

# **Parole (Extended Supervision) Amendment Act 2004**

Public Act 2004 No 67  
Date of assent 7 July 2004

## **Contents**

	Page
1 Title	4
2 Commencement	4
<b>Amendments to principal Act consequential on new Part 1A</b>	
3 Interpretation	4
4 Application of Part to offenders detained in hospital	4
5 Special conditions	5
6 New section 15A inserted	5
15A Electronic monitoring	5
7 Conditions applying to release at statutory release date	6
8 Release conditions applying to parole	6
9 Arrest without warrant	6
10 Regulations	6
<b>New Part 1A providing for extended supervision orders</b>	
11 New Part 1A inserted	7
<b>Part1A Extended supervision orders</b>	
<i>Preliminary</i>	
107A Overview of Part	7
107B Meaning of relevant offence	7

**Parole (Extended Supervision)  
Amendment Act 2004**

2004 No 67

---

107C	Meaning of eligible offender	9
107D	Meaning of sentencing court	10
107E	Obligation to assess eligible offenders	10
<i>Application for, and making of extended supervision orders</i>		
107F	Chief executive may apply for extended supervision order	10
107G	Procedure following application for extended supervision order	11
107H	Hearings relating to extended supervision orders	13
107I	Sentencing court may make extended supervision order	14
<i>Nature of extended supervision order</i>		
107J	Conditions of extended supervision order	14
107K	Board may impose special conditions	15
107L	Commencement and expiry of extended supervision order	16
<i>Cancellation, extension, variation, and suspension of extended supervision orders or conditions</i>		
107M	Sentencing court may cancel extended supervision order	17
107N	Extension of short extended supervision order	17
107O	Board may vary conditions of extended supervision order	18
107P	Suspension of conditions of extended supervision order	19
107Q	Effect of new sentence on offender subject to extended supervision order	19
<i>Appeals and reviews</i>		
107R	Appeals against decisions of sentencing court	20
107S	Review of Board decisions	20
<i>Miscellaneous provisions</i>		
107T	Offence to breach extended supervision order	20
107U	Rules about court practice and procedure	20
107V	Additional victim notification	21
107W	Information about victims not to be disclosed	21
107X	Application of Legal Services Act 2000	21

*Transitional measures*

107Y	Definitions	21
107Z	Applications in respect of transitional eligible offenders to be made within first 6 months after commencement	22
	<b>Further consequential amendment to principal Act relating to Part 1A</b>	
12	Functions of Board	22
	<b>Consequential amendments to other enactments relating to Part 1A</b>	
13	Amendment to Criminal Justice Act 1985	22
14	Amendment to Corrections Act 2004	23
	<i>Information sharing about child sex offenders</i>	
182A	Information sharing about child sex offenders	23
182B	Definition of child sex offender	24
182C	Definition of specified agency	24
182D	Information sharing agreements	25
182E	Application of agreements	25
15	Amendment to Criminal Procedure (Mentally Impaired Persons) Act 2003	25
16	Amendments to Parole Regulations 2002 in Schedule	26
	<b>Other miscellaneous amendments to principal Act</b>	
17	Report on suitability for home detention	26
18	Direction for detention on home detention	26
19	Detention conditions	26
20	When home detention ends	27
21	Decisions must be notified	27
22	Decisions to be notified to certain victims	27
23	Release of offenders released at statutory release date	27
24	What happens when interim recall order made	27
25	Board may make final recall order	27
26	New section 66A inserted	28
	66A Protection of members of police	28
27	New section 73A inserted	28
	73A Power to enter premises to arrest	28
28	New section 79 substituted	28
	79 Start date if later sentence replaces original sentence	29
29	Meaning of pre-sentence detention	29
30	Calculation of final release dates	29
31	Variation and cancellation of final release dates	29

	<b>Parole (Extended Supervision) Amendment Act 2004</b>	2004 No 67
s 1		
32	Order that offender not be released	30
33	New section 117A inserted	30
	117A Board may regulate own procedure	30
	<b>Consequential amendments to other enactments</b>	
34	Consequential amendments to Corrections Act 2004	30
35	Consequential amendments to Parole Regulations 2002	30
	<b>Schedule</b>	31
	<b>New forms inserted in Schedule of Parole Regulations 2002</b>	

---

**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Parole (Extended Supervision) Amendment Act 2004.
- (2) In this Act the Parole Act 2002 is called “the principal Act”.

**2 Commencement**

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

**Amendments to principal Act  
consequential on new Part 1A**

**3 Interpretation**

Section 4 of the principal Act is amended by inserting, after the definition of **determinate sentence**, the following definition:  
“**extended supervision order** means an order made under section 107I”.

**4 Application of Part to offenders detained in hospital**

- (1) The heading to section 10 of the principal Act is amended by omitting the words “of Part”.
- (2) Section 10(2) of the principal Act is amended by inserting, after the words “of this Part”, the words “and Part 1A”.

**5 Special conditions**

Section 15(3) of the principal Act is amended by adding the following paragraphs:

- “(e) conditions prohibiting the offender from entering or remaining in specified places or areas, at specified times, or at all times:
- “(f) conditions requiring the offender to submit to the electronic monitoring of compliance with any release conditions, or conditions of an extended supervision order, that relate to the whereabouts of the offender.”

