



Cabinet

Minute of Decision

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Urgent Amendments to the Parole Act 2002 in Response to a High Court Judgment on Extended Supervision Orders

Portfolios Corrections / Justice

On 7 August 2023, Cabinet:

- 1 **noted** that the High Court decision ((NZHC 1611) [2023]) found that section 107K(3)(bb) (ii) of the Parole Act 2002 (the Act) prevents the New Zealand Parole Board from imposing a special condition that requires or results in an offender on an extended supervision order (ESO) residing with their programme provider;
- 2 **noted** that as a result of the High Court judgment, Corrections cannot enforce any of the daytime programme conditions for 26 high-risk offenders who reside with their programme provider and that this increases the chance of them reoffending;
- 3 **agreed** to amend the Act to enable programme conditions and residential conditions to be delivered by the same provider;
- 4 **agreed** that the amendments include provisions for retrospective legislation to capture offenders currently managed under an ESO, alongside future offenders;
- 5 **agreed** that the amendments include clarification that programme conditions must not have the effect of subjecting the offender to restrictions equivalent to 24-hour monitoring or full-time residential restrictions;

9(2)(h)

- 7 **agreed** that to ensure that conditions are not more restrictive than necessary, the Act require the Parole Board to undertake two yearly reviews of any offenders on an ESO who are subject to a combination of programme and residential conditions and that the offender participate in these reviews;
- 8 **invited** the Minister of Corrections, in discussion with the Minister of Justice, to issue drafting instructions to the Parliamentary Counsel Office to amend the Act to give effect to these decisions;
- 9 **agreed** that an exposure draft of the amendment bill be shared with the Parole Board;

- 10 **authorised** the Minister of Corrections, in consultation with the Minister of Justice, to make further policy decisions in line with the policy decisions agreed by Cabinet;
- 11 **authorised** the Minister of Corrections to take the amendment bill to the Cabinet Legislation Committee to seek approval for introduction;
- 12 **agreed** that subject to its availability, the amendment bill should be introduced and passed through all stages on the same day, either under urgency or by agreement of the Business Committee, with this to take place in the final sitting block of the Parliamentary term;
- 13 **noted** that the Government's response to the Law Commission's review of preventative detention and post sentence orders including ESO and public protection orders (which is due to be published in December 2024) will enable a more systemic approach to the management of high-risk offenders.

Rachel Hayward
Secretary of the Cabinet

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