

Criminal Justice (Parole Offenders) Amendment Bill

Member's Bill

Explanatory note

*“parole” the release of a prisoner temporarily for a special purpose or completely before the expiry of a sentence **on the promise of good behaviour** (Shorter Oxford).*

This bill restores honesty to the law's descriptions of the early release of prisoners from their sentences. It strengthens the provisions for dealing with offences committed by parolees released from prison on trust. Offences by parolees are a breach of that trust society has placed in them. Failing to deter and punish parole offences says to the criminals, their families and their victims, that New Zealand is not serious about crime and punishment. This bill will change the law to tell criminals and New Zealanders that Parliament is determined to prevent, deter and protect from crime, and that our law means what it says.

The parole period is meant to provide a supervised period of reintegration into the community. The expectation is that the incentive to be law-abiding (otherwise being recalled to complete the sentence) helps establish a pattern for the future after the supervision expires. The current parole system has not come close to achieving this. Offences are routinely committed by parolees, and their conviction rates are very high. The public have sent a clear message to Parliament that they want a firmer line taken on crime, with the referendum response of over 90% in favour of tougher sentencing.

Under this bill:

- recall to finish sentences will apply to all those convicted of offences liable to a maximum term of imprisonment of greater than three months, while on parole:

- any sentences arising from such convictions must be served cumulatively rather than concurrently:
- being on parole while offending will be an aggravating factor in sentencing. This should reflect the contempt for the law shown by breaching parole:
- offending while on home-detention will attract the same consequences, to help ensure that it is not seen as a spurious punishment.

Anticipated changes to bail law will keep more prisoners in custody pending trial. They are advocated as measures to protect the public where there is statistical prediction of a high likelihood of further violent offending before the trial. Comparable figures for parolee offences are not available, but it is likely that parole offending is even more statistically predictable. Denying further parole and automatic early release to criminals who have breached parole (or bail) should protect more potential victims.

The extension of time in custody for people who have previously breached parole will apply resources more efficiently than at present, on the 80:20 principle. It is known that a small proportion of the criminal population commits most of the serious crime. This bill will be a mechanism for targeting many in that population for full sentences, which is not possible for judges to do at present.

Clause 4 inserts a new part 6A into the Criminal Justice Act 1985, which deals with punishment of offences while on parole. Measures include provisions for automatic recall for serious offending while on parole, requirement for serving sentences cumulatively rather than concurrently, and direction to judges to consider offending on parole as an aggravating factor when sentencing. The early release provisions of section 90 will not apply to sentences for offending while on parole, meaning there is no automatic early release.

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Criminal Justice (Parole Offenders) Amendment Act **2000**.
 - (2) In this Act, the Criminal Justice Act 1985¹ is called "the principal Act".
- ¹ 1985, No 120

2 Commencement

This Act comes into force 6 months after the date on which it receives the Royal assent. 10

3 Purpose

The purpose of this Act is to reassert the trust basis of parole, by—

- (a) strengthening the penalties for offences on parole; and
- (b) providing for automatic recall to finish sentences; and 15

- (c) requiring sentences for parole offences to be served cumulatively; and
- (d) treating offending on parole as an aggravating factor in sentencing.

4 **New heading and Part 6A inserted** 5

The principal Act is amended by inserting, after Part VI, the following Part:

“Part 6A

“Punishment of offences committed on parole

“107O Interpretation 10

In this Part, unless the context otherwise requires,—

“**on parole** means the status of an offender after release, before the expiry of a determinate sentence, or during an indeterminate sentence, under any of sections 89 (Discretionary early release), 90 (Automatic early release), 103 (Home detention), or 103A (Pre-parole home detention), until the expiry of the parole period, including any release to home detention or any other form of non-custodial punishment during the parole period 15

“**parole period** means the period beginning with a prisoner’s release from prison and ending on the date on which the sentence given by the sentencing Court would have expired if the offender had not been released. 20

“107P Automatic recall

“(1) An offender who is convicted of an offence punishable by more than 3 months’ imprisonment, committed while the offender is on parole, must be recalled immediately to serve the unexpired balance of the relevant parole period in prison without further eligibility for parole on the sentence from which the parole had been granted. 25 30

“(2) For the purposes of this section, the unexpired balance of a parole period means the number of days from the date of the offence committed while on parole to the end of the parole period.

- “107Q Cumulative penalties for offending on parole**
Sentences for offences committed while on parole must not be served concurrently with any sentences for earlier offences, or concurrently with the parole recall period of imprisonment.
- “107R No reduction in new sentence for remaining sentence on recall** 5
Sentences for offences committed while on parole must not be reduced to take into account the parole recall period of imprisonment.
- “107S Offences on parole deemed aggravated** 10
When sentencing an offender for offences committed while on parole, the Judge must take into account, as a serious aggravation of the wrongdoing represented by those offences,—
“**(a)** the breach by the offender of the trust expressed by the community in releasing the offender on parole; and 15
“**(b)** the contempt for the law shown by the offender in committing offences while on parole.
- “107T No automatic early release**
Nothing in section 90 applies to any sentence for any offence, punishable by imprisonment, committed while on parole. 20
- “107U Previous parole recalls**
Every offender who commits an offence punishable by more than 3 months’ imprisonment, while on parole, must be recalled to serve any part of any earlier sentence of imprisonment not served by reason of release on parole under section 89 or early final release under section 90. 25
- “107V Information on parole**
Any person who enquires of the Department of Corrections about a person under this section must be informed if that person is on parole and, if so— 30
“**(a)** the end of the person’s parole period (and, if more than one, the latest date of expiry); and
“**(b)** the offences for which the person was sentenced on the sentences from which the parole is granted. 35

“107W Statistical data

- “(1) The Minister must ensure that the following information is collected, held, and published at least annually concerning the operation of the parole, early release, and home detention systems: 5
- “(a) the number of persons on parole; and
 - “(b) the classes of sentences from which they are paroled; and
 - “(c) the numbers of arrests of people on parole; and
 - “(d) the classes of offence for which they are arrested; and 10
 - “(e) the numbers of convictions for offences while on parole; and
 - “(f) the classes of offences for which such convictions are obtained; and
 - “(g) the costs of detecting and securing arrest and conviction of parolees convicted of offences on parole; and 15
 - “(h) the costs to victims of offences committed on parole; and
 - “(i) the average effective prison sentences (excluding periods on parole) by classes of offence, identifying separately sentences served cumulatively. 20
- “(2) The information may be published by way of summary, provided that it is in a form reasonably usable by those who may be expected to have an informed interest in the conclusions that can be drawn from the data. For example, any summary must enable calculation of the expected punishment costs of an individual conviction typical of the offence classes reported upon. 25

“107X Relationship to other recall provisions

- “(1) This Part applies despite anything to the contrary elsewhere in this Act. 30
- “(2) The provisions of subsections (7) and (8) of section 107L apply when a parolee becomes subject to recall under this Part as if the Parole Board had ordered the recall.”