**6 New section 15A inserted**

The principal Act is amended by inserting, after section 15, the following section:

**“15A Electronic monitoring**

- “(1) The purpose of an electronic monitoring condition (whether imposed as a special condition under section 15 or as a standard detention condition under section 36) is to deter the offender from breaching conditions that relate to his or her whereabouts, and to monitor compliance with those conditions.
- “(2) For the purposes of the Privacy Act 1993, information about an offender that is obtained through electronic monitoring may be used both for the purposes referred to in subsection (1) and for the following purposes:—
  - “(a) to verify compliance with any release conditions, detention conditions, or conditions of an extended supervision order:
  - “(b) to detect non-compliance with any conditions and the commission of offences:
  - “(c) to provide evidence of non-compliance with conditions and the commission of offences.
- “(3) To avoid doubt, an offender who is subject to an electronic monitoring condition may be required to have equipment attached to his or her body.
- “(4) The annual report of the Department of Corrections must include the following information about the use of electronic monitoring in the year reported on:
  - “(a) the number of offenders who were at any time subject to an electronic monitoring condition:

- “(b) the average number of offenders who were subject to an electronic monitoring condition and the average duration of the condition:
- “(c) the percentage of offenders who, while subject to an electronic monitoring condition (other than as a standard detention condition while on home detention), were—
  - “(i) convicted for a breach of the condition; or
  - “(ii) convicted of any other offence; or
  - “(iii) recalled to prison under an interim recall order or a final recall order:
- “(d) a description of processes and systems relating to electronic monitoring that were in place during the year reported on.”

#### **7 Conditions applying to release at statutory release date**

Section 18 of the principal Act is amended by inserting, after subsection (2), the following subsection:

- “(2A) Subsection (2) applies to an offender in respect of whom an extended supervision order is made, in order to ensure that, if the offender is released early under section 52, he or she will be subject to release conditions before the extended supervision order comes into force.”

#### **8 Release conditions applying to parole**

Section 29 of the principal Act is amended by inserting, after subsection (2), the following subsection:

- “(2A) Despite subsection (2), if an offender in respect of whom an extended supervision order is made is released on parole, the Board must impose the standard release conditions for the period up to, but not beyond, the offender’s statutory release date.”

#### **9 Arrest without warrant**

Section 73(2) of the principal Act is amended by adding the words “or conditions of an extended supervision order”.

#### **10 Regulations**

Section 74 of the principal Act is amended by—

- (a) adding to paragraph (a) the words “and Part 1A” ; and
- (b) omitting from paragraph (f) the words “this Part, and its due”, and substituting the words “this Part and Part 1A, and their due”.

### **New Part 1A providing for extended supervision orders**

#### **11 New Part 1A inserted**

The principal Act is amended by inserting, after section 107, the following Part:

#### **“Part1A**

#### **“Extended supervision orders**

#### *“Preliminary*

#### **“107A Overview of Part**

This Part—

- “(a) provides that offenders who have been convicted of certain sexual offences may, after assessment by a health assessor, be made subject to an extended supervision order by a court; and
- “(b) provides that an extended supervision order may last for up to 10 years; and
- “(c) provides that the conditions of an extended supervision order are the standard release conditions and any special conditions imposed by the Board; and
- “(d) provides rights of appeal and review relating to extended supervision orders.

#### **“107B Meaning of relevant offence**

“(1) In this Part, unless otherwise specified, relevant offence means any of the following:—

- “(a) an offence referred to in subsection (2) or subsection (3):
- “(b) an attempt to commit any offence referred to in subsection (2) or subsection (3), where 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:

- “(c) a conspiracy to commit any offence referred to in subsection (2) or subsection (3).
- “(2) An offence under any of the following sections of the Crimes Act 1961, or an offence that is equivalent to any of the following offences but was under a provision of the Crimes Act 1961 that has been repealed, is a relevant offence:—
- “(a) section 128 (sexual violation), but only where the victim of the offence was under the age of 16 at the time of the offence:
- “(b) section 129 (attempt to commit sexual violation), but only where the victim of the offence was under the age of 16 at the time of the offence:
- “(c) section 129A (inducing sexual connection by coercion), but only where the victim of the offence was under the age of 16 at the time of the offence:
- “(d) section 130 (incest), but only where the victim of the offence was under the age of 16 at the time of the offence:
- “(e) section 131 (sexual intercourse with girl under care and protection), but only where the victim of the offence was under the age of 16 at the time of the offence:
- “(f) section 132(1) and (2) (sexual intercourse, and attempted sexual intercourse, with girl under 12):
- “(g) section 133 (indecenty with girl under 12):
- “(h) section 134(1) and (2) (sexual intercourse, and indecenty, with girl aged between 12 and 16):
- “(i) section 138 (sexual intercourse with severely subnormal woman or girl):
- “(j) section 139 (indecent act between woman and girl):
- “(k) section 140 (indecenty with boy under 12):
- “(l) section 140A (indecenty with boy between 12 and 16):
- “(m) section 142 (anal intercourse):
- “(n) section 144A (sexual conduct with children outside New Zealand):
- “(o) section 144C (organising or promoting child sex tours):
- “(p) section 208 (abduction of woman or girl), but only where the offence involved a girl under the age of 16 and an intention to have sexual intercourse with the girl:



- “(q) section 210 (abduction of child under 16), but only where the offence involved a girl under the age of 16 and an intention to have sexual intercourse with the girl.
- “(3) An offence under the Films, Videos, and Publications Classifications Act 1993 is also a relevant offence if the offence is punishable by imprisonment and any publication that is the subject of the offence is objectionable because it does any or all of the following:—
  - “(a) promotes or supports, or tends to promote or support, the exploitation of children, or young persons, or both, for sexual purposes:
  - “(b) describes, depicts, or otherwise deals with sexual conduct with or by children, or young persons, or both:
  - “(c) exploits the nudity of children, or young persons, or both.

**“107C Meaning of eligible offender**

- “(1) In this Part, **eligible offender** means an offender who—
  - “(a) has been sentenced to imprisonment for a relevant offence, and that sentence has not been quashed or otherwise set aside; and
  - “(b) 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 a sentence of imprisonment (whether for a relevant offence or otherwise) or to release conditions or detention conditions (whether those conditions are suspended or not); but
  - “(c) is not subject to an indeterminate sentence.
- “(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 (including a transitional eligible offender as defined in section 107Y) even if he or she committed a relevant offence, was most recently convicted, or became subject to release conditions or detention conditions, before this Part came into force.

