

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

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill amends the Parole Act 2002 so far as it relates to extended supervision orders. Extended supervision orders are used to manage a small number of child sex offenders who pose a high risk of causing serious harm after being released from prison at the end of their sentence. These orders can last for up to 10 years, beyond which the Department of Corrections is not able to manage these offenders even if they continue to pose a high risk of serious harm to the public.

The Bill enables orders to be renewed as often as they are needed and expands the scope of orders beyond high-risk child sex offenders to include high-risk sex offenders against adults (predicted to be a small number) and very high-risk violent offenders (predicted to be a very small number). The Bill provides for courts to order the imposition of a special condition allowing intensive monitoring of offenders for the first 12 months of their order. This establishes judicial control over the imposition of the most restrictive form of management of offenders on extended supervision orders. These changes will help to minimise the risk of serious harm to the public by offenders who, following completion of a finite sentence, are likely to commit serious offences.

The Bill more clearly establishes that only the highest-risk offenders will be able to be subject to an order and requires that orders will be subject to mandatory reviews by the court. This is to ensure that offenders are subject to orders only for as long as the risk of serious harm to the public from the offenders warrants it. The Bill also introduces a requirement on the Parole Board to review, every 2 years, any high-impact conditions imposed on an offender. Given the risk of serious harm posed by these offenders, the amendments in the Bill strike an appropriate balance between the rights of the public to be free from sexual or violent harm and the rights of offenders.

The proposed changes to extended supervision orders will support the public protection orders proposed in the **Public Safety (Public Protection Orders) Bill**, which will provide a further option to manage the highest-risk offenders after completion of a finite sentence. Following the enactment of that Bill, amendments may need to be made to this Bill to align the 2 pieces of legislation.

### **Departmental disclosure statement**

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

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2014&no=195&>.

### **Regulatory impact statement**

The Department of Corrections produced a regulatory impact statement on 21 November 2013 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

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

- [http://www.corrections.govt.nz/resources/parole\\_extended\\_supervision\\_orders\\_amendment\\_bill.html](http://www.corrections.govt.nz/resources/parole_extended_supervision_orders_amendment_bill.html)
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* provides that the Bill, when enacted, will come into force on 1 December 2014.

*Clause 3* provides that the principal Act amended by this Bill is the Parole Act 2002. In this explanatory note, references to **the Act** are references to the Parole Act 2002, unless otherwise specified.

## Part 1

### Amendments to principal Act

*Clause 4* amends section 15 of the Act, which is about when and why special conditions are imposed by the Parole Board (the **Board**) on offenders. Special conditions can be imposed by the Board on offenders who are subject to extended supervision orders. Under *new section 107IAB*, a court will be able to order that the Board impose an intensive monitoring condition on offenders subject to an extended supervision order. The amendments to section 15 reflect this new provision.

*Clauses 5 to 23* amend Part 1A of the Act, which deals exclusively with extended supervision orders.

*Clause 5* amends section 107A of the Act (which gives an overview of Part 1A of the Act) to reflect amendments made in subsequent clauses.

*Clause 6* amends section 107B of the Act. This section currently identifies the offences that are “relevant offences” for the purpose of this Part. These offences are generally sexual offences against children and young persons. The amendments proposed by this clause broaden this definition to include a range of serious sexual offences (referred to as “relevant sexual offences”) and serious violent offences (referred to “relevant violent offences”). The sexual offences are no longer confined to those where the victim was a child or young person. In addition, attempts and conspiracies to commit those offences are also relevant offences, as are equivalent offences committed overseas. Section 107B currently classifies certain offences under the Films, Videos, and Publications Classifications Act 1993 as relevant offences, and this is retained.

*Clause 7* replaces section 107C of the Act, which identifies offenders who are eligible for an extended supervision order. *Subsection (1)*

retains the existing grounds of eligibility but makes 2 other kinds of offender also eligible, as follows:

- offenders who are currently subject to an extended supervision order (which reflects the policy that extended supervision orders may be imposed repeatedly on the same offender (though never for longer than 10 years at a time));
- overseas offenders who have arrived in New Zealand within the past 6 months (which reflects the criteria for eligibility for a public protection order, as proposed by the Public Safety (Public Protection Orders) Bill).

*New section 107C(2)* repeats the gist of the current provision, but updates it to confirm that the extended definition of eligible offence applies with respect to offenders who are subject to an extended supervision order before the amendments came into force as well as to those who commit a relevant offence (as newly defined) before the amendments come into force.

