



Sentencing Amendment Act 2007

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Sentencing 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 Sentencing Act 2002.

4 Interpretation

(1) Section 4(1) is amended by repealing the definition of **home detention**.

(2) Section 4(1) is amended by repealing the definition of **probation area** and substituting the following definition:

“**probation area** means an area designated by the chief executive of the Department of Corrections for the administration of release conditions, community-based sentences, sentences of home detention, or orders”.

(3) Section 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**curfew address** means the address, specified by a court, where an offender must remain during the curfew period

“**curfew period** means the periods, specified by a court, during which an offender sentenced to community detention must remain at the curfew address

“**detention conditions** means the standard conditions of a sentence of home detention set out in section 80C and any

special conditions imposed by the court on an offender under section 80D

“**detention end date** means the date on which an offender who is subject to a sentence of home detention ceases to be subject to detention conditions

“**home detention residence** means the residence, specified by a court, where an offender sentenced to home detention serves that sentence

“**non-release day** means a Saturday, a Sunday, Christmas Day, Boxing Day, New Year’s Day, the second day of January, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s Birthday, Labour Day, and, in respect of a particular place where an offender is serving a sentence of community detention or home detention, the anniversary day of the region in which that place is situated

“**post-detention conditions** means any standard post-detention conditions and special post-detention conditions imposed under section 80N on an offender sentenced to home detention

“**sentence term**, in relation to a sentence of community detention, is the period that the sentence of community detention is in force

“**sentencing guidelines** means sentencing guidelines produced by the Sentencing Council in force under the Sentencing Council Act 2007

“**short-term sentence** has the same meaning as in section 4(1) of the Parole Act 2002”.

- (4) Section 4(2) is amended by inserting the following paragraph after paragraph (a):

“(ab) an offender is subject to a sentence of home detention from the date the sentence commences in accordance with section 80W, 80X, or 80Y until the sentence ends in accordance with section 80Z, except when the sentence is suspended under section 80ZG(2):”.
- (5) Section 4(2)(b) is amended by omitting “section 75 or section 76 until the date that it expires in accordance with section 75” and substituting “section 75, 75A, or 76 until the date that it expires in accordance with section 75A”.
- (6) Section 4(2) is amended by inserting the following paragraph after paragraph (b):

“(ba) except as provided in paragraph (c), an offender is subject to a sentence of community detention from the date that the sentence commences in accordance with section 75, 75B, or 76 until the date that it expires:”.

5 New section 6A inserted

The following section is inserted after section 6:

“6A Application of sentencing guidelines

“(1) A sentencing guideline applies to the sentencing of an offender in a District Court, the High Court, Court of Appeal, or Supreme Court for an offence on or after the date on which the guideline comes into force, whether or not the guideline was in force when the offence was committed.

“(2) For the purposes of this section, **District Court** does not include a Youth Court.”

6 Principles of sentencing or otherwise dealing with offenders

(1) Section 8(c) and (d) are repealed.

(2) Section 8(g) is amended by inserting “, in accordance with the hierarchy of sentences and orders set out in section 10A” after “in the circumstances”.

7 New heading and section 10A inserted

The following heading and section are inserted after section 10:

“Hierarchy of sentences and orders

“10A Hierarchy of sentences and orders

“(1) The hierarchy of sentences and orders set out in subsection (2) reflects the relative level of supervision and monitoring of, and restrictions imposed on, an offender under each sentence or order.

“(2) The hierarchy of sentences and orders, from the least restrictive to the most restrictive, is as follows:

“(a) discharge or order to come up for sentence if called on:

“(b) sentences of a fine and reparation:

“(c) community-based sentences of community work and supervision:

“(d) community-based sentences of intensive supervision and community detention:

“(e) sentence of home detention:

“(f) sentence of imprisonment.”

8 Heading amended

The heading above section 11 is amended by inserting “*sentences of home detention,*” after “*community-based sentences,*”.

9 Discharge or order to come up for sentence if called on

Section 11(2) is amended by inserting “a sentence of home detention,” after “a sentence of imprisonment,”.

10 New sections 15A and 15B inserted

The following sections are inserted after section 15:

“15A Sentence of home detention

“(1) If a court is lawfully entitled under this or any other enactment to impose a sentence of home detention, it may impose a sentence of home detention only if—

“(a) the court is satisfied that the purpose or purposes for which sentence is being imposed cannot be achieved by any less restrictive sentence or combination of sentences; and

“(b) the court would otherwise sentence the offender to a short-term sentence of imprisonment.

“(2) This section is subject to any provision in this or any other enactment that—

“(a) provides a presumption in favour of or against imposing a sentence of home detention in relation to a particular offence; or

“(b) requires a court to impose a sentence of imprisonment in relation to a particular offence.

“15B Limitation on sentence of home detention for person under 17 years

“(1) No court may impose a sentence of home detention on an offender in respect of a particular offence, other than a purely indictable offence, if, at the time of the commission of the offence, the offender was under the age of 17 years.

“(2) In subsection (1), **purely indictable offence** means any indictable offence within the meaning of section 2(1) of the

Summary Proceedings Act 1957, other than an offence for which, under section 6 of that Act, proceedings may be taken in a summary way in accordance with that Act.”

11 New sections 19 and 20 substituted

Sections 19 and 20 are repealed and the following sections substituted:

“19 Permitted combinations of sentences

“(1) No court may impose a combination of sentences of different types on an offender in respect of 1 or more offences except as provided in this section.

“(2) A sentence of reparation may be imposed with any sentence.

“(3) A sentence of a fine may be imposed with any sentence, but may only be imposed with a sentence of imprisonment in respect of a particular offence if authorised by the enactment specifying the offence.

“(4) A sentence of supervision may be combined with any sentence except intensive supervision, home detention, or imprisonment.

“(5) A sentence of community work, subject to section 20(2), may be combined with any sentence except imprisonment.

“(6) A sentence of community detention may be combined with any sentence except home detention or imprisonment.

“(7) A sentence of intensive supervision may be combined with any sentence except supervision, home detention, or imprisonment.

“(8) A sentence of home detention may be combined with a sentence of reparation, a fine, or community work.

“(9) A sentence of imprisonment may be combined with a sentence of reparation or, subject to subsection (3), a fine.

“20 Guidance on use of combinations of sentences

“(1) A court may impose a particular combination of sentences on an offender only if satisfied that any of the sentences making up the combination, if imposed alone or in any less restrictive combination, would not be in accordance with—

“(a) the purpose or purposes for which sentence is imposed;
or

- “(b) the application of the principles in section 8 to the particular case.
- “(2) A court may only combine a sentence of community work with a sentence of supervision or intensive supervision if satisfied that—
- “(a) a sentence of community work is appropriate; but
- “(b) the offender requires the imposition of standard conditions or any of the special conditions available under a sentence of supervision or intensive supervision to address the causes of his or her offending.”

12 New heading and section 21A inserted

The following heading and section are inserted after section 21:

“Sentencing guidelines

“21A Court must adhere to sentencing guidelines

When sentencing an offender, a court must impose a sentence that is consistent with any sentencing guidelines that are relevant in the offender’s case, unless the court is satisfied that it would be contrary to the interests of justice to do so.”

13 Pre-sentence reports

- (1) Section 26(2) is amended by repealing paragraph (e) and substituting the following paragraph:
- “(e) in the case of a proposed sentence of supervision, intensive supervision, or home detention, recommendations on the appropriate conditions of that sentence:”
- (2) Section 26(2)(f) is amended by inserting “, intensive supervision, or home detention” after “sentence of supervision”.
- (3) Section 26(2)(g) is amended by inserting “, intensive supervision, or home detention” after “sentence of supervision”.
- (4) Section 26(2) is amended by repealing paragraph (h) and substituting the following paragraph:
- “(h) in the case of a proposed sentence of community work,—
- “(i) information regarding the availability of community work of a kind referred to in section 63 in the area in which the offender will reside; and
- “(ii) recommendations on whether the court should authorise, under section 66A, hours of work to be

spent undertaking training in basic work and living skills.”

14 New section 26A inserted

The following section is inserted after section 26:

“26A Additional requirements when considering sentence of community detention or home detention

- “(1) If the court has directed a probation officer to provide a pre-sentence report under section 26, the probation officer must prepare the pre-sentence report in accordance with subsection (2) if—
- “(a) the court has indicated that it is considering a sentence of community detention or home detention; or
 - “(b) the probation officer intends to recommend a sentence of community detention or home detention.
- “(2) A pre-sentence report to which subsection (1) applies may include any of the matters outlined in section 26(2), and must include—
- “(a) information regarding the suitability of the proposed curfew address or home detention residence, including the safety and welfare of the occupants of the proposed curfew address or home detention residence; and
 - “(b) in the case of a sentence of community detention, confirmation that the offender consents to the conditions of the sentence and the proposed curfew period; and
 - “(c) in the case of a sentence of home detention, confirmation that the offender consents to the standard detention conditions and any special conditions recommended by the probation officer or that the court has indicated it is considering imposing.
- “(3) Before completing a report that covers the matters in subsection (2) of this section, the probation officer must—
- “(a) ensure that every relevant occupant of the proposed curfew address or home detention residence, as the case may be, is aware of the nature of the offender’s past and current offending; and
 - “(b) tell every relevant occupant that the reason for giving that information is to enable the occupant to make an informed decision about whether to consent to the offender remaining at the curfew address during the curfew period, or at the home detention residence while

- serving the sentence of home detention, as the case may be; and
- “(c) tell every relevant occupant that the information provided about the offender must not be used for any purpose other than that described in paragraph (b); and
 - “(d) obtain the consent of every relevant occupant to the offender remaining at the curfew address during the curfew period, or at the home detention residence while serving the sentence of home detention, as the case may be; and
 - “(e) inform every relevant occupant that they may withdraw their consent, at any time, to the offender serving the sentence at the curfew address or in the home detention residence, as the case may be.
- “(4) In subsection (3), **relevant occupant** means,—
- “(a) in relation to a residence that the probation officer is considering as a home detention residence,—
 - “(i) if the residence is a family residence, every person of or over the age of 16 who ordinarily lives there; and
 - “(ii) in the case of any other residence, every person whom the probation officer identifies as being a relevant occupant for the purposes of subsection (3); or
 - “(b) in relation to an address that the probation officer is considering as a curfew address,—
 - “(i) if the address is a residence, every person referred to in paragraph (a)(i) and (ii); and
 - “(ii) in the case of any other place, the person or persons whom the probation officer identifies as being authorised to give consent for the purposes of subsection (3).”

15 General requirement to give reasons

Section 31 is amended by inserting the following subsection after subsection (1):

- “(1A) If sentencing guidelines indicate that a sentence of a particular kind, or within a particular range, would normally be appropriate for the offence, a court must give reasons for deciding on a sentence of a different kind or outside that range.”

16 Power to impose fine instead of imprisonment or community-based sentence

- (1) The heading to section 39 is amended by inserting “, **sentence of home detention,**” after “**imprisonment**”.
- (2) Section 39 is amended by inserting the following subsection after subsection (2):

“(2A) If an enactment provides that a court may sentence an offender to a sentence of home detention but does not provide for a fine, the court may sentence the offender to pay a fine instead of imposing a sentence of home detention.”
- (3) Section 39(3) is amended by omitting “and (2)” and substituting “, (2), and (2A)”.

17 Community-based sentences

Section 44 is repealed and the following section substituted:

“44 Community-based sentences

- “(1) In this Act, **community-based sentence** means the following—
- “(a) a sentence of community work:
 - “(b) a sentence of supervision:
 - “(c) a sentence of intensive supervision:
 - “(d) a sentence of community detention.
- “(2) In sentencing an offender to a community-based sentence, a court may have regard to the potential effect that a particular sentence may have in contributing to the development of an offender’s work and living skills.”

18 Sentence of supervision

- (1) Section 45(1) is amended by inserting the following paragraph after paragraph (a):

“(ab) the offender is convicted of an offence and the enactment prescribing the offence expressly provides that a sentence of home detention may be imposed on conviction; or”.
- (2) Section 45(2) is amended by omitting “2 years” and substituting “1 year”.

19 Standard conditions of supervision

Section 49 is amended by repealing subsection (2) and substituting the following subsection:

- “(2) The conditions in subsection (1)(c) to (f) do not apply to the extent that they are inconsistent with—
- “(a) any special conditions imposed by the court; or
 - “(b) in the case of an offender who is also subject to a sentence of community detention, any condition of that sentence.”

20 Programmes

Section 51 is amended by inserting “that is not residential in nature” after “the following”.

21 Other special conditions

- (1) Section 52(2) is amended by inserting the following paragraph after paragraph (b):
- “(ba) conditions requiring the offender to undertake training in basic work and living skills:”.
- (2) Section 52 is amended by inserting the following subsection after subsection (3):
- “(3A) No court may impose a condition under this section that the offender submit to electronic monitoring.”
- (3) Section 52(5) is amended by adding “; but the failure to take the medication may give rise to a ground for variation or cancellation of the sentence of supervision under section 54”.

