



# Bail Amendment Act 2007

Public Act 2007 No 26  
Date of assent 31 July 2007  
Commencement see section 2

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## The Parliament of New Zealand enacts as follows:

### 1 Title

This Act is the Bail Amendment Act 2007.

### 2 Commencement

This Act comes into force on a day to be appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates.

### 3 Principal Act amended

This Act amends the Bail Act 2000.

#### 4 New section 8 substituted

Section 8 is repealed and the following section substituted:

#### “8 Consideration of just cause for continued detention

- “(1) In considering whether there is just cause for continued detention, the court must take into account—
- “(a) whether there is a real and significant risk that—
    - “(i) the defendant may fail to appear in court on the date to which the defendant has been remanded; or
    - “(ii) the defendant may interfere with witnesses or evidence; or
    - “(iii) the defendant may offend while on bail; and
  - “(b) any matter that would make it unjust to detain the defendant.
- “(2) In considering whether there is just cause for continued detention under subsection (1), the court may take into account the following:
- “(a) the nature of the offence with which the defendant is charged, and whether it is a grave or less serious one of its kind:
  - “(b) the strength of the evidence and the probability of conviction or otherwise:
  - “(c) the seriousness of the punishment to which the defendant is liable, and the severity of the punishment that is likely to be imposed:
  - “(d) the character and past conduct or behaviour, in particular proven criminal behaviour, of the defendant:
  - “(e) whether the defendant has a history of offending while on bail, or breaching court orders, including orders imposing bail conditions:
  - “(f) the likely length of time before the matter comes to hearing or trial:
  - “(g) the possibility of prejudice to the defence in the preparation of the defence if the defendant is remanded in custody:
  - “(h) any other special matter that is relevant in the particular circumstances.
- “(3) For the avoidance of doubt, in considering whether there is just cause for continued detention under this section, a breach of bail conditions may only be taken into account under subsection (2)(e) in so far as it is relevant to whether there is a real

and significant risk that the defendant may do any of the things set out in subsection (1)(a).

- “(4) When considering an application for bail, the court must take into account any views of a victim of an offence of a kind referred to in section 29 of the Victims’ Rights Act 2002, or of a parent or legal guardian of a victim of that kind, conveyed in accordance with section 30 of that Act.
- “(5) In deciding, in relation to a defendant charged with an offence against section 49(1)(a) or (b) of the Domestic Violence Act 1995, whether or not to grant bail to the defendant or allow the defendant to go at large, the court’s paramount consideration is the need to protect the victim of the alleged offence.”

## **5 Bail on adjournment**

Section 28 is amended by repealing subsection (2) and substituting the following subsection:

- “(2) A Registrar may exercise the power conferred by subsection (1) to grant bail if—
- “(a) the informant does not oppose bail and the offence with which the defendant has been charged—
- “(i) is not punishable by imprisonment; or
- “(ii) is punishable by a term of imprisonment of not more than 10 years; or
- “(b) the prosecution agrees.”

## **6 Bail on deferment of sentence**

- (1) Section 39A(1) is amended by inserting “section 80W or” after “deferred under”.
- (2) Section 39A(3) is amended by repealing paragraphs (a) and (b) and substituting the following paragraphs:
- “(a) if the sentence is deferred under section 80W of the Sentencing Act 2002,—
- “(i) go to and remain at the home detention residence (as defined in section 4 of that Act) at the expiry of the period of deferral specified by the court, unless absent in accordance with section 80C(3)(a) or (b) of that Act; and
- “(ii) advise a probation officer as soon as possible of any change in circumstances affecting the availability or suitability of the home detention residence; or

“(b) if the sentence is deferred under section 100 of the Sentencing Act 2002, surrender himself or herself to the prison manager of the prison concerned at the expiry of the period of deferral specified by the court.”

## **7 Bail on deferment of sentence**

- (1) Section 65A(1) is amended by inserting “section 80W or” after “deferred under”.
- (2) Section 65A(3) is amended by repealing paragraphs (a) and (b) and substituting the following paragraphs:
  - “(a) if the sentence is deferred under section 80W of the Sentencing Act 2002,—
    - “(i) go to and remain at the home detention residence (as defined in section 4 of that Act) at the expiry of the period of deferral specified by the court, unless absent in accordance with section 80C(3)(a) or (b) of that Act; and
    - “(ii) advise a probation officer as soon as possible of any change in circumstances affecting the availability or suitability of the home detention residence; or
  - “(b) if the sentence is deferred under section 100 of the Sentencing Act 2002, surrender himself or herself to the prison manager of the prison concerned at the expiry of the period of deferral specified by the court.”

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### **Legislative history**

19 July 2007	Divided from the Criminal Justice Reform Bill (Bill 93–2) by the committee of the whole House (Bill 93–3B)
24 July 2007	Third reading
31 July 2007	Royal assent

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This Act is administered by the Ministry of Justice.

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