*Clause 8* amends section 107D of the Act to make the definition of sentencing court consistent with the amendments made by other clauses.

*Clause 9* amends section 107F of the Act. This section specifies the time when the chief executive may apply for an extended supervision order, and identifies the matters that must be addressed in the report by a health assessor that must accompany the application. The changes are that, in relation to an offender who is currently subject to an extended supervision order, the application may be made at any time before it expires. The matters to be addressed in the health assessor's report are amended to reflect *new section 107IAA*.

*Clause 10* consequentially amends section 107H of the Act to omit a reference to extending extended supervision orders, since extensions will no longer be available (because section 107N is being repealed).

*Clause 11* amends section 107I of the Act, which sets out the test for imposing an extended supervision order. The new test is that the offender has, or has had, a pervasive pattern of serious sexual or violent offending and either—

- there is a high risk that the offender will in future commit a relevant sexual offence; or
- there is a very high risk that the offender will in future commit a relevant violent offence.

*Clause 12* inserts 2 new sections.

*New section 107IAA* sets out the matters the court must be satisfied of in determining whether there is a high risk of the offender committing a relevant sexual offence or a very high risk of the offender committing a relevant violent offence.

*New section 107IAB* provides that the court may make an order requiring the Board to impose an intensive monitoring condition on an offender who is subject to an extended supervision order. (The Board's existing power to impose an equivalent condition on its own volition under section 107K(2) is removed.) An intensive monitoring condition requires an offender to submit to being monitored for up to 24 hours a day. The condition may last for no longer than the first 12 months of an extended supervision order. It may be imposed on an offender only once, even if the offender is subject to repeated extended supervision orders. However, an offender who has been subject to an order imposed by the Board under section 107K(2) (which is repealed by *clause 13*) before this section comes into force may have a new intensive monitoring condition imposed after the commencement of this section.

*Clause 13* amends section 107K, which is about the special conditions that the Board may impose. It does the following:

- it removes from the Board the ability to impose up to 24-hour monitoring on an offender subject to residential conditions (but this is replaced by the requirement under *new section 15(3)(g)* to impose an intensive monitoring condition if ordered to do so by the court);
- it provides that, if the Board imposes a condition requiring the offender to participate in a programme, it cannot also require the offender to be supervised or monitored for longer each day than is necessary for the purposes of the programme, or require the offender to reside with any person, persons, or agency in whose care the offender is placed.

*Clause 14* amends section 107L of the Act, which describes the commencement and expiry of extended supervision orders. The changes reflect the possibility that a new extended supervision order may be imposed on an offender who is already subject to an extended supervision order.

*Clause 15* consequentially amends and shortens a cross-heading.

*Clause 16* consequentially amends section 107M of the Act (which is about when an extended supervision order can be cancelled) to reflect the new test for imposing an extended supervision order.

*Clause 17* repeals section 107N, which is the section that allows an extension of a short (ie, less than 10-year) extended supervision order to be sought. In future, instead of seeking an extension of an existing order, a new order can be sought.

*Clause 18* amends section 107O of the Act to provide that, if the Board varies the conditions of an extended supervision order, it must not do so in a way that would be contrary to any order of the court requiring an intensive monitoring condition.

*Clause 19* consequentially amends section 107R of the Act to provide for appeals against orders requiring the imposition of intensive monitoring conditions under *new section 107IAB*, and against decisions on reviews made under *new section 107RA*.

*Clause 20* inserts the following 2 new sections.

*New section 107RA* provides for mandatory reviews of extended supervision orders after an offender has been continuously subject to an order for 15 years, and then every 5 years after any subsequent order is imposed. The review involves the same procedures (including the preparation of a health assessor's report) as an application for an extended supervision order. The court must cancel the order unless it is satisfied that there continues to be a high risk that the offender will commit a relevant sexual offence or a very high risk that the offender will commit a relevant violent offence.

*New section 107RB* provides for the biennial review by the Board of any high-impact conditions of an extended supervision order. A high-impact condition is a condition that either requires the offender to stay at a specified residence for more than 70 hours a week, or requires the offender to submit to the kind of electronic monitoring that can track the offender's whereabouts outside his or her residence.

*Clause 21* amends section 107U of the Act to provide that rules about court practice may also be made in connection with the procedure relating to reviews under *new section 107RA*.

*Clause 22* repeals sections 107Y and 107Z of the Act, which are transitional provisions that are now spent.

*Clause 23* inserts 2 new transitional provisions.