22 Variation or cancellation of sentence of supervision

- (1) Section 54(1)(c) is amended by omitting subparagraph (i) and substituting the following subparagraph:
- “(i) the rehabilitation and reintegration of the offender would be advanced by the remission, suspension, or variation of special conditions, or the imposition of additional special conditions; or”.
- (2) Section 54(3) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) remit, suspend, or vary any special conditions imposed by the court, or impose additional special conditions:”.

23 Application of section 54 during epidemic

- (1) Subsection 54A(1)(a) is amended by inserting “special” after “an order under section 54(3) varying the”.

- (2) Section 54A(1)(b) is amended by inserting “special” after “any probation officer may himself or herself vary the”.
- (3) Section 54A(1) is amended by adding “; and” and also by adding the following paragraph:
 - “(c) a probation officer may vary or suspend any standard conditions of a sentence of supervision.”
- (4) Section 54A(2) is amended by omitting “subsection (1)” and substituting “subsection (1)(a) or (b)”.
- (5) Section 54A is amended by adding the following subsection:
 - “(3) Any variation or suspension of a standard condition under subsection (1)(c) has effect until the earlier of—
 - “(a) the revocation of the epidemic management notice; or
 - “(b) the date on which a probation officer rescinds the variation or suspension.”

24 New heading and sections 54B to 54L inserted

The following heading and sections are inserted after section 54A:

“Intensive supervision

“54B Sentence of intensive supervision

- “(1) A court may sentence an offender to intensive supervision if—
 - “(a) the offender is convicted of an offence punishable by imprisonment; or
 - “(b) the offender is convicted of an offence and the enactment prescribing the offence expressly provides that a sentence of home detention may be imposed on conviction; or
 - “(c) the offender is convicted of an offence and the enactment prescribing the offence expressly provides that a community-based sentence may be imposed on conviction.
- “(2) The sentence may be for a period, being not less than 6 months and not more than 2 years, that the court thinks fit.

“54C Guidance on use of sentence of intensive supervision

A court may impose a sentence of intensive supervision only if it is satisfied that—

- “(a) a sentence of intensive supervision would reduce the likelihood of further offending by the offender through the rehabilitation and reintegration of the offender; and
- “(b) the nature of the offender’s rehabilitative or other needs requires the imposition of conditions—
 - “(i) for a period longer than 12 months; or
 - “(ii) that are not available through the sentence of supervision.

“54D Sentences of intensive supervision in respect of 2 or more offences must be served concurrently

If a court imposes a sentence of intensive supervision in respect of each of 2 or more offences (whether on the same occasion or on different occasions), the sentences must be served concurrently.

“54E Conditions of sentence of intensive supervision

An offender who is sentenced to intensive supervision is subject to—

- “(a) the standard conditions in section 54F; and
- “(b) any special conditions imposed by the court under section 54G or 54I.

“54F Standard conditions of intensive supervision

- “(1) If an offender is sentenced to intensive supervision, the following standard conditions apply:
 - “(a) the offender must report in person to a probation officer in the probation area in which the offender resides as soon as practicable, and not later than 72 hours, after the sentence is imposed:
 - “(b) the offender must report to a probation officer—
 - “(i) at least once in each week during the first 3 months of the sentence and at least once in each month during the remainder of the sentence; and
 - “(ii) as and when required to do so by a probation officer:
 - “(c) the offender must notify a probation officer of his or her residential address and the nature and place of his or her employment when asked to do so:

- “(d) the offender must not move to a new residential address in another probation area without the prior written consent of a probation officer:
 - “(e) if consent is given under paragraph (d), the offender must report in person to a probation officer in the new probation area in which the offender is to reside as soon as practicable, and not later than 72 hours, after the offender’s arrival in the new area:
 - “(f) if an offender intends to change his or her residential address within a probation area, the offender must give a probation officer reasonable notice before moving from his or her residential address (unless notification is impossible in the circumstances) and must advise the probation officer of the new address:
 - “(g) the offender must not reside at any address at which a probation officer has directed the offender not to reside:
 - “(h) the offender must not engage, or continue to engage, in any employment or occupation in which a probation officer has directed the offender not to engage or continue to engage:
 - “(i) the offender must not associate with any specified person, or with persons of any specified class, with whom a probation officer has, in writing, directed the offender not to associate:
 - “(j) the offender must take part in a rehabilitative and re-integrative needs assessment if and when directed to do so by a probation officer.
- “(2) The conditions in subsection (1)(d) to (g) do not apply if, and to the extent that, they are inconsistent with—
- “(a) any special condition imposed by the court; or
 - “(b) in the case of an offender who is also subject to a sentence of community detention, any condition of that sentence.

“54G Special conditions related to programmes

A court may impose any special condition or conditions related to a programme if the court is satisfied that—

- “(a) there is a significant risk of further offending by the offender; and
- “(b) standard conditions alone would not adequately reduce that risk; and

- “(c) the offender requires a programme to reduce the likelihood of further offending by the offender through the rehabilitation and reintegration of the offender.

“54H Programmes

For the purposes of section 54G, **programme** means any of the following (whether residential or non-residential in nature):

- “(a) any psychiatric or other counselling or assessment:
- “(b) attendance at any medical, psychological, social, therapeutic, cultural, educational, employment-related, rehabilitative, or reintegrative programme:
- “(c) placement in the care of any appropriate person, persons, or agency approved by the chief executive of the Department of Corrections, such as, and without limitation,—
 - “(i) an iwi, hapū, or whānau:
 - “(ii) a marae:
 - “(iii) an ethnic or cultural group:
 - “(iv) a religious group, such as a church or religious order:
 - “(v) members or particular members of any of the above.

“54I Other special conditions

- “(1) A court may impose any of the special conditions described in subsection (3) if the court is satisfied that—
 - “(a) there is a significant risk of further offending by the offender; and
 - “(b) standard conditions alone would not adequately reduce that risk; and
 - “(c) the imposition of special conditions would reduce the likelihood of further offending by the offender through the rehabilitation and reintegration of the offender.
- “(2) A court may only impose a condition of the kind described in subsection (3)(d) (which relates to judicial monitoring) if it is also satisfied that, because of the special circumstances of the offender, this is necessary to assist the offender’s compliance with the sentence.
- “(3) The conditions referred to in subsections (1) and (2) comprise—

- “(a) any conditions that the court thinks fit relating to the offender’s place of residence (which may include a condition that the offender not move residence), finances, or earnings:
 - “(b) conditions requiring the offender to take prescription medication:
 - “(c) conditions requiring the offender to undertake training in basic work and living skills:
 - “(d) a condition requiring the offender to comply with the requirements of judicial monitoring under subpart 2B as directed by a probation officer or the sentencing Judge:
 - “(e) any other conditions that the court thinks fit to reduce the likelihood of further offending by the offender.
- “(4) No court may impose a condition under this section that—
- “(a) the offender pay any fine, reparation, or other sum ordered to be paid on conviction; or
 - “(b) the offender perform any service that he or she could have been required to perform if he or she had been sentenced to community work; or
 - “(c) the offender submit to electronic monitoring.
- “(5) No offender may be made subject to a special condition that requires the offender to take prescription medication unless the offender—
- “(a) has been fully advised, by a person who is qualified to prescribe that medication, about the nature and likely or intended effect of the medication and any known risks; and
 - “(b) consents to taking the prescription medication.
- “(6) An offender does not breach his or her conditions for the purposes of section 70A if he or she withdraws consent to taking prescription medication, but the failure to take the medication may give rise to a ground for variation or cancellation of the sentence of intensive supervision under section 54K.

“54J Offender to be under supervision of probation officer

An offender who is subject to a sentence of intensive supervision is under the supervision of a probation officer in the probation area in which the offender resides for the time being, or of any other probation officer that the chief executive of the Department of Corrections may direct.

“54K Variation or cancellation of sentence of intensive supervision

- “(1) An offender who is subject to a sentence of intensive supervision, or a probation officer, may apply, in accordance with section 72, for an order under subsection (3) of this section on the grounds that—
- “(a) the offender is unable to comply, or has failed to comply, with any of the conditions of the sentence:
 - “(b) any programme to which the offender is subject is no longer available or suitable for the offender:
 - “(c) having regard to any change in circumstances since the sentence was imposed and to the manner in which the offender has responded to the sentence,—
 - “(i) the rehabilitation and reintegration of the offender would be advanced by the remission, suspension, or variation of any special conditions, or the imposition of additional special conditions; or
 - “(ii) the continuation of the sentence is no longer necessary in the interests of the community or the offender.
- “(2) A probation officer may apply, in accordance with section 72, for an order under subsection (3) of this section if an offender who is subject to a sentence of intensive supervision is convicted of an offence punishable by imprisonment.
- “(3) On an application under subsection (1) or (2), the court may, if it is satisfied that the grounds on which the application is based have been established, —
- “(a) remit, suspend, or vary any special conditions imposed by the court, or impose additional special conditions:
 - “(b) cancel the sentence:
 - “(c) cancel the sentence and substitute any other sentence (including another sentence of intensive supervision) that could have been imposed on the offender at the time when the offender was convicted of the offence for which the sentence was imposed.
- “(4) If the court varies a special condition or imposes an additional special condition under subsection (3)(a), section 54I applies.
- “(5) When determining a substitute sentence under subsection (3)(c), the court must take into account the portion of the

original sentence that remains unserved at the time of the order.

- “(6) If the court cancels a sentence, the sentence expires on the date that the order is made or on any other date that the court may specify.
- “(7) If an application is made under this section for the remission, suspension, or variation of any special condition imposed by the court, a probation officer may suspend the special condition until the application has been heard and disposed of.

“54L Application of section 54K during epidemic

- “(1) While an epidemic management notice is in force,—
- “(a) a probation officer who has applied in accordance with section 72 for an order under section 54K(3) varying the special conditions subject to which a sentence of intensive supervision was imposed by the court on an offender may himself or herself vary those conditions; and
- “(b) any probation officer may himself or herself vary the special conditions subject to which a sentence of intensive supervision was imposed by the court on an offender if the offender has applied in accordance with section 72 for an order under section 54K(3) varying those conditions; and
- “(c) a probation officer may vary or suspend any standard conditions of a sentence of intensive supervision.
- “(2) A variation under subsection (1)(a) or (b) has effect until the application concerned has been heard or disposed of.
- “(3) Any variation or suspension of a standard condition under subsection (1)(c) has effect until the earlier of—
- “(a) the revocation of the epidemic management notice; or
- “(b) the date on which a probation officer rescinds the variation or suspension.”

25 Sentence of community work

Section 55(1) is amended by inserting the following paragraph after paragraph (a):

- “(ab) if the offender is convicted of an offence and the enactment prescribing the offence expressly provides that a

sentence of home detention may be imposed on conviction; or”.

26 Guidance on use of sentence of community work

Section 56(1)(a) is amended by omitting “to make compensation to the community” and substituting “to be held accountable to the community by making compensation to it”.

27 Concurrent and cumulative sentences of community work

(1) Section 57 is amended by inserting the following subsection after subsection (2):

“(2A) If a court directs that sentences of community work be served cumulatively (whether or not the sentences are imposed at the same time), the total term of the sentences must not be more than 400 hours.”

(2) Section 57 is amended by repealing subsection (3) and substituting the following subsection:

“(3) A sentence of community work must be served concurrently with any sentence of supervision, intensive supervision, community detention, or home detention, whether or not the sentences are imposed at the same time.”

28 New section 57A inserted

The following section is inserted after section 57:

“57A Court may defer commencement date of sentence of community work

If a court imposes both a sentence of community work and a sentence of either intensive supervision or home detention, the court may defer the commencement of the sentence of community work for a specified period if, in its opinion, deferral is necessary to enable the offender to comply with—

“(a) in the case of a sentence of intensive supervision, any conditions imposed under section 54F, 54G, or 54I:

“(b) in the case of a sentence of home detention, any conditions imposed under section 80C or 80D.”

29 Length of sentence of community work

Section 58 is repealed and the following section substituted:

“58 Length of sentence of community work

- “(1) If the court imposes a sentence of community work of 100 hours or less, that sentence must be served within 6 months of the date that it commences under section 75, 75A, or 76.
- “(2) If the court imposes a sentence of community work of more than 100 hours, the offender must serve at least 100 hours in every 6-month period from the date on which the sentence commences until the number of hours imposed under the sentence has been served.
- “(3) Any work done by an offender under a sentence of community work must be treated as having been done under that sentence and under any and each other concurrent sentence of community work that the offender was subject to at the time that the work was done.”