**“107D Meaning of sentencing court**

“In this Part, **sentencing court**, in relation to an offender, means the High Court, unless every relevant offence for which the offender is subject to a sentence of imprisonment was imposed by a District Court, or any court on appeal from a District Court, in which case the sentencing court is a District Court presided over by a trial Judge.

**“107E Obligation to assess eligible offenders**

The chief executive must ensure that, before an eligible offender is released from detention, the offender is assessed to determine the likelihood that the offender will commit any of the relevant offences referred to in section 107B(2) after release.

*“Application for, and making of extended  
supervision orders*

**“107F Chief executive may apply for extended supervision order**

- “(1) The chief executive may apply to the sentencing court for an extended supervision order in respect of an eligible offender at any time before the later of—
- “(a) 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
  - “(b) the date on which the offender ceases to be subject to any release conditions.
- “(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) that addresses (without limitation) the following matters:
- “(a) the nature of any likely future sexual offending by the offender, including the age and sex of likely victims:
  - “(b) the offender’s ability to control his or her sexual impulses:
  - “(c) the offender’s predilection and proclivity for sexual offending:

- “(d) the offender’s acceptance of responsibility and remorse for past offending;
- “(e) any other relevant factors.

**“107G Procedure following application for extended supervision order**

- “(1) As soon as practicable after an application for an extended supervision order is made, the chief executive must ensure that the offender who is the subject of the application is served, by personal service, with—
  - “(a) a copy of the application; and
  - “(b) a copy of the health assessor’s report; and
  - “(c) copies of any affidavits accompanying the application; and
  - “(d) a notice setting out the offender’s rights and the procedures relating to the application.
- “(2) A Judge of a sentencing court, or a Registrar, Justice, or Community Magistrate, may issue a summons to an offender in respect of whom an application under section 107F is made; and, in that case, sections 24 and 25 of the Summary Proceedings Act 1957 apply with all necessary modifications.
- “(3) A Judge of a sentencing court may issue a warrant for the arrest of the offender if the Judge is of the opinion that a warrant is necessary to compel the attendance of the offender; and, in that case, sections 22 and 23 of the Summary Proceedings Act 1957 and section 316 of the Crimes Act 1961 apply with all necessary modifications.
- “(4) An offender who is the subject of an application for an extended supervision order must be present at the hearing of the application and may be represented by counsel.
- “(5) During the hearing, the sentencing court may adjourn the hearing and,—
  - “(a) if the offender was brought to court under section 65(3) of the Corrections Act 2004, section 65 of that Act applies; or
  - “(b) if the offender was brought to court following arrest under a warrant issued under subsection (3), the offender may be granted bail in accordance with subsection (6); but, if bail is not granted, the court must remand

- the offender in custody, in which case the period of the adjournment may not exceed 8 days; or
- “(c) in any other case (subject to subsection (9)),—
    - “(i) the court may allow the offender to go at large during the period of the adjournment; or
    - “(ii) the offender may be granted bail in accordance with subsection (6).
- “(6) If an offender who is the subject of an application for an extended supervision order may be granted bail,—
- “(a) the Bail Act 2000 applies, with all necessary modifications, as if the offender were charged with an offence and was not bailable as of right; and
  - “(b) if the sentencing court is a District Court, Part 3 of that Act applies; and
  - “(c) if the sentencing court is the High Court, Part 4 of that Act applies.
- “(7) The following provisions of the Summary Proceedings Act 1957 apply, with all necessary modifications, to proceedings for an extended supervision order:—
- “(a) section 71 (criminal records);
  - “(b) section 201 (amendment of conviction, order, or warrant);
  - “(c) section 203 (acts not generally to be done on Sunday), as if a warrant to arrest issued under this section were a warrant to arrest a person charged with an offence;
  - “(d) section 204 (proceedings not to be questioned for want of form) ;
  - “(e) section 206 (contempt of court).
- “(8) Any summons, warrant, or other form that is prescribed under section 212 of the Summary Proceedings Act 1957 may, if modified appropriately, be used for the purposes of this section.
- “(9) Before the Corrections Act 2004 comes into force, section 26(2) of the Penal Institutions Act 1954 applies as if paragraph (a) of that subsection applies to an offender who is subject to an application for an extended supervision order.
- “(10) Sections 138 to 141 of the Criminal Justice Act 1985 (which relate generally to name suppression) apply, with all necessary modifications, to the hearing of an application for an extended

supervision order as if the hearing were a proceeding in respect of an offence under any of sections 128 to 142A of the Crimes Act 1961.

“(11) The Costs in Criminal Cases Act 1967 applies, with all necessary modifications, to proceedings under this Part.

**“107H Hearings relating to extended supervision orders**

“(1) In this section, hearing means any hearing before a sentencing court or the Court of Appeal that relates to any of the following:

“(a) an application for an extended supervision order:

“(b) an application for cancellation of an extended supervision order:

“(c) an application for extension of an extended supervision order:

“(d) an appeal under section 107R.

“(2) At any hearing, the court may receive and take into account any evidence or information that it thinks fit for the purpose of determining the application or appeal, whether or not it would be admissible in a court of law.

“(3) At any hearing, the court is entitled to take into account the fact that an offender refused to co-operate with the preparation of the health assessor’s report required under section 107F(2), but it must also take into account any reasons the offender gives for refusal to co-operate with the preparation of the health assessor’s report.

“(4) When any hearing is to be held, the chief executive must notify every victim of the offender concerned about the hearing.

