

House of Representatives
Supplementary Order Paper

Wednesday, 26 November 2014

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

Proposed amendments

Hon Peseta Sam Lotu-Iiga, in Committee, to move the following amendments:

New clause 4AA

Above *clause 4* (page 3, above line 12), insert:

4AA Section 4 amended (Interpretation)

In section 4(1), insert in its appropriate alphabetical order:

“**intensive monitoring condition** means the special condition described in **section 107IAB(2)**”.

New clauses 9A and 9B

After *clause 9* (page 8, after line 36), insert:

9A New section 107FA inserted (Sentencing court may make interim supervision order)

After section 107F, insert:

“107FA Sentencing court may make interim supervision order

“(1) This section applies if, before an application for an extended supervision order is finally determined, 1 or more of the following events occur:

“(a) the offender who is the subject of the application is released from detention:

“(b) the offender who is the subject of the application ceases to be subject to an extended supervision order:

“(c) the offender who is the subject of the application fails to appear at the hearing of the application and is brought before the court under a warrant issued under section 107G(3):

- “(d) an offender who is a person described in **section 107C(1)(b)** arrives in New Zealand.
- “(2) The sentencing court may, on application by the chief executive, order that, until the application for an extended supervision order is finally determined, the offender is subject to the supervision conditions specified in the order.
- “(3) When the court makes an order under **subsection (2)** (an **interim supervision order**), it may impose any of the standard conditions that are (under section 107JA), or special conditions that may be (under section 107K), imposed under an extended supervision order.
- “(4) If, under an interim supervision order, the court imposes an intensive monitoring condition or residential restrictions, the period for which the interim supervision order is in force is not to be taken into account for the purpose of the limits specified in section 107K(3)(b) and **(ba)**.
- “(5) The court may suspend an interim supervision order subject to any conditions that the court thinks fit.
- “(6) An interim supervision order ceases to have effect when the application for an extended supervision order is finally determined or discontinued.”

9B New section 107GAA inserted (Procedure where hearing contingent on outcome of PPO application)

After section 107G, insert:

- “107GAA Procedure where hearing contingent on outcome of PPO application**
- “(1) This section applies to an application for an extended supervision order made in respect of an eligible offender who is also the subject of a PPO application that has not been determined or withdrawn.
- “(2) For an application to which this section applies,—
- “(a) the sentencing court is (despite anything in section 107D) the High Court; and
- “(b) the sentencing court must not hear the application until—
- “(i) the proceeding on the PPO application has been completed and the court has declined to make a public protection order against the offender; or
- “(ii) the PPO application has been withdrawn; or
- “(iii) the public protection order made against the offender has been cancelled as a result of a successful appeal against the order; and
- “(c) the notice given under section 107G(1)(d) must inform the offender of the effect of this provision.

- “(3) The application is taken to be withdrawn if the court has made a public protection order against the offender and all avenues for appeal are exhausted or the period in which an appeal may be filed expires.
- “(4) Where the court has declined to make a public protection order and the court proceeds to hear the application for an extended supervision order, that application must, if practicable, be heard by the same Judge that heard the PPO application.
- “(5) In this section, **PPO application** means an application for a public protection order under **section 8** of the **Public Safety (Public Protection Orders) Act 2014**.”

Clause 12

In the heading to *clause 12* (page 9, line 24), replace “and” with “to”.

New clause 12A

After *clause 12* (page 11, after line 26), insert:

12A Section 107JA amended (Standard extended supervision conditions)

- (1) Replace section 107JA(1)(i) with:
 - “(i) the offender must not associate with, or contact, a person under the age of 16 years, except—
 - “(i) with the prior written approval of a probation officer; and
 - “(ii) in the presence and under the supervision of an adult who—
 - “(A) has been informed about the relevant offending; and
 - “(B) has been approved in writing by a probation officer as suitable to undertake the role of supervision.”
- (2) After section 107JA(2), insert:
- “(3) The condition in **subsection (1)(i)** applies to extended supervision orders made before and after the commencement of **section 12A** of the **Parole (Extended Supervision Orders) Amendment Act 2014**.”