30 Authorised work for person sentenced to community work

Section 63(1) is amended by adding “; or” and also by adding the following paragraph:

- “(d) at or for any local authority (within the meaning of the Local Government Act 2002).”

31 New sections 66A to 66D inserted

The following sections are inserted after section 66:

“66A Court may authorise hours of work to be converted into training

- “(1) This section applies to sentences of community work of at least 80 hours.
- “(2) A court may, when imposing a sentence of community work, or at any time on application by a probation officer, authorise a probation officer to direct that some of the hours of work ordered to be undertaken be instead spent in training in basic work and living skills.
- “(3) In determining whether to give an authorisation under this section, the court must take account of both—
- “(a) the benefits of skill development to the offender for reducing the likelihood of his or her reoffending; and

“(b) the need to hold the offender accountable to the community by making compensation to it.

“66B Some hours of work may be converted to training

“(1) If authorised by the Court under section 66A, a probation officer may, but is not obliged to, direct that a specified number of hours of work, not exceeding 20% of the total number of hours under the sentence, be instead spent in training in basic work and living skills.

“(2) A probation officer may not give a direction under subsection (1) unless—

“(a) it is reasonably practicable for the offender to undertake training in basic work and living skills (having regard to the availability of that training in the place where the offender lives); and

“(b) the offender consents to undertake that training.

“(3) Any hours spent by the offender training in basic work and living skills under a direction given under subsection (1) must, for all legal purposes, be treated as hours of authorised community work undertaken by the offender under his or her sentence.

“(4) Subsection (3) is subject to section 66C.

“66C Consequences of failing without excuse to complete training

If an offender fails, without reasonable excuse, to complete the number of hours training in basic work and living skills directed under section 66B,—

“(a) any hours spent by the offender undertaking that training are not to be treated as hours of authorised community work undertaken by the offender under his or her sentence:

“(b) the offender must, in addition to the period spent in training, but subject to section 67, undertake community work for the total number of hours ordered under the sentence.

“66D When hours of community work not counted

“(1) If an offender fails to carry out any work under a sentence of community work to the satisfaction of the probation officer,

the probation officer may, subject to subsection (2), refuse to treat that work as work undertaken under the sentence.

- “(2) The number of hours that the probation officer may refuse to treat as work undertaken under the sentence must not exceed 10% of the total number of hours under the sentence.”

32 Extension during epidemic of period within which community work must be done

Section 69A(1) is amended by inserting “total” after “not more than 12 months the”.

33 New heading and sections 69B to 69M inserted

The following heading and sections are inserted after section 69A:

“Community detention

“69B Sentence of community detention

- “(1) A court may sentence an offender to community detention if—
- “(a) the offender is convicted of an offence punishable by imprisonment; or
 - “(b) the offender is convicted of an offence and the enactment prescribing the offence expressly provides that a sentence of home detention may be imposed on conviction; or
 - “(c) the offender is convicted of an offence and the enactment prescribing the offence expressly provides that a community-based sentence may be imposed on conviction.
- “(2) The sentence term may be for a period, being no more than 6 months, that the court thinks fit.
- “(3) The court must specify the curfew period and the curfew address when sentencing the offender to a sentence of community detention.
- “(4) Every curfew period specified under subsection (3) must not be for a period of less than 2 hours, and the total of every curfew period for any week must not be more than 84 hours.
- “(5) An offender is not in custody during the curfew period.

“69C Guidance on use of sentence of community detention

- “(1) A court may impose a sentence of community detention if the court is satisfied—
- “(a) that a sentence of community detention—
 - “(i) would reduce the likelihood of further offending by restricting the offender’s movements during specified periods, including, but not limited to, offending of a particular type or at a particular time; or
 - “(ii) would achieve 1 or more of the purposes set out in section 7(1)(a), (b), (e), or (f); and
 - “(b) that an electronically monitored curfew is appropriate, taking into account the nature and the seriousness of the offence and the circumstances and the background of the offender.
- “(2) A court may sentence an offender to community detention if—
- “(a) the court is satisfied that—
 - “(i) the proposed curfew address is suitable; and
 - “(ii) the relevant occupants (as defined in section 26A(4)) of the proposed curfew address—
 - “(A) understand the conditions of the curfew that will apply to the offender; and
 - “(B) consent to the offender remaining at the address in accordance with the curfew; and
 - “(C) have been informed that they may withdraw their consent, at any time, to the offender serving the sentence at the curfew address; and
 - “(iii) the offender has been made aware of and understands all the conditions that will apply during the sentence and he or she agrees to comply with them; and
 - “(b) the proposed curfew address is in an area in which a community detention scheme is operated by the chief executive of the Department of Corrections.

“69D Concurrent and cumulative sentences of community detention

- “(1) If a court imposes a sentence of community detention on an offender who is already subject to a sentence of community

detention, the sentences must be served concurrently unless the court directs that they are to be served cumulatively.

- “(2) If a court imposes cumulative sentences of community detention or imposes 1 or more sentences of community detention on an offender who is already serving a sentence of community detention, the total term of the sentences of community detention must not be more than 6 months.
- “(3) If a court imposes a sentence of community work and a sentence of community detention, or imposes one of them on an offender who is already subject to the other, the sentences must be served concurrently.

“69E Conditions of community detention during sentence term

- “(1) An offender sentenced to community detention is subject to the following conditions during the sentence term:
 - “(a) during the curfew period—
 - “(i) the offender must not, at any time, leave the curfew address except in the circumstances set out in subsection (2):
 - “(ii) the offender is under the supervision of a probation officer and must co-operate with the probation officer and comply with any lawful direction given by that probation officer:
 - “(b) the offender must report in person to a probation officer in the probation area in which the offender resides as soon as practicable, and not later than 24 hours, after the sentence is imposed, unless the 24 hours elapses on a weekend or a public holiday, in which case the offender must report on the next working day:
 - “(c) the offender must report to a probation officer as and when required to do so by the probation officer, and must notify the probation officer of his or her residential address, any change to that address, and the nature and place of his or her employment when asked to do so:
 - “(d) the offender must keep in his or her possession the curfew order drawn up under section 74 and, if requested to do so by a member of the police or a probation officer, must produce the order for inspection:

- “(e) the offender must, when required to do so by a probation officer, submit to the electronic monitoring of compliance with the conditions of his or her sentence, which may require the offender to be connected to electronic monitoring equipment throughout the sentence term and not just throughout the curfew period.
- “(2) An offender may leave the curfew address during the curfew period only—
 - “(a) to seek urgent medical or dental treatment; or
 - “(b) to avoid or minimise a serious risk of death or injury to the offender or any other person; or
 - “(c) with the approval of a probation officer—
 - “(i) to seek or engage in employment; or
 - “(ii) to attend training or other rehabilitative or re-integrative activities or programmes; or
 - “(iii) to attend a restorative justice conference or other process relating to the offender’s offending; or
 - “(iv) to carry out any undertaking arising from any restorative justice process; or
 - “(d) with the approval of a probation officer and subject to any conditions imposed by the probation officer, on humanitarian grounds.
- “(3) A probation officer may only give an approval under subsection (2)(c) if the offender is serving a sentence of supervision or intensive supervision together with the sentence of community detention.
- “(4) A probation officer may approve an alternative curfew address under section 69K, pending determination of an application to vary the curfew address under section 69L.

“69F Electronic monitoring

- “(1) The purpose of an electronic monitoring condition imposed as a condition under section 69E(1)(e) is to deter the offender from breaching the condition that the offender remain at the curfew address during the curfew period and to monitor compliance with that condition.
- “(2) Information about an offender that is obtained through electronic monitoring, may be used only for the purposes referred to in subsection (1) and for the following purposes:

- “(a) to verify compliance with the condition that the offender remain at the curfew address during the curfew period:
 - “(b) to detect non-compliance with that condition:
 - “(c) to provide evidence of non-compliance with that condition and the commission of offences during the curfew period:
 - “(d) to verify that the offender has not tampered or otherwise interfered with the ability of the electronic monitoring equipment to operate effectively and accurately.
- “(3) Information may be collected during the whole of the sentence term but may be used only if it was collected for 1 or more of the purposes set out in this section and, except for information collected for the purpose in subsection (2)(d), was collected during the curfew period.
- “(4) Any information obtained by electronic monitoring outside the curfew period must be destroyed as soon as practicable.

“69G Offence to breach conditions of community detention

An offender commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$1,500, who—

- “(a) fails, without reasonable excuse, to comply with any condition of a sentence of community detention; or
- “(b) fails, without reasonable excuse, to report when required to do so under section 78 or 80.

“69H Offence to refuse entry to community detention curfew address

- “(1) Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000, who refuses or fails, without reasonable excuse, to allow a probation officer, who has identified himself or herself, to enter into the curfew address if the offender is required to be at the address at the time that the probation officer seeks entry.
- “(2) Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000, who refuses or fails, without reasonable excuse, to allow an authorised person to enter into the curfew address for the purpose of servicing or inspecting

any equipment used in the electronic monitoring of the offender's compliance with the condition that the offender remain at the curfew address during the curfew period (whether or not the offender is required to be at the curfew address at the time).

- “(3) For the purposes of subsection (2), an **authorised person** is a person who—
- “(a) is a probation officer and has identified himself or herself; or
 - “(b) accompanies a person described in paragraph (a); or
 - “(c) is authorised in writing by a probation officer and has produced that written authority to an occupant of the residence.

“69I Variation or cancellation of sentence of community detention

- “(1) An offender who is subject to a sentence of community detention, or a probation officer, may apply, in accordance with section 72, for an order under subsection (3) on the grounds that—
- “(a) the offender is unable to comply, or has failed to comply, with any conditions of the sentence; or
 - “(b) the curfew address is no longer available or suitable because of a change in circumstances; or
 - “(c) having regard to any changes in circumstances since the sentence was imposed and to the manner in which the offender has responded to the sentence,—
 - “(i) the rehabilitation and reintegration of the offender would be advanced by the suspension or variation of the curfew period; or
 - “(ii) the continuation of the sentence is no longer necessary in the interests of the community or the offender.
- “(2) A probation officer may apply for an order under subsection (3) if an offender, who is subject to a sentence of community detention, is convicted of an offence punishable by imprisonment.
- “(3) On an application under subsection (1) or (2), the court may, if it is satisfied that the grounds on which the application is based have been established,—
- “(a) suspend or vary the curfew period; or

- “(b) vary the curfew address; or
 - “(c) cancel the sentence; or
 - “(d) cancel the sentence and substitute any other sentence (including another sentence of community detention) that could have been imposed on the offender at the time that the offender was convicted of the offence for which the sentence was imposed.
- “(4) When determining a substitute sentence to be imposed under subsection (3)(d), the court must take into account the portion of the original sentence that remains unserved at the time of the order.
- “(5) If the court cancels the sentence, the sentence expires on the date that the order is made or on any other date that the court may specify.
- “(6) If an application is made under this section for the suspension or variation of the curfew period, a probation officer may suspend the curfew period until the application has been heard and disposed of.

“69J Application of section 69I during epidemic

- “(1) While an epidemic management notice is in force,—
- “(a) a probation officer who has applied in accordance with section 72 for an order under section 69I(3) varying the curfew period subject to which a sentence of community detention was imposed by the court on an offender may himself or herself vary the curfew period; and
 - “(b) any probation officer may himself or herself vary the curfew period subject to which a sentence of community detention was imposed by the court on an offender if the offender has applied in accordance with section 72 for an order under section 69I(3) to vary the curfew period; and
 - “(c) a probation officer may vary or suspend any conditions of a sentence of community detention.
- “(2) A variation under subsection (1)(a) or (b) has effect until the application concerned has been heard or disposed of.
- “(3) Any variation or suspension of a condition under subsection (1)(c) has effect until the earlier of—
- “(a) the revocation of the epidemic management notice; or
 - “(b) the date on which a probation officer rescinds the variation or suspension.

“69K Alternative curfew address pending determination of application under section 69I

- “(1) This section applies if a probation officer or an offender who is subject to a sentence of community detention intends to apply, or has applied, for a variation of conditions under section 69I on the ground specified in section 69I(1)(b) (which relates to the offender’s curfew address).
- “(2) A probation officer may approve an alternative curfew address at which the offender must remain during the curfew period pending the determination of an application.
- “(3) If a probation officer approves an alternative curfew address before an application under section 69I has been made, the probation officer must make an application to the court under that section within 5 working days.
- “(4) Subsection (3) does not apply if an offender makes an application under section 69I within the 5-day period specified in subsection (3).
- “(5) If, in the opinion of the probation officer, there is no suitable alternative curfew address available and the probation officer has not made an application under section 69I, the probation officer must make an application to the court under that section at the earliest opportunity.

“69L When sentence ends on non-release day

If the last day of an offender’s sentence of community detention falls on a non-release day, the offender ceases to be subject to the sentence on the nearest preceding day that is not a non-release day.

