

Sentencing and Parole Reform Bill

Government Bill

Explanatory note

General policy statement

The purpose of the Bill is to create a three stage regime of increasing consequences for the worst repeat violent offenders. The Bill is specifically targeted at offenders who show contempt for the court system and the safety of others by continuing to offend despite long prison sentences and judicial warnings.

This regime is intended to improve public safety by incapacitating these offenders for longer periods. It is also intended to increase the confidence of victims and the public in the justice system through truth in sentencing (no parole for certain offenders) and longer sentences (stage 3 of the regime).

An offender qualifies for each stage if he or she receives a determinate sentence of imprisonment of five years or more, life imprisonment or preventive detention (a **qualifying sentence**) for a specified serious violent offence. The three stages are as follows:

- stage 1: An offender incurs a recorded first warning when he or she receives a first qualifying sentence for a serious violent offence committed after he or she turns 18;
- stage 2: An offender incurs a recorded final warning when he or she receives a further qualifying sentence (other than life imprisonment for murder) for a serious violent offence committed after receiving the first warning. If the offender

receives a determinate sentence, the court must also order that the offender serve the sentence without parole:

- stage 3: An offender receives a life sentence if he or she commits a further serious violent offence after receiving a final warning, and the court would otherwise have imposed a further qualifying sentence (other than life imprisonment for murder) for that offence. The court must impose a minimum non-parole period of 25 years on the life sentence unless satisfied that it would be manifestly unjust to do so (in which case it must impose a lesser non-parole period).

If the offender receives a sentence of life imprisonment for murder at stage 2 or 3, the court must order that the offender serve the life sentence without parole, unless that would be manifestly unjust.

The Bill also provides the courts with the option of sentencing an offender to life without parole in the worst cases of murder. As with the regime for repeat offenders, this is intended to improve public safety through incapacitation, and the confidence of victims and the public in the justice system through truth in sentencing.

The orders requiring offenders to serve their sentences without parole will ensure that victims and their families do not have to worry about attending frequent parole hearings, or that the offender may be released on parole.

An offender serving a life sentence without parole will only be eligible for release on compassionate grounds. Similarly, an offender serving a determinate sentence without parole will only be eligible for release before the end of his or her sentence on compassionate grounds.

Clause by clause analysis

Clause 1 is the Title clause. It is intended that the Bill will be divided, at the committee of the whole House stage, into 2 separate Bills.

Clause 2 is the commencement clause. The Bill comes into force on the day after it receives the Royal assent.

Clause 3 states the purpose of the Bill.

Part 1

Amendments to Sentencing Act 2002

Clause 4 states that this Part amends the Sentencing Act 2002 (the **principal Act**).

Clause 5 inserts *new sections 86A to 86H*, which provide for additional consequences for repeated serious violent offending.

New section 86A is the interpretation section. It defines serious violent offence. The definition of serious violent offence determines the class of repeat offenders who would, by this Bill, become subject to additional consequences on receiving a qualifying sentence. The definition of serious violent offence includes murder, manslaughter, sexual violation and other sexual offences (including indecent assault), wounding with intent to cause grievous bodily harm or intent to injure, injuring with intent to cause grievous bodily harm, discharging firearms or doing dangerous acts with intent to do grievous bodily harm, using a firearm against a law enforcement officer, using a firearm with intent to resist arrest or detention, commission of a crime with a firearm, acid throwing, kidnapping, and robbery.

To become liable for additional consequences, an offender must receive a qualifying sentence, which is defined as a determinate sentence of imprisonment of 5 years or more or an indeterminate sentence (a sentence of preventive detention or a sentence of imprisonment for life).

New section 86B provides that, where an offender first receives a qualifying sentence for a serious violent offence, the offender must be given a first warning. The court must warn the offender of the consequences of receiving a further qualifying sentence for a further serious violent offence (**a first warning**).

