): 15
- “(t) section 144C(1) (organising or promoting child sex tours):
- “(u) section 208 (abduction for purposes of marriage or sexual connection):
- ~~“(v) section 210(1) and (2) (abduction of young person under 16); but only if the offence involved an intention to have sexual connection with the person:~~ 20
- “(2A) In this Part, an offence against any of the following sections of the Crimes Act 1961 is a **relevant violent offence**: 25
- “(a) section 172(1) (murder):
- “(b) section 173 (attempt to murder):
- “(c) section 174 (counselling or attempting to procure murder):
- “(d) section 176 (accessory after the fact to murder):
- “(e) section 177 (manslaughter): 30
- “(f) section 188(1) and (2) (wounding with intent):
- “(g) section 189(1) (injuring with intent to cause grievous bodily harm):
- “(h) section 191(1) and (2) (aggravated wounding or injury):
- “(i) section 198(1) and (2) (discharging firearm or doing dangerous act with intent): 35
- “(j) section 198A(1) and (2) (using firearm against law enforcement officer, etc):
- “(k) section 198B (commission of crime with firearm):

- “(l) section 199 (acid throwing):
 - “(m) section 209 (kidnapping):
 - “(n) section 234(2) (robbery):
 - “(o) section 235 (aggravated robbery):
 - “(p) section 236(1) and (2) (assault with intent to rob).” 5
 - (3) In section 107B(2B), replace “For the purposes of subsection (2A)” with “For the purposes of **subsection (1)(e)**”.
- 7 Section 107C replaced (Meaning of eligible offender)**
- Replace section 107C with:
- “107C Meaning of eligible offender” 10**
- “(1) In this Part, **eligible offender** means an offender who is ~~not subject to an indeterminate sentence but—~~
- “(a) is not subject to an indeterminate sentence but is a person who has been sentenced to imprisonment for a relevant offence (and that sentence has not been quashed or otherwise set aside) and has not ceased, since his or her latest conviction for a relevant offence (that has not been quashed or otherwise set aside), to be subject to any or all of the following:
 - “(i) a sentence of imprisonment (whether for a relevant offence or otherwise): 20
 - “(ii) release conditions (whether suspended or not):
 - “(iii) an extended supervision order; or
 - “(b) is a person who—
 - “(i) has arrived in New Zealand within 6 months of ceasing to be subject to any sentence, supervision conditions, or order imposed on the person for a ~~serious sexual or violent offence~~ relevant offence by an overseas court; and 25
 - “(ii) has, since that arrival, been in New Zealand for less than 6 months; and 30
 - “(iii) resides or intends to reside in New Zealand.
- “(2) To avoid doubt, and to confirm the retrospective application of this provision, despite any enactment or rule of law, an offender may be an eligible offender even if he or she committed a relevant offence, was most recently convicted, or became subject to release conditions or an extended supervision order before this Part and any amendments to it came into force.” 35

8 Section 107D amended (Meaning of sentencing court)

In section 107D, replace “offence for which the offender is subject to a sentence of imprisonment” with “offence for which the offender was most recently subject to a sentence of imprisonment”.

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8A Section 107E repealed (Obligation to assess eligible offenders)

Repeal section 107E.

9 Section 107F amended (Chief executive may apply for extended supervision order)

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(1) Replace section 107F(1) with:

“(1) The chief executive may apply to the sentencing court for an extended supervision order in respect of an eligible offender,—

“(a) where the offender is subject to a sentence of imprisonment, at any time before the later of—

“(i) the sentence expiry date of the sentence to which the offender is subject that has the latest sentence expiry date, regardless of whether that sentence is for a relevant offence; and

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“(ii) the date on which the offender ceases to be subject to any release conditions; or

“(b) where the offender is subject to an extended supervision order, at any time before the expiry of the order; or

“(c) where the offender is a person described in **section 107C(1)(b)**, at any time within 6 months of the person’s arrival in New Zealand.”

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(2) Replace section 107F(2) with:

“(2) An application under this section must be in the prescribed form and be accompanied by a report by a health assessor (as defined in section 4 of the Sentencing Act 2002).