“69M Community detention does not affect entitlements under Social Security Act 1964

The fact that a person is serving a sentence of community detention does not, of itself, affect any entitlement the person may have under the Social Security Act 1964.”

34 New section 70A inserted

The following section is inserted after section 70:

“70A Offence to breach conditions of intensive supervision

An offender commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$1,500, who—

- “(a) fails, without reasonable excuse, to comply with any condition of a sentence of intensive supervision; or
- “(b) fails, without reasonable excuse, to report when required to do so under section 78 or 80.”

35 Offences relating to breach of sentence of community work

Section 71(1)(d) is amended by inserting “or 69A” after “section 69”.

36 Jurisdiction and procedure

- (1) Section 72(1) is amended by omitting “or section 68” and substituting “, 54K, 68, or 69I”.
- (2) Section 72(3) is amended by omitting “or section 68” and substituting “, 54K, 68, or 69I”.

37 Order must be drawn up and copy given to offender, etc

Section 74 is amended by inserting the following subsection after subsection (3):

- “(3A) If the community-based sentence is a sentence of community detention, then, in addition to the information required to be included in the order under subsection (3), the order must also include—
- “(a) the sentence term; and
 - “(b) the curfew period; and
 - “(c) the conditions that apply, including those that apply for the duration of the sentence term and those that only apply during the curfew period.”

38 Commencement of community-based sentences

- (1) Section 75(2)(a) is amended by omitting “the remainder of this section” and substituting “sections 75A and 75B”.
- (2) Section 75 is amended by inserting the following subsection after subsection (2):

- “(2A) If the commencement date of a sentence of community work is deferred under section 57A, the sentence commences on the date specified in the order of the court.”
- (3) Section 75 is amended by repealing subsections (3) to (8).

39 New sections 75A and 75B inserted

The following sections are inserted after section 75:

“75A Commencement of cumulative sentences of community work

- “(1) If a sentence of community work is imposed cumulatively on another sentence of community work imposed at the same time,—
- “(a) at least 1 of the sentences must commence on the day that sentence is imposed; and
 - “(b) the commencement date for the subsequent sentence is the date of the completion of the hours of community work under the first sentence of community work to be served.
- “(2) If a sentence of community work is imposed cumulatively on another sentence of community work to which the offender is already subject, the commencement date for the subsequent sentence is the date of the completion of the hours of community work under the first sentence of community work to be served.
- “(3) To avoid doubt, if a sentence of community work is imposed cumulatively on another sentence of community work, hours of work done under either of the sentences on the date referred to in subsections (1)(b) or (2) are not counted towards the hours of work required to be done under the other sentence.
- “(4) If a sentence of community work is imposed cumulatively on another sentence of community work (the **first sentence**), whether or not imposed at the same time, and the first sentence is subsequently quashed,—
- “(a) the commencement date for the subsequent sentence is the date on which the subsequent sentence was imposed; and
 - “(b) any hours of work completed under the quashed sentence must be treated as having been done under the subsequent sentence.

- “(5) If a sentence of community work is imposed cumulatively on another sentence of community work (the **first sentence**), whether or not imposed at the same time, and the first sentence is subsequently cancelled,—
- “(a) the commencement date for the subsequent sentence is the date on which the first sentence was cancelled; and
 - “(b) to avoid doubt, any hours of work completed under the cancelled sentence must not be treated as having been done under the subsequent sentence.
- “(6) A sentence of community work expires on the date that the offender completes the hours of work required under the sentence (taking into account any hours remitted under section 67), whether or not the period of time allowed under section 58 or any extended period granted under section 69 or 69A has expired.

“75B Commencement of cumulative sentences of community detention

- “(1) If a sentence of community detention is imposed cumulatively on another sentence of community detention imposed at the same time,—
- “(a) at least 1 of the sentences must commence on the day that sentence is imposed; and
 - “(b) the commencement date for the subsequent sentence is the date of the completion of the term of community detention under the first sentence of community detention to be served.
- “(2) If a sentence of community detention is imposed cumulatively on another sentence of community detention to which the offender is already subject, the commencement date for the subsequent sentence is the date of the completion of the term of community detention under the first sentence of community detention to be served.
- “(3) To avoid doubt, if a sentence of community detention is imposed cumulatively on another sentence of community detention, any period during which the offender was subject to either of the sentences referred to in subsections (1)(b) or (2) is not counted towards the term of the other sentence.

- “(4) If a sentence of community detention is imposed cumulatively on another sentence of community detention (the **first sentence**), whether or not imposed at the same time, and the first sentence is subsequently quashed,—
- “(a) the commencement date for the subsequent sentence is the date on which the subsequent sentence was imposed; and
 - “(b) any period during which the offender was subject to the quashed sentence must be treated as having been served under the subsequent sentence.
- “(5) If a sentence of community detention is imposed cumulatively on another sentence of community detention (the **first sentence**), whether or not imposed at the same time, and the first sentence is subsequently cancelled,—
- “(a) the commencement date for the subsequent sentence is the date on which the first sentence was cancelled; and
 - “(b) to avoid doubt, any period during which the offender was subject to the cancelled sentence must not be treated as having been served under the subsequent sentence.”

40 Commencement of community-based sentence after temporary surrender under Extradition Act 1999

Section 76 is amended by repealing subsection (3) and substituting the following subsections:

- “(3) Except as provided in subsection (3A), an offender to whom this section applies must report to a probation officer within 72 hours of the offender’s arrival in New Zealand.
- “(3A) An offender who is sentenced to community detention must report within 24 hours, unless the 24 hours elapses on a weekend or public holiday, in which case the offender must report on the next working day.”

41 Effect of subsequent sentence of imprisonment

- (1) Section 78(4) is amended by inserting “or 54I(3)(b)” after “section 52(2)(b)”.
- (2) Section 78(5) is amended by repealing paragraphs (a) and (b) and substituting the following paragraphs:
- “(a) except as provided in paragraph (b), the offender must report to a probation officer as soon as practicable, and

not later than 72 hours, after being released from detention; and

- “(b) an offender who is sentenced to community detention must report within 24 hours after being released from detention, unless the 24 hours elapses on a weekend or public holiday, in which case the offender must report on the next working day; and
- “(c) the sentence does not resume until the offender has reported to a probation officer as required by paragraphs (a) or (b)”.

42 Period of suspension not counted towards sentence

Section 79 is amended by adding the following subsections:

- “(3) No period during which a sentence of intensive supervision is suspended under section 78(2) or (7) is counted towards the period under section 54B(2).
- “(4) No period during which a sentence of community detention is suspended under section 78(2) or (7) is counted towards the period under section 69B(2).”

43 Resumption of community-based sentence if sentence of imprisonment quashed

Section 80(3) is amended by repealing paragraphs (a) and (b) and substituting the following paragraphs:

- “(a) except as provided in paragraph (b), the offender must report to a probation officer as soon as practicable, and not later than 72 hours, after being released from detention; and
- “(b) an offender who is sentenced to community detention must report within 24 hours after being released from detention, unless the 24 hours elapses on a weekend or public holiday, in which case the offender must report on the next working day; and
- “(c) the sentence resumes when the offender has reported as required by paragraphs (a) or (b)”.

44 New subparts 2A and 2B inserted

The following subparts are inserted after section 80:

“Subpart 2A—Home detention**“80A Sentence of home detention**

- “(1) A court may sentence an offender to a sentence of home detention if—
- “(a) the offender is convicted of an offence punishable by imprisonment; or
 - “(b) the offender is convicted of an offence and the enactment prescribing the offence expressly provides that a sentence of home detention may be imposed on conviction.
- “(2) A court may sentence an offender to home detention under subsection (1) if—
- “(a) the court is satisfied that—
 - “(i) the proposed home detention residence is suitable; and
 - “(ii) the relevant occupants (as defined in section 26A(4)) of the proposed home detention residence—
 - “(A) understand the conditions of home detention that will apply to the offender; and
 - “(B) consent to the offender serving the sentence in the residence in accordance with those conditions; and
 - “(C) have been informed that they may withdraw their consent to the offender serving the sentence in the residence at any time; and
 - “(iii) the offender has been made aware of and understands the conditions that will apply during home detention, and he or she agrees to comply with them; and
 - “(b) the proposed home detention residence is in an area in which a home detention scheme is operated by the chief executive of the Department of Corrections.
- “(3) A sentence of home detention may be for such period as the court thinks fit, but must not be for less than 14 days or more than 12 months.

- “(4) The court must specify the home detention residence when sentencing the offender to a sentence of home detention.
- “(5) An offender sentenced to home detention is not in custody while serving the sentence.
- “(6) This section is subject to section 80B.

“80B Concurrent and cumulative sentences of home detention

- “(1) If a court imposes a sentence of home detention on an offender who is already subject to a sentence of home detention, the sentences must be served concurrently unless the court directs that they are to be served cumulatively.
- “(2) If a court imposes cumulative sentences of home detention or imposes 1 or more sentences of home detention on an offender who is already serving a sentence of home detention, the total term of the sentences of home detention must not be more than 12 months.
- “(3) Before deciding to impose 2 or more sentences of home detention cumulatively or concurrently, the court must consider the guidance under sections 84 and 85 as if it applied to sentences of home detention.
- “(4) Subject to section 57A, if a court imposes a sentence of community work and a sentence of home detention, or imposes one of them on an offender who is already subject to the other, the sentences must be served concurrently.

“80C Detention conditions applying to offender sentenced to home detention

- “(1) An offender who is serving a sentence of home detention is subject to detention conditions comprising—
 - “(a) the standard conditions set out in subsection (2); and
 - “(b) any special conditions that may be imposed by the court under section 80D.
- “(2) The standard conditions for a sentence of home detention are that—
 - “(a) the offender is under the supervision of a probation officer and must co-operate with the probation officer and comply with any lawful direction given by that probation officer; and

- “(b) the offender must not leave the home detention residence at any time except in the circumstances set out in subsections (3), (4), and (5); and
 - “(c) the offender must keep in his or her possession the order drawn up under section 80ZC and, if requested to do so by a member of the police or a probation officer, must produce the order for inspection; and
 - “(d) the offender must, when required by a probation officer, submit to the electronic monitoring of compliance with his or her detention conditions; and
 - “(e) the offender must not engage, or continue to engage, in any employment or occupation in which a probation officer has directed the offender not to engage or continue to engage; and
 - “(f) the offender must not associate with any specified person, or with persons of any specified class, with whom a probation officer has, in writing, directed the offender not to associate; and
 - “(g) the offender must take part in a rehabilitative and reintegrative needs assessment if and when directed to do so by a probation officer.
- “(3) An offender may leave the home detention residence only—
- “(a) to seek urgent medical or dental treatment; or
 - “(b) to avoid or minimise a serious risk of death or injury to the offender or any other person; or
 - “(c) with the approval of a probation officer—
 - “(i) to comply with any special condition; or
 - “(ii) to seek or engage in employment; or
 - “(iii) to attend training or other rehabilitative or reintegrative activities or programmes; or
 - “(iv) to attend a restorative justice conference or other process relating to the offender’s offending; or
 - “(v) to carry out any undertaking arising from any restorative justice process; or
 - “(vi) for any other purpose specifically approved by the probation officer.
- “(4) A probation officer may approve an alternative residence under section 80H pending determination of an application to vary the residence under section 80F.
- “(5) In addition to absences authorised under subsection (3), a probation officer may authorise an offender, who has served at

least three quarters of a sentence of home detention of 6 months or more, to be absent from the home detention residence for up to 4 hours a day without a specified purpose for any or all days remaining to be served under the sentence.

- “(6) For the purposes of subsection (5), an offender who is subject to 2 or more sentences of home detention is eligible when he or she has served the longer of—
- “(a) three quarters of the longest of any concurrent sentences of home detention imposed on the offender; or
 - “(b) three quarters of the notional single sentence of home detention that is created when sentences of home detention are ordered to be served concurrently or cumulatively.