New section 86C provides that, where an offender who has been given a first warning commits a further serious violent offence and receives a further qualifying sentence for that offence (other than life imprisonment for murder), the court must warn the offender of the consequences of receiving a further qualifying sentence for a further serious violent offence (**a final warning**). If the sentence imposed on the offender is a determinate sentence of imprisonment, the court must also order that the offender serve the sentence without parole.

New section 86D provides for the case where an offender who has been given a final warning commits a further serious violent offence.

If the court would have otherwise imposed a qualifying sentence on the offender (other than life imprisonment for murder), the court must sentence the offender to imprisonment for life. The court must order that the offender serve a minimum period of imprisonment. The minimum is 25 years unless it would be manifestly unjust to impose that minimum.

New section 86E relates to the sentencing of offenders who, after receiving a warning or a final warning, commit murder and are sentenced to life imprisonment for that murder. The court must order that the offender serve the sentence of imprisonment for life without parole unless, given the circumstances of the offence and the offender, the order would be manifestly unjust. If the court does not make the non-parole order because that would be manifestly unjust, then, if the offender was not subject to a final warning at the time of the commission of the murder, the court must impose a minimum period of imprisonment in accordance with the generally applicable provisions on sentencing for murder. But if the offender was subject to a final warning at the time of the commission of the murder, then the court must impose a non-parole period of 25 years unless that would be manifestly unjust

New section 86F makes it clear that the record of a warning or final warning continues regardless of the expiry of the sentence to which it relates. However, in the case of a successful appeal against the sentence or the underlying conviction, the warning or final warning must be disregarded.

New section 86G clarifies that non-parole orders under *new section 86D or 86E* may be the subject of appeals.

New section 86H provides that *new sections 86B to 86E* prevail over other provisions of the principal Act that are inconsistent.

Clause 6 amends a heading to take account of non-parole orders.

Clause 7 amends section 103 of the principal Act, which requires courts to specify a minimum sentence when sentencing an offender to imprisonment for life for murder. The section is amended to take account of the new non-parole orders. A new subsection is inserted authorising a court to impose a non-parole order in the case of a murderer sentenced to imprisonment for life if the court is satisfied that

no minimum term would be sufficient to satisfy 1 or more of the purposes stated in section 103 of the principal Act, namely—

- (a) holding the offender accountable for the harm done to the victim and the community by the offending;
- (b) denouncing the conduct in which the offender was involved;
- (c) deterring the offender or other persons from committing the same or a similar offence;
- (d) protecting the community from the offender.

Clause 8 makes a consequential amendment to section 104, which requires the imposition of a minimum period of imprisonment of 17 years or more in the case of certain murders.

Clause 9 is a transitional provision. It provides that the changes made by the Bill apply only to offences committed after the Bill comes into force.

Part 2

Amendments to Parole Act 2002

Clause 10 states that this Part amends the Parole Act 2002 (the **principal Act**).

Clauses 11 and 12 amend sections 20 and 84 of the principal Act to clarify that offenders who are subject to non-parole orders may not be released on parole in respect of the sentences to which those orders relate.

Regulatory impact statement

Executive summary

There is a concern that serious and violent offenders go on to commit further serious and violent crimes. The policies outlined below are intended to target the worst repeat violent offenders, that is, those offenders who commit a series of serious violent offences (qualifying offences). Offenders who commit a first qualifying offence will be warned of the consequences of subsequent serious offending. If offenders commit second and then third qualifying offences, the consequences become increasingly severe, to reflect public concern about this type of repeat offending.

Offenders whose second qualifying offence is murder will receive a sentence of life without parole. The courts will also have the option of imposing life without parole in the worst cases of murder.

The policies are intended to enhance public confidence in the criminal justice system. Victims and their families will also benefit through increased certainty around prison terms and parole (where parole is available at all).

The impact of the policies on the prison population is estimated to be gradual but increasing over time as a relatively small number of offenders are likely to receive long sentences. The costs of the policies will gradually increase over time, as elderly offenders are significantly more costly to detain than the average prisoner. The policies are expected to impact on Māori the most. The policies also have some risks for public confidence in the criminal justice system due to the potential for disproportionate outcomes.