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“(2A) Every health assessor’s report must address (without limitation) the following matters:

“(a) the nature of any likely future sexual or violent offending by the offender, including the age and sex of likely victims;

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- “(b) the offender’s ability to control his or her sexual or violent impulses:
- “(c) the offender’s predilection and proclivity for sexual or violent offending:
- “(d) the offender’s acceptance of responsibility and remorse for past offending: 5
- “(e) the extent to which the offender displays an intense drive, desire, or urge to commit a relevant sexual offence:
- “(f) the extent to which the offender displays an understanding for or concern about the impact of his or her sexual offending against, or violence towards, actual or potential victims: 10
- “(g) the extent to which the offender displays a disturbance in behavioural functioning: 15
- “(h) any behavioural evidence of clear and long-term planning of serious violent offences to meet a premeditated goal:
- “(i) any other relevant matters:
- “(2A) Every health assessor’s report must address one or both of the following questions: 20
 - “(a) whether—
 - “(i) the offender displays each of the traits and behavioural characteristics specified in **section 107IAA(1)**; and 25
 - “(ii) there is a high risk that the offender will in future commit a relevant sexual offence:
 - “(b) whether—
 - “(i) the offender displays each of the behavioural characteristics specified in **section 107IAA(2)**; and 30
 - “(ii) there is a very high risk that the offender will in future commit a relevant violent offence.”
- (3) In section 107F(3), replace “in addressing the matters listed in subsection (2)” with “in addressing any matter to be referred to in the health assessor’s report”. 35

- 10 **Section 107H amended (Hearings relating to extended supervision orders)**
Repeal section 107H(1)(c).
- 11 **Section 107I amended (Sentencing court may make extended supervision order)** 5
 - (1) In section 107I(1), replace “pose a real and ongoing risk of committing sexual offences against children or young persons” with “pose a real and ongoing risk of committing serious sexual or violent offences”.
 - (2) Replace section 107I(2) with: 10
 - “(2) A sentencing court may make an extended supervision order if, following the hearing of an application made under section 107F, the court is satisfied, having considered the matters addressed in the health assessor’s report as set out in section 107F(2A), that— 15
 - “(a) the offender has, or has had, a pervasive pattern of serious sexual or violent offending; and
 - “(b) either or both of the following ~~applies~~ apply:
 - “(i) there is a high risk that the offender will in future commit a relevant sexual offence: 20
 - “(ii) there is a very high risk that the offender will in future commit a relevant violent offence.”
 - (3) Repeal section 107I(6).
- 12 **New sections 107IAA and 107IAB inserted** 25

After section 107I, insert:

“107IAA Matters court must be satisfied of when assessing risk

 - “(1) A court may determine that there is a high risk that an eligible offender will commit a relevant sexual offence only if it is satisfied that the offender—
 - “(a) displays an intense drive, desire, or urge to commit a 30 relevant sexual offence; and
 - “(b) has a predilection or proclivity for serious sexual offending; and
 - “(c) has limited self-regulatory capacity; and
 - “(d) displays either or both of the following: 35

- “(i) a lack of acceptance of responsibility or remorse for past offending:
- “(ii) an absence of understanding for or concern about the impact of his or her sexual offending on actual or potential victims. 5
- “(2) A court may determine that there is a very high risk that an eligible offender will commit a relevant violent offence only if it is satisfied that the offender—
- “(a) has a severe disturbance in behavioural functioning; ~~and~~ established by evidence of each of the following characteristics: 10
 - “(i) intense drive, desires, or urges to commit acts of violence; and
 - “(ii) extreme aggressive volatility; and
 - “(iii) persistent harbouring of vengeful intentions towards 1 or more other persons; and 15
- “(b) either—
 - “(i) displays behavioural evidence of clear and long-term planning of serious violent offences to meet a premeditated goal; or 20
 - “(ii) has limited self-regulatory capacity; and
- “(c) displays an absence of understanding for or concern about the impact of his or her violence on actual or potential victims.
- “107IAAB Chief executive may apply for imposition of intensive monitoring condition** 25
- “(1) When the chief executive makes an application under section 107F for an extended supervision order, he or she may at the same time apply to the sentencing court for an order requiring the Board to impose an intensive monitoring condition on the offender under **section 107IAB.** 30
- “(2) If the chief executive makes an application under this section, the sentencing court is, for the purpose of that application and the corresponding application under section 107F, and despite anything in section 107D, taken to be the High Court. 35