“80D Special conditions of sentence of home detention

- “(1) In addition to the standard conditions that apply under section 80C, the court may, subject to subsections (2), (3), and (7), impose 1 or more special conditions described in subsection (4).
- “(2) A court may impose any of the special conditions described in subsection (4) if the court is satisfied that—
- “(a) there is a significant risk of further offending by the offender; and
 - “(b) standard conditions alone would not adequately reduce the risk; and
 - “(c) the imposition of special conditions would reduce the likelihood of further offending by the offender through the rehabilitation and reintegration of the offender.
- “(3) A court may only impose a condition of the kind described in subsection (4)(d) (which relates to judicial monitoring) if it is also satisfied that, because of the special circumstances of the offender, this is necessary to assist the offender’s compliance with the sentence.
- “(4) The special conditions referred to in subsection (1) or (2) are—
- “(a) any conditions that the court thinks fit relating to the offender’s finances or earnings;
 - “(b) conditions requiring the offender to take prescription medication;
 - “(c) conditions relating to a programme:

- “(d) a condition requiring the offender to comply with the requirements of judicial monitoring under subpart 2B as directed by a probation officer or the sentencing Judge:
 - “(e) any other conditions that the court thinks fit to reduce the likelihood of further offending by the offender.
- “(5) For the purposes of subsection (4), **programme** has the same meaning as in section 54H.
- “(6) No court may impose a condition under this section that—
- “(a) the offender pay any fine, reparation, or other sum ordered to be paid on conviction; or
 - “(b) the offender perform any service that he or she could have been required to perform if he or she had been sentenced to community work.
- “(7) No offender may be made subject to a special condition that requires the offender to take prescription medication unless the offender—
- “(a) has been fully advised, by a person who is qualified to prescribe that medication, about the nature and likely or intended effect of the medication and any known risks; and
 - “(b) consents to taking the prescription medication.
- “(8) An offender does not breach his or her detention conditions for the purposes of section 80S if he or she withdraws consent to taking prescription medication; but the failure to take the medication may give rise to a ground for variation or cancellation of the sentence of home detention under section 80F.

“80E Electronic monitoring

- “(1) The purpose of an electronic monitoring condition is to deter the offender from breaching conditions that relate to his or her whereabouts, and to monitor compliance with those conditions.
- “(2) Information about an offender that is obtained through electronic monitoring may be used both for the purposes referred to in subsection (1) and for the following purposes:
- “(a) to verify compliance with any detention conditions:
 - “(b) to detect non-compliance with any detention conditions and the commission of offences:
 - “(c) to provide evidence of non-compliance with detention conditions and the commission of offences:

- “(d) to verify that the offender has not tampered or otherwise interfered with the ability of the electronic monitoring equipment to operate effectively and accurately.

“80F Application for variation or cancellation of sentence of home detention

- “(1) An offender who is subject to a sentence of home detention, or a probation officer, may apply for an order under subsection (4) on the grounds that—
 - “(a) the offender is unable to comply, or has failed to comply, with any detention conditions:
 - “(b) any programme to which the offender is subject is no longer available or suitable for the offender:
 - “(c) the home detention residence is no longer available or suitable because of a change in circumstances:
 - “(d) having regard to any changes in circumstances since the sentence was imposed and to the manner in which the offender has responded to the sentence,—
 - “(i) the rehabilitation and reintegration of the offender would be advanced by the remission, suspension, or variation of any special conditions, or the imposition of additional special conditions; or
 - “(ii) the continuation of the sentence is no longer necessary in the interests of the community or the offender.
- “(2) A probation officer may apply for an order under subsection (4) if an offender, who is subject to a sentence of home detention, is convicted of an offence punishable by imprisonment.
- “(3) If an offender is subject to special detention conditions in relation to 2 or more sentences of home detention at the same time, a probation officer must apply for an order under subsection (4)(a) if he or she is satisfied that—
 - “(a) any of the special conditions are incompatible with each other; or
 - “(b) in light of all the conditions to which the offender is subject under the sentences, it is unreasonable to expect the offender to comply with 1 or more of the special conditions.

- “(4) On an application under subsection (1), (2), or (3), the court may, if it is satisfied that the grounds on which the application is based have been established,—
- “(a) remit, suspend, or vary any special conditions imposed by the court, or impose additional special conditions; or
 - “(b) vary the home detention residence; or
 - “(c) cancel the sentence; or
 - “(d) cancel the sentence and substitute any other sentence (including another sentence of home detention) that could have been imposed on the offender at the time that the offender was convicted of the offence for which the sentence was imposed.
- “(5) An application under subsection (1), (2), or (3) may be made at any time before or after the sentence commences.
- “(6) Section 72 applies, with any necessary modifications, to an application under this section.

“80G Matters relating to orders under section 80F

- “(1) If the court cancels a sentence of home detention under section 80F(4)(d), the court may at the same time cancel any sentence of community work that the offender is serving concurrently with the sentence of home detention.
- “(2) When determining a substitute sentence under section 80F(4)(d), the court must take into account the portion of the original sentence that remains unserved at the time of the order.
- “(3) If the court varies a special condition or imposes a new special condition under section 80F(4)(a), section 80D applies.
- “(4) If the court cancels the sentence, the sentence expires on the date that the order is made or on any other date that the court may specify.
- “(5) If an application is made under section 80F for the remission, suspension, or variation of any special condition of a sentence of home detention, a probation officer may suspend the condition until the application has been heard and disposed of.

“80H Alternative residence pending determination of application under section 80F

- “(1) This section applies if a probation officer or an offender who is subject to a sentence of home detention intends to apply, or

has applied, for a variation of conditions under section 80F on the ground in section 80F(1)(c) (which relates to the offender's home detention residence).

- “(2) A probation officer may approve an alternative residence in which the sentence of home detention must be served pending the determination of an application.
- “(3) If a probation officer approves an alternative residence before an application under section 80F has been made, the probation officer must make an application to the court under that section within 5 working days.
- “(4) Subsection (3) does not apply if an offender makes an application under section 80F within the 5-day period specified in subsection (3).
- “(5) If, in the opinion of the probation officer, there is no suitable alternative residence available and the probation officer has not made an application under section 80F, the probation officer must make an application to the court under that section at the earliest opportunity.

“80I Leave to apply for cancellation of sentence of imprisonment and substitution of sentence of home detention in certain cases

- “(1) This section applies if—
 - “(a) a court has sentenced an offender to a short-term sentence of imprisonment; and
 - “(b) at the time of sentencing, the court would have sentenced the offender to a sentence of home detention if a suitable residence had been available.
- “(2) At the time of sentencing, the court must make an order granting the offender leave to apply to the court of first instance for cancellation of the sentence of imprisonment and substitution of a sentence of home detention if the offender finds a suitable residence at a later date.

“80J Appeal against order granting leave to apply for cancellation of sentence of imprisonment and substitution of sentence of home detention

- “(1) This section applies for the purposes of filing and determining any appeal against an order granting leave, or a refusal of the court to grant leave, under section 80I or 80K(7).

“(2) For the purposes of Part 4 of the Summary Proceedings Act 1957 and Part 13 of the Crimes Act 1961, an order under section 80I or 80K(7) is a sentence.

“80K Application for cancellation of sentence of imprisonment and substitution of sentence of home detention

- “(1) An offender who is subject to a short-term sentence of imprisonment and who has leave to apply for cancellation of a sentence of imprisonment and substitution of a sentence of home detention under section 80I may apply to the court at any time.
- “(2) An application must be served as soon as practicable on the chief executive of the Department of Corrections.
- “(3) An application must be accompanied by a pre-sentence report updated in accordance with section 80L.
- “(4) On application under subsection (1), the court may, if satisfied of the matters in section 80A(2), cancel the sentence of imprisonment and substitute a sentence of home detention.
- “(5) A sentence of home detention substituted under subsection (4) may be for any period the court thinks fit, but must not be less than 14 days or more than 12 months.
- “(6) When substituting a sentence of home detention, the court must take into account the portion of the original sentence that remains unserved at the time of the order.
- “(7) If the court does not substitute a sentence of home detention, the court—
- “(a) must reconsider the issue of leave to apply for cancellation of the sentence of imprisonment and substitution of a sentence of home detention; and
 - “(b) may make a further order granting the offender leave to apply to the court at any time for cancellation of the sentence of imprisonment and substitution of a sentence of home detention.
- “(8) A sentence of imprisonment that is cancelled under this section is a custodial sentence for the purposes of any other enactment.

“80L Updated pre-sentence report

- “(1) An offender subject to a sentence of imprisonment who makes an application for substitution of a sentence of home detention under section 80K must agree to a probation officer updating the offender’s pre-sentence report with any new information.
- “(2) If an offender agrees to a probation officer updating the offender’s pre-sentence report under subsection (1), the probation officer must update the report in accordance with section 26A.

“80M Appeals in respect of substituted sentences

- “(1) This section applies if a court orders—
- “(a) cancellation of a sentence of home detention and substitution of another sentence under section 80F; or
 - “(b) cancellation of a sentence of imprisonment and substitution of a sentence of home detention under section 80K.
- “(2) For the purposes of any appeal or application for leave to appeal against the substituted sentence,—
- “(a) a sentence substituted for a sentence imposed on the conviction of the offender on indictment is deemed to be a sentence imposed on the conviction of the offender on indictment; and
 - “(b) a sentence substituted for a sentence imposed on the offender on the determination of an information in a District Court is deemed to be a sentence imposed on the determination of an information against the offender in a District Court.

“80N Imposition of post-detention conditions on offender

- “(1) A court that sentences an offender to a term of home detention of 6 months or less may impose the standard post-detention conditions and any special post-detention conditions on the offender and, if it does so, must specify when the conditions expire.
- “(2) If a court sentences an offender to a term of home detention of more than 6 months,—
- “(a) the standard post-detention conditions apply to the offender for a period of 12 months from the detention

- end date, unless the court specifies otherwise; and sections 80Q, 80R, and 80U apply as if the standard conditions had been imposed by order of the court; and
- “(b) the court may, at the same time, impose any special post-detention conditions on the offender and, if it does so, must specify when the conditions expire.
- “(3) The court may specify that post-detention conditions imposed under this section expire on a date that is a specified period of at least 6 months, but no more than 12 months, from the detention end date.
- “(4) If the court imposes special post-detention conditions on the offender, the special post-detention conditions may apply for as long as, but not longer than, the standard post-detention conditions that apply to the offender.
- “(5) If the court sentences the offender to more than 1 sentence of home detention on the same occasion,—
- “(a) only 1 order under this section may be made; and
- “(b) that order applies in respect of all the sentences of home detention imposed on that occasion.

“800 Standard post-detention conditions

The standard post-detention conditions of a sentence of home detention are the following:

- “(a) the offender must report to a probation officer as and when required to do so by a probation officer and must notify the probation officer of his or her residential address and the nature and place of his or her employment when asked to do so:
- “(b) the offender must not move to a new residential address in another probation area without the prior written consent of the probation officer:
- “(c) if consent is given under paragraph (b), the offender must report in person to a probation officer in the new probation area in which the offender is to reside as soon as practicable, and not later than 72 hours, after the offender’s arrival in the new area:
- “(d) if an offender intends to change his or her residential address within a probation area, the offender must give the probation officer reasonable notice before moving from his or her residential address (unless notification is

- impossible in the circumstances) and must advise the probation officer of the new address:
- “(e) the offender must not reside at any address at which a probation officer has directed the offender not to reside:
 - “(f) the offender must not engage, or continue to engage, in any employment or occupation in which the probation officer has directed the offender not to engage or continue to engage:
 - “(g) the offender must not associate with any specified person, or with persons of any specified class, with whom the probation officer has, in writing, directed the offender not to associate:
 - “(h) the offender must take part in a rehabilitative and reintegrative needs assessment if and when directed to do so by a probation officer.

“80P Special post-detention conditions

- “(1) A court may impose any of the special post-detention conditions described in subsection (2) if the court is satisfied that—
 - “(a) there is a significant risk of further offending by the offender; and
 - “(b) standard conditions alone would not adequately reduce that risk; and
 - “(c) the imposition of special conditions would reduce the likelihood of further offending by the offender through the rehabilitation and reintegration of the offender.
- “(2) The special post-detention conditions are the following—
 - “(a) any conditions that the court thinks fit relating to the offender’s place of residence (which may include a condition that the offender not move residence), finances, or earnings:
 - “(b) conditions requiring the offender to take prescription medication:
 - “(c) conditions relating to a programme:
 - “(d) any other conditions that the court thinks fit to reduce the likelihood of further offending by the offender.
- “(3) For the purposes of subsection (2), **programme** has the same meaning as in section 54H.
- “(4) No court may impose a special post-detention condition that the offender submit to electronic monitoring.

- “(5) No offender may be made subject to a special post-detention condition that requires the offender to take prescription medication unless the offender—
- “(a) has been fully advised, by a person who is qualified to prescribe that medication, about the nature and likely or intended effect of the medication and any known risks; and
 - “(b) consents to taking the prescription medication.

“80Q Review of post-detention conditions if conditions incompatible

- “(1) This section applies if—
- “(a) an offender is, at the same time, subject to post-detention conditions imposed under 2 or more orders made under section 80N; and
 - “(b) a probation officer is satisfied that—
 - “(i) any special condition to which the offender is subject under any of the orders is incompatible with any other special condition to which the offender is subject under any other of the orders; or
 - “(ii) in light of all the conditions to which the offender is subject under the orders, it is unreasonable to expect the offender to comply with 1 or more of the special conditions.
- “(2) The probation officer must apply for a review of the conditions to which the offender is subject under the orders made under section 80N.
- “(3) Section 80R applies with any necessary modifications to an application made under this section.