“(5) A victim may make written submissions to the court and, with the leave of the court, may appear and make oral submissions at the hearing.

“(6) The court must provide a copy of every order made at or following any hearing, along with the reasons for the order, to the offender concerned, the chief executive, and the police.

“(7) The chief executive must notify every victim of the offender concerned of the outcome of every hearing.

**“107I Sentencing court may make extended supervision order**

- “(1) The purpose of an extended supervision order is to protect members of the community from those who, following receipt of a determinate sentence, pose a real and ongoing risk of committing sexual offences against children or young persons.
- “(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(2), that the offender is likely to commit any of the relevant offences referred to in section 107B(2) on ceasing to be an eligible offender.
- “(3) To avoid doubt, a sentencing court may make an extended supervision order in relation to an offender who was, at the time the application for the order was made, an eligible offender, even if, by the time the order is made, the offender has ceased to be an eligible offender.
- “(4) Every extended supervision order must state the term of the order, which may not exceed 10 years.
- “(5) The term of the order must be the minimum period required for the purposes of the safety of the community in light of—
- “(a) the level of risk posed by the offender; and
  - “(b) the seriousness of the harm that might be caused to victims; and
  - “(c) the likely duration of the risk.
- “(6) If the person to whom an application for an extended supervision order relates is already subject to an extended supervision order, any new order may not be made for a period that, when added to the unexpired portion of the earlier order, exceeds 10 years.

*“Nature of extended supervision order***“107J Conditions of extended supervision order**

- “(1) The conditions of an extended supervision order are—
- “(a) the standard release conditions; and
  - “(b) any special conditions imposed by the Board under section 107K, which apply for the period determined by the Board.

- “(2) The standard release conditions—
- “(a) apply throughout the term of the order (except as provided in section 107K(2) and section 107O); and
  - “(b) must be treated for the purpose of sections 56 to 58 as having been imposed by the Board.

**“107K Board may impose special conditions**

- “(1) At any time before an extended supervision order expires or is cancelled, and whether or not it has come into force, the Board may, on an application by the chief executive or a probation officer, impose on the offender—
- “(a) any special condition that the Board is entitled to impose under section 15; and
  - “(b) a special condition requiring the person to reside at a specified address and be subject to the standard detention conditions set out in section 36(2)(a), (b), and (d), as if the person were on home detention.
- “(2) If an offender is subject to a special condition referred to in subsection (1)(b)—
- “(a) the condition may include a requirement that the offender submit to being accompanied and monitored, for up to 24 hours a day, by an individual who has been approved, by a person authorised by the chief executive, to undertake person-to-person monitoring; and
  - “(b) the standard release conditions do not apply.
- “(3) If the Board imposes special conditions under this section, it must specify the duration of those conditions which,—
- “(a) in the case of a condition referred to in subsection (1)(a), may be for the full term of the order, or any lesser period; and
  - “(b) in the case of the condition referred to in subsection (1)(b), may apply only within the first 12 months of the term of the order.
- “(4) Subsections (2) and (4) of section 15 apply in respect of special conditions imposed under this section.
- “(5) If an offender is subject to a special condition under this section that requires the offender to take prescription medication, the offender does not breach his or her conditions, for the pur-

poses of section 107T, if he or she withdraws consent to taking prescription medication.

- “(6) The Board must notify the offender concerned, and every victim of the offender, if it is considering imposing special conditions under this section.
- “(7) The offender and any victim of the offender may make written submissions to the Board and, with the leave of the Board, may appear and make oral submissions on whether special conditions should be imposed, what the conditions should be, and their duration.
- “(8) Notice of any special conditions attached to an extended supervision order must be provided, in writing, to the following:
  - “(a) the offender:
  - “(b) the chief executive:
  - “(c) the police:
  - “(d) every victim of the offender; but the Board may withhold notice of a particular condition if disclosure of the condition would unduly interfere with the privacy of any other person (other than the offender).

**“107L Commencement and expiry of extended supervision order**

- “(1) An extended supervision order comes into force,—
  - “(a) if the order is made while the offender is detained or liable to be recalled, on the offender’s statutory release date; or
  - “(b) if the order is made at any other time, on the date specified in the order.
- “(2) On the date on which an extended supervision order comes into force, any release conditions or detention conditions to which the offender is subject are discharged.
- “(3) An extended supervision order expires on the date on which the order is cancelled or the term of the order expires.



*“Cancellation, extension, variation, and  
suspension of extended supervision orders or  
conditions*

**“107M Sentencing court may cancel extended supervision order**

- “(1) At any time after an extended supervision order has come into force, the offender who is subject to the order, or the chief executive, may apply to the sentencing court to cancel the order 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.
- “(2) On receipt of an application for cancellation, the Registrar of the sentencing court must set the matter down for hearing.
- “(3) The applicant for cancellation must, as soon as practicable, serve on the other party—
- “(a) a copy of the application.
  - “(b) notice of the date of the hearing.
- “(4) The sentencing court may order the cancellation of an extended supervision order only if the applicant satisfies the court 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.
- “(5) Section 107G(7) and (8) applies to proceedings under this section.
- “(6) If the sentencing court declines to order the cancellation of an order, the court may at the same time, and on its own initiative or on application by the chief executive, order that the offender not be permitted to apply under this section for a specified period of not more than 2 years.

**“107N Extension of short extended supervision order**

- “(1) At any time before the expiry of an extended supervision order whose term is less than 10 years, the chief executive may apply to the sentencing court for an extension of the order up to the maximum term of 10 years.
- “(2) An application may be made under this section only if—
- “(a) the offender to whom the order relates has been convicted under section 107T, in the 12 months preceding

- the application, of the offence of breaching a condition of the order; or
- “(b) the offender agrees in writing to the application being made.
- “(3) Subsection 107G applies, with all necessary modifications, to an application under this section.
- “(4) The sentencing court may order that an extended supervision order be extended if—
- “(a) it is satisfied, having considered the matters addressed in the health assessor’s report as set out in section 107F(2), that the offender is likely to commit any of the relevant offences referred to in section 107B(2) after the expiry of the existing order; or
- “(b) the offender agrees in writing to the extension of the order for the term ordered by the court.
- “(5) An extended supervision order may not be extended for a term that results in the total term of the order exceeding 10 years.