Clause 13

After *clause 13(3)* (page 12, after line 10), insert:

- (4) After section 107K(3), insert:
 - “(3A) **Subsection (3B)** applies if the Board has imposed or imposes on an offender any of the following special conditions:
 - “(a) a condition requiring the offender to submit to being accompanied and monitored for up to 24 hours a day under section 33(2)(c) and subsection (2) (imposed

- before the commencement of the **Parole (Extended Supervision Orders) Amendment Act 2014**:
- “(b) a condition of long-term full-time placement in the care of an appropriate agency, person, or persons for the purposes of a programme under sections 15(3)(b) and 16(c) and subsection (1) (imposed before the commencement of the **Parole (Extended Supervision Orders) Amendment Act 2014**):
 - “(c) an intensive monitoring condition imposed under subsection (1) in accordance with an order made by the court under **section 107IAB(1)**.
- “(3B) When this subsection applies, the standard condition in **section 107JA(1)(i)**—
- “(a) is suspended during the period in which the special condition is in force; and
 - “(b) is for that period replaced by the condition specified in **subsection (3C)**.
- “(3C) For the purposes of **subsection (3B)(b)**, the condition is that the offender must not associate with, or contact, a person under the age of 16 years, except—
- “(a) with the prior written approval of an employee of the chief executive authorised by the chief executive to grant such approval; and
 - “(b) in the presence and under the supervision of an adult who—
 - “(i) has been informed about the relevant offending; and
 - “(ii) has been approved in writing by a probation officer as suitable to undertake the role of supervision.”

Explanatory note

This Supplementary Order Paper amends the Parole (Extended Supervision Orders) Amendment Bill. The amendments insert 4 new clauses into the Bill, effect a minor change to the heading of *clause 12*, and insert 3 new subclauses into *clause 13*.

New clause 4AA inserts into section 4 of the principal Act a definition of intensive monitoring condition.

New clause 9A inserts *new section 107FA* into the Parole Act 2002 (the **principal Act**) to make provision for the sentencing court to make an interim supervision order before an application for an extended supervision order (**ESO**) is determined in certain cases.

New clause 9B inserts *new section 107GAA* into the principal Act. This section provides that, where an offender is the subject of an application for an ESO and an application for a public protection order (**PPO**),—

- the sentencing court is the High Court; and
- the ESO application must not be heard until the PPO application has been determined or otherwise disposed of; and
- where the court proceeds to hear the ESO application, the application must, if practicable, be heard by the same Judge that heard the PPO application.

New clause 12A amends section 107JA of the principal Act by changing the standard ESO condition relating to contact with children. The new standard condition prohibits an offender who is subject to an ESO from associating with or contacting a person under 16 unless the offender has the prior written approval of a probation officer and the association or contact is supervised by an adult who knows about the relevant offending and has been approved by a probation officer as a suitable supervisor. The change to the standard ESO condition applies to ESOs made before and after the commencement of the amendments.

This SOP also amends *clause 13* of the Bill to insert 3 new subsections into section 107K of the principal Act. The effect of these new subsections is that if an offender is subject to the most restrictive special conditions under his or her ESO, then the standard condition relating to contact with children is suspended and substituted while the special condition is in force. During that period, the substitute condition is that the offender must not associate with or contact a person under 16 unless the offender has the prior written approval of an authorised employee of the chief executive of the Department of Corrections and the association or contact is supervised by an adult who knows about the relevant offending and has been approved by a probation officer as a suitable supervisor.

Departmental disclosure statement

The Department of Corrections is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2014&no=30&>.

Regulatory impact statement

The Department of Corrections produced a regulatory impact statement on 3 November 2014 to help inform the new policy decisions taken by the Government relating to the contents of this SOP.

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

- http://www.corrections.govt.nz/resources/parole_extended_supervision_orders_amendment_bill.html

- <http://www.treasury.govt.nz/publications/informationreleases/ris>
-