“80R Variation or discharge of post-detention conditions

- “(1) An offender who is subject to post-detention conditions imposed under section 80N, or a probation officer, may apply for an order under subsection (3).
- “(2) Section 72 applies, with any necessary modifications, to an application under this section.
- “(3) On an application under subsection (1), the court may, if it thinks fit,—
- “(a) suspend or vary any condition, or impose any additional conditions described in section 80N, that could have

been imposed on the offender at the time when the offender was convicted of the offence for which the sentence was imposed; or

- “(b) discharge a condition and substitute any other condition described in section 80N that could have been imposed on the offender at the time that the offender was convicted of the offence for which the sentence was imposed.
- “(4) If the court varies a special condition or imposes an additional special condition under subsection (3), section 80P applies.
- “(5) If an application is made under this section for the suspension, variation, or discharge of any condition, a probation officer may suspend the condition until the application has been heard and disposed of.

“80S Offence to breach detention conditions

An offender commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$2,000, who—

- “(a) breaches, without reasonable excuse, any detention conditions of a sentence of home detention; or
- “(b) fails to report when required to do so under section 80ZG.

“80T Offence to refuse entry to home detention residence

- “(1) Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000, who refuses or fails, without reasonable excuse, to allow a probation officer, who has identified himself or herself, to enter into the home detention residence if the offender is required to be at the residence at the time that the probation officer seeks entry.
- “(2) Every person commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000, who refuses or fails, without reasonable excuse, to allow an authorised person to enter into the home detention residence for the purpose of servicing or inspecting any equipment used in the electronic monitoring of the offender’s compliance with the sentence of home detention (whether or not the offender is required to be at the home detention residence at the time).

- “(3) For the purposes of subsection (2), an **authorised person** is a person who—
- “(a) is a probation officer and has identified himself or herself; or
 - “(b) accompanies a person described in paragraph (a); or
 - “(c) is authorised in writing by a probation officer and has produced that written authority to an occupant of the residence.

“80U Offence to breach post-detention conditions

- “(1) An offender commits an offence, and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$1,500, who breaches, without reasonable excuse, any post-detention conditions imposed under section 80N or 80R.
- “(2) In the case of a condition of the kind referred to in section 80P(2)(b) (which involves prescription medication), an offender does not breach his or her conditions for the purposes of this section if he or she withdraws consent to taking prescription medication.

“80V Arrest without warrant for breach of detention or post-detention conditions

Any member of the police or any probation officer may arrest, without warrant, an offender who the member or officer has reasonable grounds to believe has breached any of his or her detention conditions or post-detention conditions.

“80W Court may defer start date of sentence of home detention

- “(1) The court may defer the start date of a sentence of home detention for a specified period of up to 2 months—
- “(a) on humanitarian grounds; or
 - “(b) if the court is satisfied that it is in the interests of justice to defer the start of the sentence of home detention.
- “(2) If a sentence of home detention is deferred in accordance with subsection (1), the sentence of home detention starts on the date to which the court has ordered that the sentence be deferred.
- “(3) Despite subsection (1), no court may defer the start date of a sentence of home detention if—

- “(a) the sentence of home detention is imposed cumulatively on any other sentence of home detention; or
- “(b) the sentence of home detention is imposed in substitution for a sentence of home detention or imprisonment that has been quashed or set aside; or
- “(c) an order under this section has already been made in respect of the sentence; or
- “(d) the offender has already commenced serving the sentence or is detained under any other sentence or order.

“80X Commencement of sentence of home detention

- “(1) A sentence of home detention commences on the day it is imposed unless the start date of the sentence is deferred under section 80W.
- “(2) Subsection (1) applies—
 - “(a) subject to the remainder of this section; and
 - “(b) regardless of whether or not the sentence is imposed in substitution for another sentence.
- “(3) If a sentence of home detention is imposed cumulatively on another sentence of home detention imposed at the same time,—
 - “(a) at least 1 of the sentences must commence on the day that the sentence is imposed or to which the start date has been deferred under section 80W; and
 - “(b) the commencement date for the subsequent sentence is the detention end date of the first sentence.
- “(4) If a sentence of home detention is imposed cumulatively on another sentence of home detention (the **first sentence**) to which the offender is already subject, the commencement date of the subsequent sentence is the detention end date of the first sentence.
- “(5) If a sentence of home detention is imposed cumulatively on another sentence of home detention (the **first sentence**), whether or not imposed at the same time, and the first sentence is subsequently quashed,—
 - “(a) the commencement date for the subsequent sentence is the date on which the subsequent sentence was imposed; and
 - “(b) any time served under the quashed sentence must be treated as having been served under the subsequent sentence.

- “(6) If a sentence of home detention is imposed cumulatively on another sentence of home detention (the **first sentence**), whether or not imposed at the same time, and the first sentence is subsequently cancelled,—
- “(a) the commencement date for the subsequent sentence is the date on which the first sentence was cancelled; and
 - “(b) any time served under the cancelled sentence must not be treated as having been served under the subsequent sentence.

“80Y Commencement of sentence of home detention after temporary surrender under Extradition Act 1999

- “(1) This section applies if an offender is temporarily surrendered to New Zealand under the Extradition Act 1999 and—
- “(a) is convicted and sentenced under this Act to a sentence of home detention; and
 - “(b) is required to be returned in accordance with section 66(2) of the Extradition Act 1999 to the country from where the offender was surrendered on completion of the proceedings to which the extradition related.
- “(2) Unless the court otherwise directs, the sentence imposed does not commence until the offender has reported to a probation officer after being returned to New Zealand.
- “(3) An offender to whom this section applies must—
- “(a) advise a probation officer as soon as possible of any change in circumstances affecting the availability or suitability of the home detention residence before he or she commences the sentence; and
 - “(b) report to a probation officer within 72 hours of the offender’s arrival in New Zealand.
- “(4) This section applies despite any other provisions in this Act.

“80Z When home detention ends

- “(1) An offender ceases to be subject to a sentence of home detention when—
- “(a) the offender reaches his or her detention end date; or
 - “(b) a court cancels the sentence of home detention.
- “(2) If the offender’s detention end date falls on a non-release day, the offender ceases to be subject to detention conditions on the nearest preceding day that is not a non-release day.

“80ZA When detention conditions suspended

The detention conditions of an offender serving a sentence of home detention are suspended during any period that the offender spends in custody under a court order (for example, on remand), but time continues to run during any period that they are suspended.

“80ZB Time ceases to run in certain circumstances

For the purpose of calculating how much time an offender who is subject to a sentence of home detention has served, time ceases to run on the sentence during any period—

- “(a) between the date on which an application for a variation or cancellation of the sentence under section 80F is lodged and the earlier of—
 - “(i) the date on which the offender is next taken into custody; and
 - “(ii) the date on which the offender resumes serving his or her sentence in accordance with his or her detention conditions; or
- “(b) in which an offender is released on bail pending an appeal.

“80ZC Order must be drawn up

- “(1) If a court imposes a sentence of home detention on an offender, the particulars of the sentence must be drawn up in the form of an order.
- “(2) A copy of the order must be given to the offender before he or she leaves the court wherever practicable.
- “(3) The order must include information regarding—
 - “(a) the nature of the sentence; and
 - “(b) the start date and the term of the sentence; and
 - “(c) the detention conditions that apply to the offender while he or she is serving the sentence; and
 - “(d) the post-detention conditions (if any) that apply and the period for which those conditions apply; and
 - “(e) the obligations to comply with the instructions of a probation officer and the terms of the sentence; and
 - “(f) the consequences of non-compliance with the terms of the sentence; and
 - “(g) the statutory provisions under which the sentence may be varied or cancelled.

- “(4) For the purposes of subsection (1), a court may direct that the offender be detained in the custody of the court for a period, not exceeding 2 hours, that may be necessary to enable the order to be drawn up and a copy given to the offender.
- “(5) If it is not practicable to give a copy of the order to the offender before the offender leaves the court, a copy must be given to the offender in person as soon as practicable after the offender leaves the court.
- “(6) A copy of the order must be given to the chief executive of the Department of Corrections as soon as possible, but no later than 24 hours, after it has been drawn up.

“80ZD Offender must be given copy of new or amended order

If an offender’s detention conditions or post-detention conditions are varied or discharged, the offender must be given a copy of the new or amended order that shows the conditions as varied or discharged, and the provisions of this section and section 80ZC apply.

“80ZE Home detention does not affect entitlements under Social Security Act 1964

The fact that a person is serving a sentence of home detention does not, of itself, affect any entitlement the person may have under the Social Security Act 1964.

“80ZF Application of Injury Prevention, Rehabilitation, and Compensation Act 2001 to persons serving home detention sentence

When an offender performs any service or does any work or attends any assessment, course, or programme for the purposes of a home detention sentence, the following provisions apply:

- “(a) if the offender suffers any personal injury for which he or she has cover under the Injury Prevention, Rehabilitation, and Compensation Act 2001 arising out of and in the course of performing the activities described above,—
- “(i) the personal injury is deemed, for the purposes of section 97 of that Act only, to be a work-related personal injury; and

- “(ii) the Crown is liable to pay compensation to which the offender is entitled under that section:
- “(b) the cost of all other entitlements of the offender under that Act must be met from the Earners’ Account in the case of an offender who is an earner and from the Non-Earners’ Account in all other cases.

“80ZG Effect of subsequent sentence of imprisonment

- “(1) This section applies if an offender who is subject to a sentence of home detention is subsequently sentenced to a term of imprisonment.
- “(2) If this section applies, the sentence of home detention is suspended until the earlier of the following events—
 - “(a) it resumes under subsection (4)(b); or
 - “(b) it is cancelled under subsection (6).
- “(3) No period during which a sentence of home detention is suspended under subsection (2) is counted towards the period under section 80A(3).
- “(4) If the sentence or sentences of imprisonment are quashed and that results in the offender no longer being detained under a sentence of imprisonment,—
 - “(a) the offender must report to a probation officer as soon as practicable and not later than 72 hours after being released from detention; and
 - “(b) the sentence of home detention resumes when the offender has reported as required under paragraph (a).
- “(5) The Registrar of the court in which the sentence or sentences of imprisonment are quashed must notify the chief executive of the Department of Corrections.
- “(6) If the sentence of home detention never resumes under subsection (4)(b), it is cancelled when the offender ceases to be detained under the sentence of imprisonment.

“80ZH Application of section 80F during epidemic

- “(1) While an epidemic management notice is in force,—
 - “(a) a probation officer who has applied for an order under section 80F(4) varying the special conditions subject to which a sentence of home detention was imposed by the court on an offender may himself or herself vary those conditions; and

- “(b) any probation officer may himself or herself vary the special conditions subject to which a sentence of home detention was imposed by the court on an offender if the offender has applied for an order under section 80F(4) varying those conditions; and
 - “(c) a probation officer may vary or suspend any standard conditions of a sentence of home detention.
- “(2) A variation under subsection (1)(a) or (b) has effect until the application concerned has been heard and disposed of.
- “(3) Any variation or suspension of a standard condition under subsection (1)(c) has effect until the earlier of—
- “(a) the revocation of the epidemic management notice; or
 - “(b) the date a probation officer rescinds the variation or suspension.

“80ZI Application of section 80R during epidemic

- “(1) While an epidemic management notice is in force,—
- “(a) a probation officer who has applied for an order under section 80R(3) varying the post-detention conditions subject to which a sentence of home detention was imposed by the court on an offender may himself or herself vary those conditions; and
 - “(b) any probation officer may himself or herself vary the post-detention conditions subject to which a sentence of home detention was imposed by the court on an offender if the offender has applied for an order under section 80R(3) varying those conditions.
- “(2) Any variation under subsection (1) has effect until the earlier of—
- “(a) the revocation of the epidemic management notice; or
 - “(b) the date on which a probation officer rescinds the variation or suspension.

“Subpart 2B—Judicial monitoring

“80ZJ Progress reports

- “(1) If the court has imposed a sentence of intensive supervision or home detention and a special condition of that sentence is that the offender be subject to judicial monitoring, the probation officer supervising the offender must give a written progress report to the Judge who sentenced the offender or to any other

Judge of that court if for any reason it is impracticable for the sentencing Judge to be given the report.

- “(2) The progress report must be given to the Judge within 3 months of the date that the sentence commenced under section 75, 76, 80W, 80X, or 80Y (whichever is applicable) or the date at which the offender has served one-third of his or her sentence, whichever is the earlier.
- “(3) The progress report—
- “(a) must contain information on the offender’s progress and compliance with the sentence; and
 - “(b) may contain any other information that the probation officer considers relevant to the sentence.
- “(4) The probation officer must prepare and give the Judge further progress reports at specified intervals of not less than 3 months if directed to do so by the Judge.