**“107O Board may vary conditions of extended supervision order**

- “(1) At any time, whether before or after an extended supervision order has come into force, the offender who is subject to the order, or a probation officer, may apply to the Board for the variation or discharge of any condition of the order.
- “(2) Sections 56, 57, and 58(1) and (4) apply as if the conditions of the extended supervision order were release conditions, and as if the offender were already subject to the conditions.
- “(3) If the conditions of an extended supervision order are varied or discharged, notice of the conditions as so varied or discharged must be provided to the following:
- “(a) the offender:
- “(b) the probation officer involved:
- “(c) the police:
- “(d) every victim of the offender; but the Board may withhold notice of a particular condition if disclosure of the condition would unduly interfere with the privacy of any other person (other than the offender).

**“107P Suspension of conditions of extended supervision order**

- “(1) The conditions of an offender’s extended supervision order are suspended, and time ceases to run on the order, during any period that the offender is detained in a penal institution.
- “(2) If the conditions of an extended supervision order are suspended under subsection (1), they are reactivated,—
- “(a) in the case of an offender who is detained under a sentence of imprisonment, on the offender’s statutory release date; and
  - “(b) in the case of an offender who is detained under a court order, on the date the offender is released.
- “(3) If an offender who is subject to an extended supervision order is detained in a hospital under a compulsory treatment order, then—
- “(a) the conditions of the extended supervision order are suspended while the offender is detained, but a probation officer may reactivate any condition that is required to ensure that the offender does not pose an undue risk to the community or any person or class of persons; and
  - “(b) time on the order continues to run during the period of detention; and
  - “(c) the conditions that have not been reactivated earlier are reactivated when the offender is released.

**“107Q Effect of new sentence on offender subject to extended supervision order**

- “(1) If an offender who is subject to an extended supervision order that is in force is sentenced to a community-based sentence, the extended supervision order continues in force while the offender serves the sentence.
- “(2) If an offender who is subject to an extended supervision order is sentenced to a determinate sentence, time ceases to run on the order, and the conditions of the order are suspended and then reactivated, in accordance with section 107P.
- “(3) If an offender who is subject to an extended supervision order is sentenced to an indeterminate sentence, the order is cancelled; but if the sentence is subsequently quashed or otherwise set aside, the extended supervision order is to be treated as if it had not been cancelled.

*“Appeals and reviews***“107R Appeals against decisions of sentencing court**

- “(1) An appeal against a decision or order made by the sentencing court under section 107I, section 107M, or section 107N may be made by the offender to whom the decision or order relates or by the chief executive.
- “(2) Every appeal must be to the Court of Appeal, and Part 13 of the Crimes Act 1961 applies, with all necessary modifications and subject to section 107H of this Act, as if the appeal were an appeal against sentence under section 383 of the Crimes Act 1961.
- “(3) The lodging of an appeal against a decision or order does not prevent that decision or order taking effect according to its terms.

**“107S Review of Board decisions**

Section 67 (which provides for reviews of decisions by the Board) applies to decisions by the Board under section 107K or section 107O.

*“Miscellaneous provisions***“107T Offence to breach extended supervision order**

An offender who is subject to an extended supervision order and who breaches, without reasonable excuse, any conditions attaching to that order commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 2 years.

**“107U Rules about court practice and procedure**

The Governor-General may from time to time, by Order in Council, make rules regulating the practice and procedure of courts in proceedings under section 107I, section 107M, or section 107N.

“Compare: 1991 No 120, s 90

**“107V Additional victim notification**

The chief executive must notify every victim of an offender who is subject to an extended supervision order if any of the following occurs:

- “(a) the offender is convicted of an offence against section 107T:
- “(b) the offender’s extended supervision order expires:
- “(c) the offender dies.

**“107W Information about victims not to be disclosed**

In any proceedings under this Part, no person may, directly or indirectly, disclose to the offender any information that discloses the current address or contact details of any victim of the offender (as defined in section 4 of the Victims’ Rights Act 2002).

**“107X Application of Legal Services Act 2000**

For the purposes of section 6(a) of the Legal Services Act 2000 (which identifies proceedings for which legal aid may be granted), proceedings under this Part before any court are criminal proceedings.

*“Transitional measures***“107Y Definitions**

In this section and section 107Z,—

“**introduction date** means 11 November 2003, which was the date on which the Parole (Extended Supervision) and Sentencing Amendment Bill 2003 was introduced into the House of Representatives

“**transitional eligible offender** means any one of the following:—

- “(a) any person who, on or after the introduction date, would have been an eligible offender if this Part had been in force on or after that date, but who ceases to be an eligible offender before this Part comes into force:
- “(b) any person who, on the date on which this Part comes into force, is an eligible offender, but who ceases to

be an eligible offender within 6 months after this Part comes into force.

**“107Z Applications in respect of transitional eligible offenders to be made within first 6 months after commencement**

- “(1) This Part applies to a transitional eligible offender in the same way as it applies to an eligible offender, except as provided in subsection (2).
- “(2) The chief executive may apply for an extended supervision order in respect of a transitional eligible offender until 5 pm on the day that is 6 months after the date on which this section comes into force, but no later. This subsection overrides section 107F(1)(a) and (b).
- “(3) However, nothing in this section prevents the chief executive applying for an extended supervision order more than 6 months after this section comes into force if, after that date, the offender is an eligible offender.”