Adequacy statement

The Ministry of Justice considers this regulatory impact statement is adequate according to the adequacy criteria.

Status quo and problem

Worst repeat violent offenders

There is a concern that serious and violent offenders go on to commit further serious and violent crimes. These offenders are undermining public confidence in the criminal justice system.

In addition, under the current system, victims and their families face the prospect of attending a long series of parole hearings, with no real certainty about when an offender may eventually be released.

Life without parole for worst murders

In a very small number of cases, community revulsion and the need to protect the public suggest that offenders should never be eligible for parole. As outlined above, and for the same reasons, the status quo also strains victims and their families.

Objectives

Worst repeat violent offenders

The worst repeat violent offenders policy is intended to:

- increase public confidence in the criminal justice system;
- enhance public safety;
- contribute to truth-in-sentencing/increase certainty around release dates;
- encourage offenders to understand the consequences of repeat offending through increased certainty about these consequences.

The policy is also intended to address the concerns of victims and their families facing uncertainty about when an offender may be released (before the end of the sentence for determinate sentences or at any time following a minimum term for life sentences) and the strain of attending multiple parole hearings for the offender.

Life without parole for worst murders

The life without parole for the worst murders policy is intended to achieve the objectives outlined for the worst repeat violent offenders policy, as well as mark society's revulsion at these offences.

Alternative options

Worst repeat violent offenders

The alternative option that was considered for the worst repeat violent offenders was to extend the range of the preventive detention sentence, or to encourage greater use of this sentence.

The policy does not achieve the objectives of truth-in-sentencing/certainty around release dates. The policy does not spare victims and their families multiple parole hearings. The policy is also less likely to encourage offenders to appreciate the consequences of repeat offending, as offenders will not as readily be able to anticipate when a preventive detention sentence will be imposed. The benefit of the policy is that it is less likely to lead to changes in sentencing practice by judges seeking to avoid the disproportionately harsh effects of a qualifying offence as compared with one that receives a sentence of just less than 5 years.

For repeat violent offenders sentenced to life imprisonment for murder, a second alternative option was considered. These offenders could receive a much longer minimum term of imprisonment than most murderers, 20 years for example, as opposed to a whole of life sentence. However, this policy would not be as effective at achieving the objectives as excluding parole altogether.

Life without parole for worst murders

No alternative other than the status quo was identified.

Preferred option

Worst repeat violent offenders

A qualifying offence is an offence that a court decides should receive a sentence of at least 5 years' imprisonment. On a first qualifying offence, offenders will be warned of the consequences of further qualifying offences. On a second qualifying offence, offenders sentenced to a term of imprisonment of 5 years or more for a qualifying offence, or life imprisonment for murder, will serve their sentence in full. On a third qualifying offence, offenders will receive a sentence of life imprisonment with a minimum non-parole period of 25 years, unless this would be manifestly unjust.

The policy will mean that the worst repeat violent offenders will receive longer sentences than they do currently, particularly once they commit a third qualifying offence, as a life sentence with 25 years' non-parole has previously only been imposed for the worst murders. The policy meets the objectives of contributing to truth-in-sentencing and certainty around release dates.

Life without parole for worst murders

Offenders who commit a worst murder, or a murder where he or she has a previous sentence for serious violence of at least 5 years' imprisonment, will receive a life sentence without parole.

The policy meets the objective of contributing to truth-in-sentencing and certainty around release dates.

Risks and likely impacts

Public safety: it is not possible to conclude with any certainty to what extent any of the options will improve public safety. There is a possibility that removing the worst repeat violent offenders from the community for longer periods of time will result in less serious violent offending in the community. However, offenders who commit serious violent offences do not necessarily have previous sentences for serious violent offences.¹

Public confidence in the criminal justice system: the worst repeat offenders policy raises the potential for disproportionate outcomes, which may negatively affect public confidence in the criminal justice system and lead to increased costs, particularly in the form of appeals. An offender who commits a third qualifying offence that would otherwise be liable for around 5 years' imprisonment could receive 4 years 11 months' imprisonment, or a mandatory life sentence with a lengthy non-parole period (25 years unless that would be manifestly unjust). These offenders will have high incentives to: take special measures to avoid conviction; plead not guilty; and exhaust all avenues of appeal.