“80ZK Consideration of progress reports

After considering a progress report, the Judge may order that the offender attend before him or her if the Judge considers it desirable for the administration of the sentence or for the rehabilitation or reintegration of the offender.

“80ZL Procedure

- “(1) A copy of an order under section 80ZK must be given to the offender and the probation officer who filed the progress report.
- “(2) The order must be accompanied by a notice setting out the time and place of the attendance.

“80ZM Procedure if possible grounds for variation or cancellation of sentence exist

- “(1) If, after hearing from the offender and the probation officer, the Judge considers that there may be grounds for variation or cancellation of the sentence of intensive supervision or home detention, he or she may request submissions on whether the sentence should be varied or cancelled.
- “(2) If the Judge requests further submissions under subsection (1), he or she must set the matter down for a hearing.
- “(3) After hearing submissions on whether the sentence should be varied or cancelled at the hearing, the Judge may vary or

cancel the sentence of intensive supervision or home detention in accordance with section 54K or 80F (whichever is applicable) as if an application had been made under either of those sections.”

45 New section 81A inserted

The following section is inserted after section 81:

“81A Manner of expression of sentence of imprisonment

- “(1) This section applies if a court sentences an offender to a determinate sentence of imprisonment that is a long-term sentence as defined in section 4(1) of the Parole Act 2002.
- “(2) The court must, in addition to stating the term of the sentence imposed, state the minimum period of the sentence that the offender must serve under section 84 of the Parole Act 2002 before he or she may be released on parole at the discretion of the Parole Board.”

46 Imposition of minimum period of imprisonment in relation to determinate sentence of imprisonment

Section 86 and the heading above section 86 are repealed.

47 Offender must be notified that sentence of preventive detention will be considered, and reports must be obtained

Section 88 is amended by adding the following subsection:

- “(3) To avoid doubt, a health assessor’s report under subsection (1)(b) may take into account any statement of the offender or any other person concerning any conduct of the offender, whether or not that conduct constitutes an offence and whether or not the offender has been charged with, or convicted of, an offence in respect of that conduct.”

48 Warrant of commitment for sentence of imprisonment

Section 91 is amended by repealing subsections (4) and (5).

49 Imposition of conditions on release of offender sentenced to imprisonment for short term

- (1) Section 93(1) is amended by omitting “12 months” and substituting “6 months”.

- (2) Section 93(2) is amended by omitting “12 months but not more than 24 months” and substituting “6 months but not more than 12 months”.
- (3) Section 93 is amended by repealing subsection 2A and substituting the following subsections:
 - “(2A) The court may specify that any standard conditions or special conditions expire on the date that is a specified period of up to 12 months but no less than 6 months after the sentence expiry date.
 - “(2AA) If the court imposes special conditions on an offender, the special conditions may apply for as long as, but no longer than, the standard conditions apply to the offender.”
- (4) The definition of **special conditions** in section 93(2B) is amended by inserting “, or a residential restriction condition as referred to in section 15(3)(ab) of that Act” after “section 15(3)(f) of that Act”.
- (5) Section 93(5) is amended by omitting “24 months” and substituting “12 months”.

50 Heading and sections 97 to 99 repealed

The heading above section 97 and sections 97, 98, and 99 are repealed.

51 Court may defer start date of sentence of imprisonment

Section 100(1)(b) and (2) are repealed.

52 Non-association order

Section 112 is amended by repealing subsection (5) and substituting the following subsection:

- “(5) The court must not make a non-association order if the offender is already detained under a sentence of imprisonment—
 - “(a) of more than 12 months if imposed after the commencement of this section; or
 - “(b) of more than 24 months if imposed before the commencement of this section.”

53 Cumulative orders and sentences

Section 114 is amended by repealing subsection (2) and substituting the following subsection:

“(2) If the court imposes a non-association order on an offender who is already detained under a sentence of imprisonment for 12 months or less if imposed after the commencement of this section or for 24 months or less if imposed before the commencement of this section, the non-association order is cumulative on the other sentence.”

54 Effect of subsequent sentences on non-association order

Section 119 is amended by omitting “24 months” in each place where it appears and substituting in each case “12 months”.

Transitional provisions

55 Transitional arrangements for intensive supervision

If an offender is convicted of an offence committed before the commencement of section 54B, the court may sentence the offender to intensive supervision if—

- (a) the court would have had the power to sentence the offender to supervision if it were dealing with the offence immediately before that date; and
- (b) the requirements of sections 54B and 54C are satisfied; and
- (c) the offender consents to the imposition of intensive supervision.

56 Transitional arrangements for community detention

If an offender is convicted of an offence committed before the commencement of section 69B, the court may sentence the offender to community detention if—

- (a) the court would have had the power to sentence the offender to a community-based sentence if it were dealing with the offence immediately before that date; and
- (b) the requirements of sections 69B and 69C are satisfied; and
- (c) the offender consents to the imposition of community detention.

57 Transitional arrangements for home detention

If an offender is convicted of an offence committed before the commencement of section 80A, the court may sentence the offender to home detention if—

- (a) the court would have had the power to sentence the offender to imprisonment if it were dealing with the offence immediately before that date; and
- (b) the requirements of section 80A are satisfied; and
- (c) the offender consents to the imposition of home detention.

58 Amendments to other enactments

The enactments listed in the Schedule are amended in the manner set out in that Schedule.

Schedule

Amendments to other enactments

s 58

Children, Young Persons, and Their Families Act 1989 (1989 No 24)

Section 207D(1)(f)(ii): omit “; and” and substitute “; or”.

Section 207D(1)(f): add:

“(iii) a sentence of home detention imposed under section 80A of the Sentencing Act 2002; and”.

Section 207K(1)(e)(ii): omit “; and” and substitute “; or”.

Section 207K(1)(e): add:

“(iii) a sentence of home detention imposed under section 80A of the Sentencing Act 2002; and”.

Section 207Q(1)(c)(ii): omit “; and” and substitute “; or”.

Section 207Q(1)(c): add

“(iii) a sentence of home detention imposed under section 80A of the Sentencing Act 2002; and”.

Section 248(1)(b): omit “Sentencing Act 2002,” and substitute “Sentencing Act 2002), or to a sentence of home detention imposed under section 80A of the Sentencing Act 2002,”.

Section 251(1)(j): repeal and substitute:

“(j) if the young person is subject to a community-based sentence (as that term is defined in section 4(1) of the Sentencing Act 2002) or a sentence of home detention imposed under section 80A of the Sentencing Act 2002,—

“(i) a probation officer:

“(ii) in the case of a young person who is subject to a sentence of community work (within the meaning of that Act), a representative of the agency on whose behalf the young person is required to perform any work for the purposes of the sentence:

“(iii) in the case of a young person who is subject to a sentence of supervision, intensive supervision, or a sentence of home detention (within the meaning of that Act), any person or agency, or a representative of any person or agency, that provides any course or conducts any programme that the young person is required to undertake as

Children, Young Persons, and Their Families Act 1989 (1989 No 24)—continued

a condition of the sentence or to undergo under the sentence:”.

Section 285(5): insert after paragraph (b):

“(ba) any sentence of home detention imposed under section 80A of the Sentencing Act 2002; or”.

Section 285(6)(a): omit “paragraph (b) or paragraph (c)” and substitute “paragraph (b), (ba), or (c)”.

Section 290(1)(b): insert “or a sentence of home detention under section 80A of the Sentencing Act 2002” after “(within the meaning of section 4(1) of the Sentencing Act 2002)”.

Section 293(b): insert “or a sentence of community detention or home detention” after “liable to imprisonment”.

Section 303(b): insert “or a sentence of home detention under section 80A of the Sentencing Act 2002” after “(as those terms are defined in section 4(1) of the Sentencing Act 2002)”.

Corrections Act 2004 (2004 No 50)

Definition of **person under control or supervision** in section 3(1): insert the following paragraph after paragraph (b):

“**person under control or supervision** means—

“(a) a prisoner:

“(b) a person who is subject to a community-based sentence:

“(c) a person who is subject to a sentence of home detention:

“(d) a person who is serving a sentence of imprisonment on home detention:

“(e) a person who is subject to conditions under the Parole Act 2002 or under section 80N or 93 of the Sentencing Act 2002”.

Section 5(1)(a): insert “sentences, sentences of home detention,” after “community-based”.

Section 8(1)(c): repeal and substitute:

“(c) ensuring the welfare of offenders serving a sentence of imprisonment on home detention, or subject to community-based sentences or sentences of home detention or conditions imposed under the Parole Act 2002 or Sentencing Act 2002, during periods while, in the presence of any employee of the department, those offenders carry out their sentences or undergo any

Corrections Act 2004 (2004 No 50)—continued

supervision forming part of the conditions to which they are subject.”.

Heading above section 24: repeal and substitute: “*Persons with powers and functions in relation to administration of community-based sentences, sentences of home detention, conditions of release, parole, or sentences of imprisonment served on home detention*”.

Section 25(1)(a): repeal and substitute:

“(a) to supervise all persons placed under the officer’s supervision under a sentence of supervision or intensive supervision or community detention or home detention, or while serving a sentence of imprisonment on home detention, and to ensure that the conditions of the sentence or of the release are complied with:”.

Section 25(1)(b): repeal and substitute:

“(b) to arrange and administer community-based sentences and sentences of home detention imposed under section 80A of the Sentencing Act 2002 referred to the officer for that administration, and to ensure that the sentences are carried out:”.

Section 25(1)(c): insert “or sentence of home detention imposed under section 80A of the Sentencing Act 2002” after “community-based sentence”.

Section 27(2): insert “or sentences of home detention imposed under section 80A of the Sentencing Act 2002” after “community-based sentences”.

Section 34(1): insert “serving a sentence of imprisonment” after “(other than a person who is”.

Section 156(2)(b)(ii): repeal and substitute:

“(ii) the monitoring of a complainant while the complainant is or was—

“(A) serving a sentence of imprisonment by way of home detention:

“(B) serving a sentence of home detention imposed under section 80A of the Sentencing Act 2002:

“(C) serving a sentence of community detention:

“(D) on parole subject to residential restrictions imposed under section 15 of the Parole Act 2002; or”.

Corrections Act 2004 (2004 No 50)—continued

Section 157(1): omit “or from which home detention is or was monitored” and substitute “or from which his or her sentence or any condition of that sentence is or was monitored”.

Section 181(2): insert after paragraph (a):

“(ab) if the chief executive is authorised by regulations made under this Act to do so, supply to the chief executive of the Department of Labour the information specified in subsection (3) in respect of persons who have received a sentence of home detention:”.

Section 182(1)(b): insert “(when serving a sentence of imprisonment on home detention)” after “on home detention”.

Section 182(3)(b): insert “serving a sentence of imprisonment” after “in the case of a highest-risk offender who is”.

Section 182(4): insert “(when serving a sentence of imprisonment on home detention)” after “on home detention”.

Section 182A(3)(a): repeal and substitute:

“(a) to monitor compliance by the child sex offender with his or her release conditions (including conditions imposed under section 93 of the Sentencing Act 2002), detention conditions (if the offender is serving a sentence of imprisonment on home detention), conditions of a sentence of supervision, intensive supervision, community detention, or home detention (imposed under section 80A of the Sentencing Act 2002), post-detention conditions of a sentence of home detention, or conditions of an extended supervision order:”.

Section 182B(1)(c): repeal and substitute:

“(c) who is subject to release conditions (including conditions imposed under section 93 of the Sentencing Act 2002), detention conditions (if the offender is serving a sentence of imprisonment on home detention), conditions of a sentence of supervision, intensive supervision, community detention, or home detention (imposed under section 80A of the Sentencing Act 2002), post-detention conditions of a sentence of home detention, or conditions of an extended supervision order.”

Section 182B(2)(a): insert “or post-detention” after “release”.

Crimes Act 1961 (1961 No 43)

Heading to section 19DA: insert “, **community detention, and home detention**” after “**Community work**”.

Section 19DA(2): insert “, community detention, or home detention” after “community work”.

Section 19DA(3): insert “, community detention, or home detention” after “community work”.

Section 19DA(4): insert “, community detention, or home detention” after “community work”.

Section 19DA(5): insert “, community detention, or home detention” after “community work”.

Section 19DA(6): insert “, community detention, or home detention” after “community work”.

Section 19DA(7): insert “, community detention, or home detention” after “community work”.

Section 399(3): insert “intensive supervision, community detention, or home detention,” after “supervision,”.

Section 399(4)(c): omit “of supervision”.

Criminal Investigations (Bodily Samples) Act 1995 (1995 No 55)

Definition of **home detention** in section 2(1): repeal.

Section 4A(3): insert after paragraph (a):

“(ab) subject to residential restrictions imposed under section 15 of the Parole Act 2002”.

Section 24A(4): omit “a sentence by way of home detention” and substitute “a sentence of imprisonment by way of home detention or a sentence of home detention imposed under section 80A of the Sentencing Act 2002 or is on parole subject to residential restrictions imposed under section 15 of the Parole Act 2002”.