**Further consequential amendment to principal Act relating to Part 1A**

**12 Functions of Board**

- (1) Section 109(1)(e) of the principal Act is amended by inserting, after subparagraph (i), the following subparagraph:
- “(ia) the variation and discharge of conditions of extended supervision orders as provided for in section 107O; and”.
- (2) Section 109(1) of the principal Act is amended by inserting, after paragraph (g), the following paragraph:
- “(ga) to impose special conditions on offenders in respect of whom extended supervision orders have been made:”.

**Consequential amendments to other enactments relating to Part 1A**

**13 Amendment to Criminal Justice Act 1985**

- Section 125(1) of the Criminal Justice Act 1985 is amended by inserting, after paragraph (a), the following paragraph:
- “(aa) to supervise all persons placed under the officer’s supervision under an extended supervision order made under Part 1A of

the Parole Act 2002, and to ensure that the conditions of the order are complied with.”.

#### **14 Amendment to Corrections Act 2004**

- (1) Section 2(1) of the Corrections Act 2004 is amended by inserting, after the words “(except sections”, the words “182A to 182E and sections”.
- (2) Section 2 of the Corrections Act 2004 is amended by inserting, after subsection (1), the following subsection:  
“(1A) Sections 182A to 182E come into force on the date on which the Parole (Extended Supervision) Amendment Act 2004 comes into force.”
- (3) Section 25(1) of the Corrections Act 2004 is amended by inserting, after paragraph (a), the following paragraph:  
“(ab) to supervise all persons placed under the officer’s supervision under an extended supervision order made under Part 1A of the Parole Act 2002, and to ensure that the conditions of the order are complied with.”.
- (4) Section 65(2) of the Corrections Act 2004 is amended by inserting, after paragraph (a), the following paragraph:  
“(ab) a prisoner is the subject of an application under Part 1A of the Parole Act 2002 for an extended supervision order or for the extension of an extended supervision order; or”
- (5) The Corrections Act 2004 is amended by inserting, after section 182, the following heading and sections:  
*“Information sharing about child sex offenders*  
**“182A Information sharing about child sex offenders**  
“(1) A specified agency that enters into an information sharing agreement under section 182D with another specified agency is authorised to disclose to that agency any personal information about a child sex offender, but only if the disclosure is for, or relates to, a purpose listed in subsection (3).  
“(2) Nothing in subsection (1) limits the operation of the Privacy Act 1993 or section 182 of this Act.  
“(3) The purposes for which personal information about a child sex offender may be disclosed under an information sharing agreement between specified agencies are:—

- “(a) to monitor compliance by the child sex offender with his or her release conditions, detention conditions, conditions of a sentence of supervision, or conditions of an extended supervision order:
- “(b) to manage the risk that the offender may commit further sexual offences against children:
- “(c) to identify any increased risk that the offender may breach his or her conditions or will commit further sexual offences against children:
- “(d) to facilitate the reintegration of the offender into the community.

**“182B Definition of child sex offender**

- “(1) For the purposes of section 182A, **child sex offender** means a person who—
  - “(a) has been convicted of a relevant offence as defined in section 107B(1) of the Parole Act 2002 (other than where the offence is one referred to in section 107B(3) (pornography offences)); and
  - “(b) whose sentence for the relevant offence has not been quashed or otherwise set aside; and
  - “(c) who is subject to release conditions, detention conditions, a sentence of supervision, or an extended supervision order.
- “(2) However, a person is not a child sex offender for the purposes of section 182A if,—
  - “(a) since his or her latest conviction for a relevant offence, the offender has had a period during which he or she was not subject to any sentence for an offence and was not subject to release conditions of any sort; and
  - “(b) the offender is not subject to an extended supervision order.

**“182C Definition of specified agency**

- For the purposes of section 182A, **specified agency** means—
- “(a) the Department of Corrections:
  - “(b) the Department of Child, Youth and Family Services:
  - “(c) Housing New Zealand Corporation:
  - “(d) the Ministry of Social Development:



- “(e) the New Zealand Police:
- “(f) any public sector agency (as that term is defined in section 2 of the Privacy Act 1993) that the Minister of Justice, after consultation with the Privacy Commissioner, identifies as a specified agency by notice in the *Gazette*.

**“182D Information sharing agreements**

- “(1) An agreement entered into under this section for sharing information about child sex offenders must set out the operational details about how the information is to be shared.
- “(2) Without limiting subsection (1), every agreement must—
  - “(a) specify the nature of the information to be disclosed; and
  - “(b) specify the manner in which the information may be disclosed; and
  - “(c) set out how the information privacy principles, as set out in section 6 of the Privacy Act 1993, will be complied with.’ ”
- “(3) Before an information sharing agreement is concluded, reviewed, or substantially amended, the specified agencies concerned must consult with the Privacy Commissioner.

**“182E Application of agreements**

When specified agencies enter into an information sharing agreement, the agreement applies to all personal information held by the agencies about a child sex offender, whether the information was obtained before or after the agreement came into force.

**15 Amendment to Criminal Procedure (Mentally Impaired Persons) Act 2003**

The Schedule of the Criminal Procedure (Mentally Impaired Persons) Act 2003 is amended by adding, under the heading “Parole Act 2002 (2002 No 10)”, the item “Insert in section 107P(3), after the words ‘a hospital’, the words ‘or secure facility under a compulsory care order or’”

**16 Amendments to Parole Regulations 2002 in Schedule**

The Parole Regulations 2002 (SR 2002/179) are amended by adding the 3 forms set out in the Schedule.