The policies have the considerable potential to affect the confidence of Māori in the criminal justice system, as they will impact on Māori the most. Māori are more likely than other ethnic groupings to be convicted of violent offences. The 2007 sentencing and conviction statistics show that 5 680 Māori were convicted and sentenced of violent offences, as compared with 4 630 Europeans, meaning Māori are more than three-times over-represented on a population basis in this category of offences.² Long sentences without parole deprive offenders of the possibility of rehabilitation, compounding the effects on the whānau of offenders and the intergenerational effects on children separated from parents.

Offenders understanding the consequences: the research literature on criminal deterrence indicates a mixed picture, although most research has found that imprisonment has little if any specific deterrent ef-

¹ Department of Corrections.

² The trend is the same for serious violent offences (2696 Māori as compared with 2040 Europeans, but the definition used in the statistics of "serious violent" will not necessarily match the definition in the Bill).

fect.³ There is a great deal of evidence indicating that offending rates decrease only marginally as a result of penalties being increased.⁴ A study on the wide-sweeping Californian three-strike laws did find a statistically significant deterrent effect,⁵ but the high cost of that deterrent effect needs to be weighed against the finding that almost all crime was committed by offenders who had not received strikes.

If it is accepted that offenders do weigh the costs of offending, the worst repeat offender policy will create perverse incentives on offenders who have become liable for life sentences. These offenders face an identical penalty for all serious offending except murder.

Costs

Both the life without parole and the worst repeat violent offender policies represent a small but gradually increasing transfer of costs within the funding available to the justice sector from the detection and prevention of offending to the detention of offenders who may, particularly once they are elderly, pose no risk to the public.

The major direct financial implications of the worst repeat violent offender policy follow from an increase in the prison population. This impact will not be felt for at least 10 years, when a total of 25 additional prison beds will be needed to accommodate prisoners sentenced under the policy. This number increases to 46 after 15 years and to 70 after 20 years. It is estimated that when the full effects of implementation have been felt after 50 years, an additional 132 prison beds will have been needed.

The largest component of the increase over the longer term will be offenders who have previously received a sentence of 5 years or more who are sentenced to life imprisonment without parole following conviction for murder. This accounts for about 70 of the additional 132 prison beds.

There is a risk that punitive measures such as these policies will increase the level of punitiveness in the criminal justice system gener-

³ The Effect of Prison on Crime –research paper for the Effective Interventions Project, Ministry of Justice.

⁴ Department of Corrections.

⁵ *Does Three Strikes Deter? A Non-Parametric Estimation*, Eric Helland and Alexander Tabarrok.

ally, which will increase costs across all parts of the criminal justice sector.

Stock of regulation

The policies amend existing legislation, but do not increase the stock of regulation. The policies will be in addition to the current rules around sentencing and parole. However, they do not make any existing rules redundant or require that they be removed or altered.

Implementation and review

The policies will be given effect through legislation. The policies will be monitored and evaluated by the Department of Corrections and Ministry of Justice. As detailed above, the major impact is expected to be on the prison population but the policies are not expected to have any impact for at least 10 years.

Consultation

These policies were canvassed among relevant government agencies. The scope of the violent offences covered by the worst repeat violent offenders' policy was revised following comments by Corrections, Police, and Women's Affairs. Significant concerns have been raised by agencies about the possibility for disproportionate impacts as between offenders and between ethnic groups, but the policy has not been revised.

Hon Simon Power

Sentencing and Parole Reform Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Sentencing and Parole Reform Act **2008**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

3 Purpose

The purpose of this Act is to—

- (a) deny parole to certain repeat offenders and to offenders guilty of the worst murders;
 - (b) impose sentences of life imprisonment on persistent repeat offenders.

Part 1

Amendments to Sentencing Act 2002

4 Principal Act amended

This Part amends the Sentencing Act 2002.