Section 24A(4)(a): insert “or is required to remain” after “is detained”.

Section 24A(5): repeal and substitute:

“(5) Despite subsection (4)(a), a Judge may include a condition in a suspect compulsion order or juvenile compulsion order that a respondent give a sample at a place other than the residence at which the person is detained or is required to remain, if the Judge is of the view that it is necessary to do so on account of the respondent’s state of health.”

Section 39A(3): omit “a sentence by way of home detention” and substitute “a sentence of imprisonment by way of home detention or a sentence of home detention imposed under section 80A of the

Criminal Investigations (Bodily Samples) Act 1995
(1995 No 55)—*continued*

Sentencing Act 2002, or is on parole subject to residential restrictions imposed under section 15 of the Parole Act 2002”.

Section 39A(3)(b)(i): insert “or is required to remain” after “the person is detained”.

Section 39A(4): repeal and substitute:

“(4) Despite subsection (3)(b)(i), a commissioned officer of the police may state in a databank compulsion notice that a person may give a bodily sample at a place other than the residence at which the person is detained or is required to remain, if the commissioned officer of the police issuing the notice is of the view that it is necessary to do so on account of the person’s health.”

Section 39C(2): repeal and substitute:

“(2) If a person to whom a databank compulsion notice relates is serving a sentence of imprisonment by way of home detention or a sentence of home detention imposed under section 80A of the Sentencing Act 2002, or is on parole subject to residential restrictions imposed under section 15 of the Parole Act 2002, the place the commissioned officer of the police must specify under subsection (1) must be the residence at which the person is detained or is required to remain, unless the commissioned officer of the police is of the view that it is necessary for the person to give the sample at another place on account of the person’s state of health.”

Section 46A: repeal and substitute:

“46A Person detained or required to remain at residence to attend to give bodily sample

“(1) An agreement reached, under section 24A(4)(b) or section 39A(3)(b)(ii), between a person serving a sentence of imprisonment by way of home detention or a sentence of home detention imposed under section 80A of the Sentencing Act 2002, or on parole subject to residential restrictions imposed under section 15 of the Parole Act 2002, and a member of the police to vary the date on which a bodily sample is to be taken, pursuant to a compulsion order or databank compulsion notice, is of no effect unless it has been approved by the probation officer supervising that person.

**Criminal Investigations (Bodily Samples) Act 1995
(1995 No 55)—continued**

- “(2) Subsection (3) applies if—
- “(a) a condition is included in a suspect compulsion order or juvenile compulsion order under section 24A(5); or
 - “(b) a statement is included in a databank compulsion notice under section 39A(4).
- “(3) If this subsection applies,—
- “(a) the police must, as soon as practicable, give the Department of Corrections notice of the need for the person to leave the place where he or she is detained or required to remain for the purposes of having a bodily sample taken pursuant to a compulsion order or databank compulsion notice; and
 - “(b) section 46(5) and (6) applies with all necessary modifications.”

Criminal Records (Clean Slate) Act 2004 (2004 No 36)

Definition of **non-custodial sentence** in section 4: insert “a sentence of home detention,” after “a community-based sentence,”.

Extradition Act 1999 (1999 No 55)

Section 2(4): insert after paragraph (b):

- “(ba) subject to a sentence of home detention imposed under section 80A of the Sentencing Act 2002; or”.

Fire Service Act 1975 (1975 No 42)

Section 21A(1)(h): omit “(not being persons subject to home detention)” and substitute “(not being persons serving a sentence of home detention, or community detention, or serving a sentence of imprisonment on home detention, or on parole subject to residential restrictions imposed under section 15 of the Parole Act 2002)”.

International Crimes and International Criminal Court Act 2000 (2000 No 26)

Section 4(2): insert after paragraph (b):

- “(ba) subject to a sentence of home detention imposed under section 80A of the Sentencing Act 2002; or”.

International War Crimes Tribunals Act 1995 (1995 No 27)

Section 31(1)(b): insert after subparagraph (ii):

International War Crimes Tribunals Act 1995 (1995 No 27)—*continued*

“(iia) subject to a sentence of home detention imposed under section 80A of the Sentencing Act 2002; or”.

Land Transport Act 1998 (1998 No 110)

Section 94(3A): insert “or intensive supervision” after “supervision”.

Mutual Assistance in Criminal Matters Act 1992 (1992 No 86)

Section 38(1): insert after paragraph (b):

“(ba) subject to a sentence of home detention imposed under section 80A of the Sentencing Act 2002; or”.

Passports Act 1992 (1992 No 92)

Section 4(3)(b)(ii): insert “, or a sentence of home detention under subpart 2A of Part 2 of the Sentencing Act 2002,” after “subpart 2 of Part 2 of the Sentencing Act 2002”.

Section 27A(2)(d): add:

“(iv) subject to a sentence of home detention under the Sentencing Act 2002”.

Prisoners’ and Victims’ Claims Act 2005 (2005 No 74)

Definition of **home detention** in section 4: repeal.

Definition of **person under control or supervision** in section 4: repeal and substitute:

“**person under control or supervision** means—

“(a) a prisoner:

“(b) a person who is subject to a community-based sentence:

“(c) a person who is subject to a sentence of home detention imposed under section 80A of the Sentencing Act 2002:

“(d) a person who is serving a sentence of imprisonment on home detention as defined in section 4(1) of the Sentencing Act 2002 (prior to the commencement of section 72 of the Parole Amendment Act 2007); but also includes home detention as defined in section 2(1) of the Criminal Justice Act 1985:

“(e) a person who is subject to conditions—

“(i) under the Parole Act 2002 (including, without limitation, conditions applying to a person who is subject to an extended supervision order under section 107I of that Act); or

Prisoners' and Victims' Claims Act 2005 (2005 No 74)—*continued*

- “(ii) under section 80N or 93 of the Sentencing Act 2002; or
- “(iii) of a similar kind under earlier corresponding enactments:
- “(f) a person who is arrested and detained under the Armed Forces Discipline Act 1971 pending release or trial:
- “(g) a service detainee or a service prisoner”.

Privacy Act 1993 (1993 No 28)

Item relating to community-based sentences and conditions of release under the heading Department of Corrections Records in Schedule 5: omit “supervision or community work” and substitute “supervision, intensive supervision, community work, community detention, or home detention”.

Item relating to community-based sentences and conditions of release under the heading Department of Corrections Records in Schedule 5: insert “, sentences of home detention,” after “Community-based sentences”.

Paragraph (a) of the item relating to Protection orders under the heading Police Records in Schedule 5: insert “or subject to conditions imposed under section 93 of the Sentencing Act 2002” after “on parole”.

Paragraph (b) of the item relating to Protection orders under the heading Police Records in Schedule 5: repeal and substitute:

- “(b) a sentence of periodic detention, supervision, intensive supervision, community service, community programme, community work, or community detention; or”.

Paragraph (c) of the item relating to Protection orders under the heading Police Records in Schedule 5: omit “order.” and substitute “order; or”.

Item relating to Protection orders under the heading Police Records in Schedule 5: add:

- “(d) a sentence of home detention (including while subject to post-detention conditions).”

Item relating to Protection orders under the heading Police Records in Schedule 5: insert “and any post-sentence conditions” after “the offender’s sentence”.

Paragraph (a) of the item relating to Restraining orders under the heading Police Records in Schedule 5: to insert “or subject to

Privacy Act 1993 (1993 No 28)—*continued*

conditions imposed under section 93 of the Sentencing Act 2002” after “on parole”.

Paragraph (b) of the item relating to Restraining orders under the heading Police Records in Schedule 5: repeal and substitute:

“(b) a sentence of periodic detention, supervision, intensive supervision, community service, community programme, community work, or community detention; or”.

Item relating to Restraining orders under the heading Police Records in Schedule 5: add:

“(d) a sentence of home detention (including while subject to post-detention conditions).”

Item relating to Restraining orders under the heading Police Records in Schedule 5: to insert “and any post-sentence conditions” after “the offender’s sentence”.

Social Security Act 1964 (1964 No 136)

Section 27B(1)(e)(ii): repeal and substitute:

“(ii) subject to release conditions (as that term is defined in section 4(1) of the Parole Act 2002) that prevent him or her undertaking employment:”.

Section 27B(1)(e): add:

“(iii) serving the sentence on home detention, subject to detention conditions that prevent him or her undertaking employment:”.

Section 27B(1): insert the following paragraph after paragraph (e):

“(ea) a woman who is the mother of 1 or more dependent children and who has lost the regular support of her spouse or partner because he or she is subject to a sentence of supervision, intensive supervision, or home detention and is subject to conditions (including post-detention conditions of a sentence of home detention) that prevent him or her from undertaking employment:”.

Summary Proceedings Act 1957 (1957 No 87)

Section 9C(2): insert after paragraph (i):

“(ia) impose under section 54B of that Act, a sentence of intensive supervision on the offender:

Summary Proceedings Act 1957 (1957 No 87)—continued

“(ib) impose under section 69B of that Act a sentence of community detention on the offender:”.

Section 88(3): insert after paragraph (b):

“(ba) subject to sections 80A to 80ZM of the Sentencing Act 2002 and section 106E of this Act, sentence the defendant to a sentence of home detention; or

“(bb) subject to sections 69B to 69M and sections 70 to 80 of the Sentencing Act 2002 and section 106E of this Act, sentence the defendant to a sentence of community detention; or”.

Section 88: insert after subsection (3AAA):

“(3AAB) No Community Magistrate may sentence a defendant to a sentence of home detention under subsection (3)(ba); but in any case where a Community Magistrate considers such a sentence to be appropriate, the Community Magistrate must refer the matter to a District Court Judge, in which case sections 45 to 59, so far as they are applicable and with the necessary modifications, apply.”

Section 88(3AA): insert “or sentence of home detention” after “period of imprisonment”.

Section 88(5): insert “, community detention, or home detention” after “community work”.

Section 89(2): insert “, community detention, or home detention” after “community work”.

Section 91(3): insert “, community detention, or home detention” after “community work”.

Heading to section 106E: omit and substitute “**Restrictions on alternative sentences**”.

Section 106E(1)(c): insert “a sentence of community detention or home detention, or” after “, other than”.

Section 106E: insert after subsection (1):

“(1A) A District Court Judge or Community Magistrate must not sentence a defendant to a sentence of community detention under this Part for non-payment of a fine unless—

“(a) a statement of means has been completed by the defendant; and

“(b) the Judge or Community Magistrate has considered the statement of means; and

Summary Proceedings Act 1957 (1957 No 87)—continued

- “(c) the Judge or Community Magistrate is satisfied that all other methods of enforcing the fine, other than a sentence of home detention or the issue of a warrant of commitment, have been considered or tried and that they are inappropriate or unsuccessful; and
 - “(d) a pre-sentence report has been provided in accordance with section 26A of the Sentencing Act 2002; and
 - “(e) the Judge or Community Magistrate is satisfied of the matters in section 69C of the Sentencing Act 2002.
- “(1B) A District Court Judge must not sentence a defendant to a sentence of home detention under this Part for non-payment of a fine unless—
- “(a) a statement of means has been completed by the defendant within the immediately preceding 14 days; and
 - “(b) the defendant is before a District Court Judge; and
 - “(c) the defendant’s last completed statement of means has been considered by the District Court Judge; and
 - “(d) a pre-sentence report has been provided in accordance with section 26A of the Sentencing Act 2002; and
 - “(e) the Judge is satisfied of the matters in section 80A(2)(a) of the Sentencing Act 2002; and
 - “(f) the Judge is satisfied that all other methods of enforcing the fine, other than the issue of a warrant of commitment, have been considered or tried and that they are inappropriate or unsuccessful; and
 - “(g) the Judge is satisfied that the defendant has the means to pay the fine.”

Section 106E(3): insert “imposes a sentence of home detention or” after “Before a District Court Judge”.

Section 106E(7): omit “subsection (1) or subsection (2)” and substitute “subsections (1), (1A), (1B), or (2)”.

Section 124(3): insert “intensive supervision, community detention, or home detention,” after “supervision,”.

Section 137(1)(a): omit “supervision or community work” and substitute “supervision, intensive supervision, community work, community detention, or home detention”.

Section 137(2)(a): omit “supervision or community work” and substitute “supervision, intensive supervision, community work, community detention, or home detention”.

Summary Proceedings Act 1957 (1957 No 87)—*continued*

Section 137(3)(a): omit “supervision or community work” and substitute “supervision, intensive supervision, community work, community detention, or home detention”.

Victims’ Rights Act 2002 (2002 No 39)

Section 47: omit “47(1) to (3)” and substitute “48A, 48B”.

Legislative history

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

This Act is administered by the Ministry of Justice and the Department of Corrections.