**Other miscellaneous amendments to  
principal Act****17 Report on suitability for home detention**

Section 34 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) On receiving an application under section 33 for home detention, the Board must request a report from a probation officer on the offender’s suitability for home detention, and the report must address the following:—
- “(a) the nature of the offence or offences for which the offender is currently serving a sentence of imprisonment or has previously been convicted:
  - “(b) the likelihood that the offender’s rehabilitation and reintegration will be assisted by home detention:
  - “(c) the safety and welfare of the occupants of the residence where the offender is to be detained:
  - “(d) the outcome of any restorative justice processes that have occurred.”

**18 Direction for detention on home detention**

- (1) Section 35(2) of the principal Act is amended by inserting, after the expression “subsection (1)”, the word “only”.
- (2) Section 35(2) of the principal Act is amended by repealing paragraph (b).
- (3) Section 35(4) of the principal Act is amended by inserting, after the word “long-term”, the word “determinate”.

**19 Detention conditions**

Section 36(2) of the principal Act is amended by adding the following paragraph:

- “(d) the offender must, as and when required by a probation officer, submit to the electronic monitoring of compliance with his or her detention conditions.”

**20 When home detention ends**

Section 40(d) of the principal Act is amended by omitting the expression “section 27(3)”, and substituting the expression “section 37(3)”.

**21 Decisions must be notified**

Section 50 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

- “(2) When advising a victim under this section of any release or detention conditions applying to an offender, the Board may withhold advice of a particular condition if disclosing the condition would unduly interfere with the privacy of any other person (other than the offender).”

**22 Decisions to be notified to certain victims**

Section 50B of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

- “(2) When advising a person under this section of any release or detention conditions, the Board may withhold advice of a particular condition if disclosing the condition would unduly interfere with the privacy of any other person (other than the offender).”

**23 Release of offenders released at statutory release date**

Section 52(3) of the principal Act is amended by inserting, after the words “an offender”, the words “who is detained in a penal institution and”.

**24 What happens when interim recall order made**

Section 63(1) of the principal Act is amended by inserting, after the words “for the”, the words “arrest of the offender and for the”.

**25 Board may make final recall order**

- (1) Section 66(3) of the principal Act is amended by inserting, after the words “for the”, the words “arrest of the offender and for the”.

(2) Section 66 of the principal Act is amended by inserting, after subsection (3), the following subsection:

“(3A) If a warrant is issued under subsection (3) in respect of an offender who is not currently detained, a member of the police may at any time arrest the offender, whether or not the member has possession of the warrant, for the purpose of returning the offender to a penal institution to resume serving his or her sentence.”

**26 New section 66A inserted**

The principal Act is amended by inserting, after section 66, the following section:

“**66A Protection of members of police**

Section 39 of the Police Act 1958 applies to protect members of the police as if a warrant issued under section 63(1) or section 66(3) were a process issued out of a court.”

**27 New section 73A inserted**

The principal Act is amended by inserting, after section 73, the following section:

“**73A Power to enter premises to arrest**

“(1) A member of the police may, at any time, for the purpose of arresting an offender named in a warrant issued under section 63(1) or section 66(3), enter any premises, by force if necessary, if he or she has reasonable cause to believe that the offender is in or on the premises.

“(2) If the member of the police who is executing the warrant is not in uniform, and the person in actual occupation of the premises asks the member to produce evidence of his or her authority, the member must produce the warrant or a badge or other evidence that he or she is a member of the police.

“Compare: 1957 No 87, s 22”

**28 New section 79 substituted**

The principal Act is amended by repealing section 79, and substituting the following section:

**“79 Start date if later sentence replaces original sentence**

- “(1) The start date of a sentence that is substituted for a sentence that was quashed or otherwise set aside on appeal (the **original sentence**) is the start date of the original sentence.
- “(2) If a sentence (the **original sentence**) ceases to apply because the conviction to which it relates is quashed and a retrial ordered, and if a sentence of imprisonment is imposed following the retrial, the start date of the later sentence is the start date of the original sentence.
- “(3) In either situation referred to in subsection (1) or subsection (2), if the original sentence was directed to be served cumulatively on another sentence but the later sentence is not directed to be served cumulatively, then the start date of the later sentence is the start date that the original sentence would have had if it had not been directed to be served cumulatively.”

**29 Meaning of pre-sentence detention**

Section 91(6) of the principal Act is repealed, and the following subsection is substituted:

- “(6) In subsection (5)(a), **serving a sentence of imprisonment in a penal institution** includes time spent in a penal institution following an application for a recall order, but only if—
- “(a) a final recall order is made following that application; and
- “(b) the offender was not, immediately before the application for the recall order was made, subject to detention conditions, whether those conditions were suspended or not.”

**30 Calculation of final release dates**

Section 105(1) of the principal Act is amended by omitting the words “An offender’s final release date”, and substituting the words “The final release date of an offender who is subject to a pre-cd sentence”.

**31 Variation and cancellation of final release dates**

Section 106 of the principal Act is amended by adding the following subsection:

“(6) The final release date of an offender who is subject to a long-term pre-cd sentence is cancelled, and section 104(1) therefore ceases to apply, if the offender is recalled under a final recall order from parole, home detention, or compassionate release.”

**32 Order that offender not be released**

Section 107(9) of the principal Act is amended by omitting from paragraph (c) of the definition of specified offence the expression “237”, and substituting the expression “236”.

**33 New section 117A inserted**

The principal Act is amended by inserting, after section 117, the following section:

**“117A Board may regulate own procedure**

The Board may regulate its own procedure as it thinks fit, subject to this Act and any regulations made under it.”

### **Consequential amendments to other enactments**

**34 Consequential amendments to Corrections Act 2004**

The fifth item relating to the Parole Act 2002 in Schedule 2 of the Corrections Act 2004 is amended by—

- (a) omitting the expression “52(1)”, and substituting the words “52(1) and (3)” ; and
- (b) omitting the words “66(1) and (3)”, and substituting the words “66(1), (3), and (3A)” ; and
- (c) omitting the words “and 94(a)”, and substituting the words “94(a), and 107P(1)”.