5 New sections 86A to 86H and heading inserted

The following heading and sections are inserted after section 86:

“Additional consequences for repeated serious violent offending”

“86A Interpretation”

In this section and in **sections 86B to 86H**, unless the context otherwise requires,—

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“**qualifying sentence** means a determinate sentence of imprisonment of 5 years or more or an indeterminate sentence of imprisonment

“**record of final warning**, in relation to an offender, means a record of a warning that the offender has under **section 86C(4) or 86E(7)** 10

“**record of first warning**, in relation to an offender, means a record of a warning that the offender has under **section 86B(3)**

“**serious violent offence** means an offence against any of the following provisions of the Crimes Act 1961:

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“(1) section 128B (sexual violation):

“(2) section 129 (attempted sexual violation and assault with intent to commit sexual violation):

“(3) section 129A(1) (sexual connection with consent induced by threat): 20

“(4) section 130 (incest):

“(5) section 131(1) (sexual connection with dependent family member under 18 years):

“(6) section 131(2) (attempted sexual connection with dependent family member under 18 years): 25

“(7) section 132(1) (sexual connection with child):

“(8) section 132(2) (attempted sexual connection with child):

“(9) section 132(3) (indecent act on child):

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“(10) section 134(1) (sexual connection with young person):

“(11) section 134(2) (attempted sexual connection with young person):

“(12) section 134(3) (indecent act on young person):

“(13) section 135 (indecent assault):

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“(14) section 138(1) (exploitative sexual connection with person with significant impairment):

“(15) section 138(2) (attempted exploitative sexual connection with person with significant impairment):

“(16) section 142A (compelling indecent act with animal):	
“(17) section 172 (murder):	
“(18) section 173 (attempted murder):	
“(19) section 177 (manslaughter):	
“(20) section 188(1) (wounding with intent to cause grievous bodily harm):	5
“(21) section 188(2) (wounding with intent to injure):	
“(22) section 189(1) (injuring with intent to cause grievous bodily harm):	
“(23) section 191(1) (aggravated wounding):	10
“(24) section 191(2) (aggravated injury):	
“(25) section 198(1) (discharging firearm or doing dangerous act with intent to do grievous bodily harm):	
“(26) section 198(2) (discharging firearm or doing dangerous act with intent to injure):	15
“(27) section 198A(1) (using firearm against law enforcement officer, etc):	
“(28) section 198A(2) (using firearm with intent to resist arrest or detention):	
“(29) section 198B (commission of crime with firearm):	20
“(30) section 199 (acid throwing):	
“(31) section 208 (abduction for purposes of marriage or sexual connection):	
“(32) section 209 (kidnapping):	
“(33) section 232(1) (aggravated burglary):	25
“(34) section 234 (robbery):	
“(35) section 235 (aggravated robbery):	
“(36) section 236(1) (causing grievous bodily harm with intent to rob or assault with intent to rob in specified circumstances):	
“(37) section 236(2) (assault with intent to rob).	30

“86B First warning on receiving first qualifying sentence for serious violent offence

- “(1) This section applies to a qualifying sentence for a serious violent offence imposed on an offender who, at the time of committing that serious violent offence,—
- “(a) did not have a record of a warning given under this section; and

- “(b) was 18 years of age or over.
- “(2) When the court imposes the qualifying sentence, the court must—
- “(a) advise the offender that the court is imposing a sentence to which this section applies and warn the offender of the consequences of receiving a further qualifying sentence for a further serious violent offence; and 5
- “(b) record that a sentence to which this section applies has been imposed on the offender and that the offender has been warned in accordance with **paragraph (a)**. 10
- “(3) On the entry of a record under **subsection (2)(b)**, the offender has a record of a first warning.
- “86C Final warning on receiving second qualifying sentence for serious violent offence**
- “(1) This section applies to a qualifying sentence, other than a sentence of imprisonment for life for murder, for a serious violent offence imposed on an offender who, at the time of committing that offence, had a record of a first warning. 15
- “(2) If the sentence imposed on the offender is a determinate sentence of imprisonment, the court must order that the offender serve the sentence without parole. 20
- “(3) When the court imposes the qualifying sentence, the court must—
- “(a) advise the offender that the court is imposing a sentence to which this section applies and warn the offender of the consequences of receiving a further qualifying sentence for a further serious violent offence; and 25
- “(b) record that a sentence to which this section applies has been imposed on the offender and that the offender has been warned in accordance with **paragraph (a)**. 30
- “(4) On the entry of a record under **subsection (3)(b)**, the offender has a record of a final warning.
- “86D Imprisonment for life on third or subsequent qualifying sentence**
- “(1) This section applies if— 35