“107IAB Court may order imposition of intensive monitoring condition

- “(1) When a sentencing court makes an extended supervision order in respect of an offender, the court may at the same time, on application by the chief executive made under **section 107IAAB(1)**, make an order requiring the Board to impose an intensive monitoring condition on the offender. 5
- “(2) An intensive monitoring condition is a condition requiring an offender to 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. 10
- “(3) The order must specify the maximum duration of the intensive monitoring condition, which must be no longer than 12 months. 15
- “(4) If the court makes an order under this section, the Board must impose an intensive monitoring condition on the offender as a special condition.
- “(5) The court may not make an order under this section in respect of an offender more than once, even if the offender is subject to repeated extended supervision orders. 20
- “(6) However, the court may make an order under this section in respect of an offender who was subject to an extended supervision order before the commencement of this section even if, under that order, the offender was at any time subject to a condition imposed by the Board under section 107K(2).” 25

13 Section 107K amended (Board may impose special conditions)

- (1) Repeal section 107K(2).
- (2) In section 107K(3)(a), replace “paragraph (b)” with “paragraphs (b) and **(ba)**”. 30
- (3) After section 107K(3)(b), insert:
- “(ba) any intensive monitoring condition may apply only within the first 12 months of the term of the order; and
- “(bb) any condition requiring the offender to participate in a programme (as referred to in section 15(3)(b)) must not— 35

- “(i) require that the offender be, or result in the offender being, supervised, monitored, or subject to other restrictions, for longer each day than is necessary to ensure the offender’s attendance at classes or participation in other activities associated with the programme; or 5
- “(ii) require the offender to reside with, or result in the offender residing with, any person, persons, or agency in whose care the offender is placed; and”. 10

14 Section 107L amended (Commencement and expiry of extended supervision order)

- (1) Replace section 107L(1)(b) with:
 - “(b) if the order is in respect of an offender who is already subject to an extended supervision order, on the expiry of that order, unless an earlier date is specified in the new order; or 15
 - “(c) in any other case, ~~on the date specified in the order.~~—
 - “(i) on the date that the order is made; or
 - “(ii) if a different date is specified in the order, on the specified date.” 20
- (2) Replace section 107L(3) with:
- “(3) An extended supervision order expires on the earliest of the following:
 - “(a) the date on which the order is cancelled: 25
 - “(b) the date on which the term of the order expires:
 - “(c) if the offender becomes subject to a new extended supervision order before the expiry of an earlier extended supervision order, ~~on~~ the commencement of the new extended supervision order.” 30

15 Cross-heading above section 107M replaced

Replace the cross-heading above section 107M with:

“Cancellation, variation, and suspension”.

16 Section 107M amended (Sentencing court may cancel extended supervision order)

- (1) In section 107M(1), replace “on the grounds that the offender is no longer likely to commit any of the relevant offences referred to in section 107B(2) within the term of the order” with “on the grounds that the offender poses neither a high risk of committing a relevant sexual offence, nor a very high risk of committing a relevant violent offence, within the remaining term of the order”. 5 10
- (2) Replace section 107M(4) with:
- “(4) The sentencing court may order the cancellation of an extended supervision order only if the applicant satisfies the court, on the basis of the matters set out in **section 107IAA**, that the offender poses neither a high risk of committing a relevant sexual offence, nor a very high risk of committing a relevant violent offence, within the remaining term of the order.” 15

17 Section 107N repealed (Extension of short extended supervision order)

Repeal section 107N. 20

18 Section 107O amended (Board may vary conditions of extended supervision order)

After section 107O(1), insert:

- “(1A) However, the Board may not vary any condition of an extended supervision order in a way that would be contrary to any order made under **section 107IAB** requiring the imposition of an intensive monitoring condition.” 25