*New section 107ZA* deals with the situation where the chief executive may wish to apply for a new extended supervision order in respect of some offenders whose extended supervision orders will expire soon after this Bill is enacted. There is a risk that the application may not be determined before the existing order expires. In order to ensure that an offender remains subject to an existing order while the application for a new one is dealt with, this section provides that the existing extended supervision order continues in force until the earlier of the date on which the application is determined (ie, the order is either made or not made) and the date that is 6 months after the section comes into force.

*New section 107ZB* addresses the situation of offenders whose extended supervision order conditions do not currently comply with the limitations imposed by *new section 107K(3)(bb)* (which is about ensuring that a condition requiring an offender to participate in a programme cannot result in the offender being subject to undue restrictions). Where this applies, the Board is required to review the condition and bring it into line with the new limitations within 2 years after the section comes into force.

## Part 2

### Technical and consequential amendments

*Clause 24* makes a consequential amendment to the Corrections Act 2004.

*Clause 25* amends Schedule 5 of the Privacy Act 1993. This schedule sets out what information may be shared between departments. It currently allows the New Zealand Police to provide information to the Department of Corrections about people subject to, for instance, protection orders and restraining orders. It does not refer to people subject to extended supervision orders. This amendment remedies that omission.

*Clause 26* makes consequential amendments to the Parole Regulations 2002.

*Clause 27* makes consequential amendments to the Court of Appeal (Criminal) Rules 2001.

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*Hon Anne Tolley*

## **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** 5  
This Act comes into force on 1 December 2014.

**3 Principal Act**

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

**Part 1**

**Amendments to principal Act**

**4 Section 15 amended (Special conditions)**

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

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

“(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.”

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

“(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.”

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**5 Section 107A amended (Overview of Part)**

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

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(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**”.

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(2) Replace section 107B(1) to (2A) with:

“(1) In this Part, **relevant offence** means any of the following:

“(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):

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- “(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: 5
- “(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. 10
- “(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): 15
- “(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: 20
- “(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: 25
- “(i) section 131B (meeting young person following sexual grooming):
- “(j) section 132(1), (2), and (3) (sexual conduct with child under 12): 30
- “(k) section 134(1), (2), and (3) (sexual conduct with young person under 16):
- “(l) section 135 (indecent assault):
- “(m) section 138(1), (2), and (4) (sexual exploitation of person with significant impairment): 35
- “(n) section 139 (indecent act between woman and girl):
- “(o) section 140 (indecency with boy under 12):
- “(p) section 140A (indecency with boy between 12 and 16):

- “(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): 5
- “(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. 10
- “(2A) In this Part, an offence against any of the following sections of the Crimes Act 1961 is a **relevant violent offence**:
  - “(a) section 172(1) (murder): 15
  - “(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): 20
  - “(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): 25
  - “(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): 30
  - “(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).”
- (3) In section 107B(2B), replace “For the purposes of subsection (2A)” with “For the purposes of **subsection (1)(e)**”. 35

7 **Section 107C replaced (Meaning of eligible offender)**  
Replace section 107C with:

**“107C Meaning of eligible offender**

“(1) In this Part, **eligible offender** means an offender who is not subject to an indeterminate sentence but—

“(a) 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):

“(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 by an overseas court; and

“(ii) has, since that arrival, been in New Zealand for less than 6 months; and

“(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.”

**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”.

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

(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—  
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    “(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  
    “(ii) the date on which the offender ceases to be sub- 10  
        ject 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.”
- (2) Replace section 107F(2) with:
- “(2) An application under this section must be in the prescribed 15  
form and be accompanied by a report by a health assessor (as defined in section 4 of the Sentencing Act 2002).
- “(2A) Every health assessor’s report must address (without limitation) the following matters:
- “(a) the nature of any likely future sexual or violent offend- 20  
        ing by the offender, including the age and sex of likely victims:
  - “(b) the offender’s ability to control his or her sexual or violent impulses:
  - “(c) the offender’s predilection and proclivity for sexual or 25  
        violent offending:
  - “(d) the offender’s acceptance of responsibility and remorse for past offending:
  - “(e) the extent to which the offender displays an intense 30  
        drive, desire, or urge to commit a relevant sexual offence:
  - “(f) the extent to which the offender displays an understand- 35  
        ing for or concern about the impact of his or her sexual offending against, or violence towards, actual or potential victims:
  - “(g) the extent to which the offender displays a disturbance in behavioural functioning:

- “(h) any behavioural evidence of clear and long-term planning of serious violent offences to meet a premeditated goal:
  - “(i) any other relevant matters.”
  - (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” 5
- 10 Section 107H amended (Hearings relating to extended supervision orders)**
- Repeal section 107H(1)(c). 10
- 11 Section 107I amended (Sentencing court may make extended supervision order)**
- (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” 15
  - (2) Replace section 107I(2) with:
    - “(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— 20
    - “(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: 25
      - “(i) there is a high risk that the offender will in future commit a relevant sexual offence:
      - “(ii) there is a very high risk that the offender will in future commit a relevant violent offence.”
  - (3) Repeal section 107I(6). 30
- 12 New sections 107IAA and 107IAB inserted**
- 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 relevant sexual offence; and 5
  - “(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: 10
    - “(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. 15
- “(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
  - “(b) either— 20
    - “(i) displays behavioural evidence of clear and long-term planning of serious violent offences to meet a premeditated goal; or
    - “(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. 25

**“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, make an order requiring the Board to impose an intensive monitoring condition on the offender. 30
- “(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, 35

by a person authorised by the chief executive, to undertake person-to-person monitoring.

- “(3) The order must specify the maximum duration of the intensive monitoring condition, which must be no longer than 12 months. 5
- “(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. 10
- “(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).” 15

### 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)**”. 20
- (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— 25
- “(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 30
- “(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” 35

**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
  - “(c) in any other case, on the date specified in the order.”
- (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:
  - “(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.”

**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”.
- (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.”

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

Repeal section 107N.

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**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.”

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**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**”.

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**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—

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“(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.

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“(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

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“(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.
- “(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. 5
- “(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— 10
- “(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. 15
- “**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: 20
- “(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:
  - “(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. 25
- “(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: 30
- “(a) the date on which the high-impact condition was imposed:
  - “(b) the date on which the high-impact condition was confirmed or varied, whether under section 107O or this section. 35
- “(3) Before a review under this section,—

- “(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 that a review is to take place and that he or she may make a written submission to the Board; and 5
  - “(c) the Board may seek information from any other person it considers has, or may have, an interest in the application. 10
- “(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. 15
- “(5) Following the review, the Board may confirm, discharge, or vary the condition.
- “(6) Section 58(4) applies if the Board directs the variation or discharge of a high-impact condition section” 20
- 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**”.
- 22 Sections 107Y and 107Z repealed** 25  
Repeal sections 107Y and 107Z.
- 23 New sections 107ZA and 107ZB inserted**  
After the cross-heading below section 107X, insert:
- “107ZA Extension of certain orders that are in force before this section comes into force** 30
- “(1) This section applies where—
  - “(a) an offender is subject to an extended supervision order that—
  - “(i) was imposed before this section comes into force; and 35

- “(ii) has an expiry date that is on or before the date that is 6 months after this section comes into force; and
- “(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. 5
- “(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:
- “(a) the date (if any) on which the application for a new extended supervision order is declined: 10
- “(b) the date on which any new extended supervision order comes into force:
- “(c) the date that is 6 months after this section comes into force. 15
- “(3) To avoid doubt, an offender referred to in **subsection (1)(a)** remains subject to his or her extended supervision order until the applicable expiry date referred to in **subsection (2)**.
- “**107ZB Modification of conditions on extended supervision orders in force before this section comes into force** 20
- “(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; and
- “(b) that includes a condition, imposed under section 15(3)(b), requiring the offender to participate in a programme; and 25
- “(c) where the terms of that condition—
- “(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 30
- “(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. 35

- “(2) Where this section applies, the Board must, within 2 years after 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)**. 5
- “(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 after the date on which this section comes into force, the condition requiring the offender to participate in a programme is cancelled.” 10

## 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”. 15

#### 25 Amendment to Privacy Act 1993

- (1) This section amends the Privacy Act 1993.
- (2) In Schedule 5, under the heading *Police records*, after the item relating to restraining orders, insert: 20
- |                             |  |  |
|-----------------------------|--|--|
| Extended supervision orders | Details of extended supervision orders made under Part 1A of the Parole Act 2002 | Department of Corrections (access is for the purpose of managing the conditions of the extended supervision order) |
|-----------------------------|--|--|

#### 26 Amendments to Parole Regulations 2002

- (1) This section amends the Parole Regulations 2002.
- (2) Revoke regulation 4(2)(o).
- (3) In the Schedule, revoke form 17.

#### 27 Consequential amendments to Court of Appeal (Criminal) Rules 2001 25

- (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
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