- “(a) an offender who has a record of a final warning commits a serious violent offence; and
 “(b) the court would, but for this section, impose a further qualifying sentence, other than a sentence of imprisonment for life for murder, for that offence.”
- “(2) If this section applies, the court must—
 “(a) impose a sentence of imprisonment for life; and
 “(b) order that the offender serve a minimum period of imprisonment under that sentence.
- “(3) The court must impose a minimum period of imprisonment of 25 years unless the court is satisfied that it would be manifestly unjust to do so.
- “(4) If the court imposes a minimum period of imprisonment that is less than 25 years, the court must give written reasons for doing so.
- “(5) If the court imposes a sentence of life imprisonment for an offence under this section, it must record, with reasons, the qualifying sentence the court would, but for this section , have imposed for that offence.
- “86E Offenders with record of warning or final warning who are sentenced to imprisonment for life for murder**
- “(1) This section applies to a sentence of imprisonment for life for murder imposed on an offender who, at the time of committing that murder, had a record of a warning or a record of a final warning.
- “(2) If this section applies to a sentence, the court must order that the offender serve the sentence of imprisonment for life without parole unless the court is satisfied that, given the circumstances of the offence and the offender, it would be manifestly unjust to do so.
- “(3) If the court does not make an order under **subsection (2)**, the court must give written reasons for not doing so.
- “(4) If the court does not make an order under **subsection (2)**, the court must,—
 “(a) if the offender did not, at the time of the commission of the murder, have a record of a final warning, order that the offender serve a minimum period of imprisonment

- in accordance with section 103 and, if applicable, section 104; and
- “(b) in any other case, impose a minimum period of imprisonment of not less than 25 years unless the court is satisfied that it would be manifestly unjust to do so. 5
- “(5) If, in any case to which **subsection (4)(b)** applies, the court imposes a minimum period of imprisonment of less than 25 years, the court must give written reasons for doing so.
- “(6) If the court makes an order under **subsection (4)(a)** and the offender does not, at the time of sentencing, have a record of 10 a final warning, the court must—
- “(a) warn the offender of the consequences of receiving a further qualifying sentence for a further serious violent offence; and
- “(b) record the sentence that has been imposed on the offender and that the offender has been warned in accordance with **paragraph (a)**. 15
- “(7) On the entry of a record under **subsection (6)(b)**, the offender has a record of a final warning.
- “86F Continuing effect of warnings** 20
- “(1) An offender continues to have a record of a warning or a record of a final warning regardless of the effect of the sentence to which the record relates.
- “(2) However, a record of a warning or a record of a final warning must be disregarded if, as a consequence of an appeal,— 25
- “(a) the sentence to which the record relates is quashed or replaced by a sentence that is not a qualifying sentence; or
- “(b) the conviction for the offence for which the sentence was imposed is quashed or replaced by a conviction for 30 an offence that is not a serious violent offence.
- “86G Appeal against order imposing minimum period of imprisonment or life without parole**
- For the purposes of Part 13 of the Crimes Act 1961, an order under **section 86D(2)(b) or 86E(2), (4)(b)** is a sentence. 35

“86H Sections 86B to 86E prevail over inconsistent provisions

A provision contained in **sections 86B to 86E** that is inconsistent with another provision of this Act prevails over the other provision, to the extent of the inconsistency.”