19 Section 107R amended (Appeals against decisions of sentencing court)

In section 107R(1), replace “section 107I, section 107M, or section 107N” with “section 107I, **107IAB**, 107M, or **107RA**”. 30

20 New sections 107RA and 107RB inserted

After section 107R, insert:

“107RA Review by court

- “(1) A sentencing court must, on or before the review date specified in **subsection (2)**, commence a review of an extended supervision order in order to ascertain whether there is— 5
- “(a) a high risk that the offender will commit a relevant sexual offence within the remaining term of the order; or
- “(b) a very high risk that the offender will commit a relevant violent offence within the remaining term of the order. 10
- “(2) The review date of an extended supervision order is,—
- “(a) if an offender has not ceased to be subject to an extended supervision order since first becoming subject to an extended supervision order, the date that is 15 years after the date on which the first extended supervision order commenced; and 15
- “(b) thereafter, 5 years after the imposition of any and each new extended supervision order.
- “(3) A review under this section must be commenced by way of an application by the chief executive, which may be made at any time within 4 months before the review date. 20
- “(4) For the purpose of a review under this section, sections 107F (except **subsection (1)**), 107G, 107GA, and 107H apply (with any necessary modification) as if the review were an application for an extended supervision order. 25
- “(5) Following the review, the court must either confirm the order or cancel it.
- “(6) The court may only confirm the order if, on the basis of the matters set out in **section 107IAA**, it is satisfied that there is—
- “(a) a high risk that the offender will commit a relevant sexual offence within the remaining term of the order; or 30
- “(b) a very high risk that the offender will commit a relevant violent offence within the remaining term of the order.
- “(7) For any period during which time has ceased to run on an extended supervision order under section 107P, time also ceases to run on the period specified in **subsection (2)** for the purpose of calculating the review date of an extended supervision order. 35

“107RB Biennial review of high-impact conditions

- “(1) In this section, a **high-impact condition**, in relation to an extended supervision order imposed on an offender, means either of the following:
- “(a) a residential condition that requires the offender to stay at a specified residence for more than a total of 70 hours during any week: 5
 - “(b) a condition requiring the offender to submit to a form of electronic monitoring that enables the offender’s whereabouts to be monitored when the offender is not at his or her residence. 10
- “(2) The Board must review every high-impact condition of an offender’s extended supervision order every 2 years after the later of the following:
- “(a) the date on which the high-impact condition was imposed: 15
 - “(b) the date on which the high-impact condition was confirmed or varied, whether under section 107O or this section.
- “(3) Before a review under this section,— 20
- “(a) the chief executive must make a recommendation to the Board on whether the condition is still appropriate and, if not, whether the condition should be discharged or varied and, if it should be varied, how; and
 - “(b) ~~the offender must be advised~~ the Board must advise the offender that a review is to take place and that he or she may make a written submission to the Board; and 25
 - “(c) the Board may seek information from any other person it considers has, or may have, an interest in the application. 30
- “(4) The review may be determined without the Board hearing from any person, unless—
- “(a) the Board wishes to hear from any person orally; or
 - “(b) the Board is contemplating making a high-impact condition more onerous, in which case it must give the offender an opportunity to appear before the Board. 35
- “(5) Following the review, the Board may confirm, discharge, or vary the condition.

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	“(6) Section 58(4) applies if the Board directs the variation or discharge of a high-impact condition section.	
	“(7) <u>For any period during which time has ceased to run on an extended supervision order under section 107P, time also ceases to run on the period of 2 years specified in subsection (2) for the purpose of calculating the date or dates by which the Board must conduct a review under this section.</u> ”	5
21	Section 107U amended (Rules about court practice and procedure)	
	In section 107U, replace “section 107I, section 107M, or section 107N” with “section 107I, 107M, or 107RA ”.	10
22	Sections 107Y and 107Z repealed	
	Repeal sections 107Y and 107Z.	
23	New sections 107ZA and 107ZB inserted	
	After the cross-heading below section 107X, insert:	15
	“107ZA Extension of certain orders that are in force before this section comes into force	
	“(1) This section applies where—	
	“(a) an offender is subject to an extended supervision order that—	20
	“(i) was imposed before this section comes into force; and	
	“(ii) has an expiry date that is on or before the date that is 6 months after this section comes into force; and	25
	“(b) an application is made for a new extended supervision order in respect of the offender before the expiry date of the extended supervision order.	
	“(2) When this section applies, the expiry date of the offender’s existing extended supervision order is deemed to be the earliest of the following:	30
	“(a) the date (if any) on which the application for a new extended supervision order is declined:	
	“(b) the date on which any new extended supervision order comes into force:	35