**35 Consequential amendments to Parole Regulations 2002**

Form 9 and form 13 in the schedule of the Parole Regulations 2002 (SR 2002/179) are amended by inserting, after the words “the members of the police, are directed to”, the words “arrest the offender and to” in each case.

**Schedule**

s 16

**New forms inserted in Schedule of Parole  
Regulations 2002**

**“Form 15**

**“Application for extended supervision order**

“

*Section 107F, Parole Act 2002*

Case number:

In the High Court of New Zealand/District Court at *[place]*:

Applicant: chief executive of the Department of Corrections

Respondent: *[full name of offender]*, of *[address]*

I, *[name of applicant]*, chief executive of the Department of Corrections,—

- 1 assert that the respondent is an eligible offender within the meaning of section 107C of the Parole Act 2002 and attach evidence in support of this assertion; and
- 2 will apply to the High Court/District Court at *[place]* for an extended supervision order to be imposed on the respondent on the ground that I consider, on the basis of the attached health assessor's report, that the respondent is likely to commit an offence referred to in section 107B(2) of the Parole Act 2002 after he or she ceases to be an eligible offender.

\*And on the further grounds set out in the attached affidavit[s] of *[name]*, dated *[date]*.

\*Delete if inapplicable.

*[Attach evidence that the offender is an eligible offender and a copy of the health assessor's report.]*

Dated at *[place]* on *[date]*.

.....  
Chief executive of  
the Department of  
Corrections

Name and contact details of person for inquiries:

**Date of hearing**

I appoint *[date]* at *[time]* at the High Court/District Court at *[place]* for the hearing of this application.

.....  
Registrar

.....  
Date

“Form 16  
“Extended supervision order

“

*Section 107I, Parole Act 2002*

To the chief executive of the Department of Corrections and *[full name of offender to whom the order relates]*:

On *[date]*, the High Court/District Court at *[place]* made an extended supervision order against *[full name of offender]* under section 107I of the Parole Act 2002.

The term of the order is: *[specify]*

The order comes into force on:

\*the offender's statutory release date (in the case of an offender who is detained or liable to be recalled):

\**[specify date]*.

\*Delete if inapplicable.

The standard conditions printed on this form apply to the offender from the time the order comes into force and throughout the term of the order except—

- during any period when the offender is subject to a special condition referred to in section 107K(1)(b) of the Parole Act 2002; or
- during any period when the conditions are suspended under section 107P of the Parole Act 2002; or
- as varied by the Parole Board.

The Parole Board may also impose special conditions on the offender.

Dated at the *[specify]* Court at *[place]* on *[date]*.

.....  
(Deputy) Registrar

**Standard conditions of extended supervision order**

The offender is subject to the following conditions:

- (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 extended supervision order comes into force;
- (b) the offender must report to a probation officer as and when required to do so by a probation officer, and must notify the officer of his or her residential address and the nature and place of his or her employment when asked to do so;
- (c) the offender must not move to a new residential address in another probation area without the prior written consent of a probation officer;
- (d) if consent is given under paragraph (c), the offender must report in person to a probation officer in the new probation area in which the offender is to reside as soon as practicable, and not later than 72 hours, after the offender's arrival in the new area;



Form 16—*continued*

- (e) if an offender intends to change his or her residential address within a probation area, the offender must give a probation officer reasonable notice before moving from his or her residential address (unless notification is impossible in the circumstances) and must advise the probation officer of the new address:
- (f) the offender must not reside at any address at which a probation officer has directed the offender not to reside:
- (g) the offender must not engage, or continue to engage, in any employment or occupation in which a probation officer has directed the offender not to engage or continue to engage:
- (h) the offender must not associate with any specified person, or with persons of any specified class, with whom a probation officer has, in writing, directed the offender not to associate:
- (i) the offender must take part in a rehabilitative and reintegrative needs assessment if and when directed to do so by a probation officer.

“Form 17  
“Application for extension of short extended  
supervision order”

“

Form 17—*continued**Section 107N, Parole Act 2002*

Case number:

In the High Court of New Zealand/District Court at *[place]*:

Applicant: chief executive of the Department of Corrections

Respondent: *[full name of offender]*, of *[address]*I, *[name of applicant]*, chief executive of the Department of Corrections,—

1 assert that—

(a) the respondent is subject to an extended supervision order for a term of *[specify term]*, which is due to expire on approximately *[date]*:

\*(b) the offender has been convicted under section 107T of the Parole Act 2002 of breaching a condition of the order:

\*(c) the offender consents in writing to the making of this application;  
and2 will apply to the High Court/District Court at *[place]* for an extension of the offender's extended supervision order on the ground that—

\*(a) I consider, on the basis of the attached health assessor's report, that the respondent is likely to commit an offence referred to in section 107B(2) of the Parole Act 2002 after the expiry of his or her extended supervision order:

\*(b) the offender agrees in writing to the extended supervision order being extended.

\*Delete if inapplicable.

*[Attach evidence of the offender's conviction or the offender's consent to the application and a copy of the health assessor's report or the offender's written consent to the making of the order.]*Dated at *[place]* on *[date]*......  
Chief executive of  
the Department of  
Corrections

Name and contact details of person for inquiries:

**Date of hearing**I appoint *[date]* at *[time]* at the High Court/District Court at *[place]* for the hearing of this application......  
Registrar.....  
Date

2004 No 67 **Parole (Extended Supervision)  
Amendment Act 2004**

---

29 June 2004 **Legislative history**  
Divided from Parole (Extended Supervision) and  
Sentencing Amendment Bill (Bill 88-2), third  
reading

---