6 Heading above section 103 amended

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The heading above section 103 is amended by adding “*or imprisonment without parole*”.

7 Imposition of minimum period of imprisonment if life imprisonment imposed for murder

(1) The heading to section 103 is amended by inserting “**or imprisonment without parole**” after “**minimum period of imprisonment**”. 10

(2) Section 103 is amended by repealing subsection (1) and substituting the following subsection:

“(1) If a court sentences an offender convicted of murder to imprisonment for life it must— 15
“(a) order that the offender serve a minimum period of imprisonment under that sentence; or
“(b) make an order under **subsection (2A) or section 86E(2)**. 20”

(3) Section 103 is amended by inserting the following subsections after subsection (2):

“(2A) If the court that sentences an offender convicted of murder to imprisonment for life is satisfied that no minimum term of imprisonment would be sufficient to satisfy 1 or more of the purposes stated in subsection (2), the court may order that the offender serve the sentence without parole. 25

“(2B) The court may not make an order under **subsection (2A)** unless the offender was 18 years of age or over at the time that the offender committed the murder.” 30

(4) Section 103(7) is amended by omitting “This section” and substituting “Subsection (2)”.

- 8 Imposition of minimum period of imprisonment of 17 years or more**
 Section 104 is amended by adding the following subsection as subsection (2):
 (2) This section does not apply to an offender in respect of whom an order under **section 103(2A)** or **86E(2), (4)(b)** is made.” 5
- 9 Transitional provision**
 (1) **Sections 86A to 86H** of the principal Act (as inserted by **section 5**) do not apply to any offence committed, whether in whole or in part, before the commencement of this Act. 10
 (2) **Section 103(2A)** of the principal Act (as inserted by **section 7**) does not apply to any murder committed, whether in whole or in part, before the commencement of this Act.

Part 2 Amendments to Parole Act 2002

- 10 Principal Act amended**
This Part amends the Parole Act 2002.
- 11 Parole eligibility date**
 Section 20 is amended by adding the following subsections:
 (5) If an offender is required, by an order under **section 86C(2)** of the Sentencing Act 2002, to serve a sentence without parole, the offender—
 (a) does not have a parole eligibility date in respect of the sentence; and
 (b) may not be released on parole in respect of that sentence. 25
 (6) If an offender is required, by an order under **section 86E(2)** or **103(2A)** of the Sentencing Act 2002, to serve a sentence of imprisonment for life without parole, the offender may not be released on parole. 30
 (7) This subsection applies to an offender who is subject to a sentence (**sentence A**) in respect of which an order under **section 86C(2)** of the Sentencing Act 2002 has been made and who is also subject to 1 or more other sentences (**sentence B**) in respect of which no such order has been made. 35

- “(8) For the purpose of determining the parole eligibility date (if any) of sentence B of an offender to whom **subsection (7)** applies, the full term of sentence A must be treated as the non-parole period of sentence A.”
- 12 Non-parole periods** 5
- (1) Section 84(2) is amended by inserting “**section 86D(2), section 86E(4)**, after ‘section 86’.”
- (2) Section 84 is amended by repealing subsection (3) and substituting the following subsections:
- “(3) The non-parole period of a sentence of imprisonment for life 10 is 10 years, unless the court—
- “(a) has imposed a minimum term of imprisonment in respect of that sentence; or
- “(b) has made an order under **section 86E(2) or 103(2A)** of the Sentencing Act 2002 in respect of that sentence. 15
- “(3A) An offender who is subject to an order under **section 86E(2) or 103(2A)** of the Sentencing Act 2002 is not eligible for parole in respect of the sentence to which the order relates, nor in respect of any other sentence to which he or she is subject when the order is imposed, nor in respect of any sentence subsequently imposed.” 20
- (3) Section 84(5) is amended by inserting the following paragraph after paragraph (a):
- “(ab) every sentence in respect of which an order under **section 86C(2)** of the Sentencing Act 2002 has been made 25 must be treated as if the full term of the sentence were the non-parole period of the sentence; and”.