- “(c) the date that is 6 months after this section comes into force.
- “(3) To avoid doubt, an offender referred to in **subsection (1)(a)** ~~(1)~~ remains subject to his or her extended supervision order until the applicable expiry date referred to in **subsection (2)**. 5
- “107ZB Modification of conditions on extended supervision orders in force before this section comes into force**
- “(1) This section applies to an offender who is subject to an extended supervision order—
- “(a) that was imposed before this section comes into force; 10
and
- “(b) that includes a condition, imposed under section 15(3)(b), requiring the offender to participate in a programme; and
- “(c) where the terms of that condition— 15
- “(i) require that the offender be, or result in the offender being, supervised, monitored, or subject to other restrictions, for longer each day than is necessary to ensure the offender’s attendance at classes or participation in other activities associated with the programme; or 20
- “(ii) require the offender to reside with, or result in the offender residing with, any person, persons, or agency in whose care the offender is placed.
- “(2) Where this section applies, the Board must, within 2 years after 25
the date on which this section comes into force, review the condition imposed under section 15(3)(b) on the offender and either cancel the condition, or adjust it so that it complies with **section 107K(3)(bb)**.
- “(3) If the Board has not conducted and completed the review required under this section by the close of the day that is 2 years 30
after the date on which this section comes into force, the condition requiring the offender to participate in a programme is cancelled.”

Part 2

Technical and consequential amendments

24 Amendment to Corrections Act 2004

- (1) This section amends the Corrections Act 2004.
- (2) In section 65(2)(ab), delete “or for the extension of an extended supervision order”.

25 Amendment to Privacy Act 1993

- (1) This section amends the Privacy Act 1993.
- (1A) In Schedule 5, under the heading *Police records*, item relating to protection orders, third column, after paragraph (d), insert: “(e) an extended supervision order.”
- (1B) In Schedule 5, under the heading *Police records*, item relating to restraining orders, third column, after paragraph (d), insert: “(e) an extended supervision order.”
- (1C) In Schedule 5, under the heading *Police records*, item relating to non-contact orders, third column, after paragraph (d), insert: “(e) an extended supervision order.”
- (2) In Schedule 5, under the heading *Police records Department of Corrections records*, after the item relating to ~~restraining orders~~ community-based sentences, sentences of home detention, and conditions of release, insert:

Extended supervision orders	Details of extended supervision orders made under Part 1A of the Parole Act 2002	Department of Corrections -Police (access is for the purpose of managing the conditions of the extended supervision order)
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26 Amendments to Parole Regulations 2002

- (1) This section amends the Parole Regulations 2002.
- (2) Revoke regulation ~~4(2)(o)~~ 4(2)(m), (n), and (o).
- (3) In the Schedule, revoke ~~form 17~~ forms 15, 16, and 17.

27 Consequential amendments to Court of Appeal (Criminal) Rules 2001

- (1) This section amends the Court of Appeal (Criminal) Rules 2001.

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- (2) In rule 3(1), definition of **extended supervision order appeal**, replace “section 107M, or section 107N” with “**section 107IAB**, section 107M, or **section 107RA**”.
- (3) In the Schedule, form 7, after the first bullet point, insert:
- “• *making an order under **section 107IAB** of the Parole Act 2002 requiring the imposition of an intensive monitoring condition; or*” 5
- (4) In the Schedule, form 7, replace the last bullet point with:
- “• *confirming an extended supervision order following a review under **section 107RA** of the Parole Act 2002.*” 10

Legislative history

17 April 2014
3 July 2014

Introduction (Bill 195–1)
First reading and referral to Law and Order
Committee
