

Parole Amendment Bill

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the Law Reform (Epidemic Preparedness) Bill as reported from the Government Administration Committee. The committee of the whole House has further amended the Bill and divided it into the following Bills:

- The Epidemic Preparedness Bill, comprising Part 1
- The Health Amendment Bill, comprising clauses 16 to 24A and the Schedule
- The Immigration Amendment Bill (No 2), comprising clauses 27 to 30
- This Bill, comprising clauses 33 to 38
- The Sentencing Amendment Bill (No 2), comprising clauses 41 to 44
- The Social Security Amendment Bill (No 2), comprising clauses 45 to 48
- The Summary Proceedings Amendment Bill (No 2), comprising clauses 51 and 52.

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon Pete Hodgson

Parole Amendment Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Parole Amendment Act **2006**.

2 Commencement

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

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- 33 Principal Act amended**
Sections 34 to 38 amend the Parole Act 2002.
- 34 Interpretation**
 Section 4(1) is amended by inserting the following definition after the definition of **determinate sentence**: 5
 “**epidemic management notice** means a notice under **section (5(1)) 6(1) of the Law Reform (Epidemic Preparedness) Act 2006** ((or a notice under **section 6(2)** of that Act that is ancillary to such a notice)) stating that the application of this Act is modified in order to deal with the practical (*consequences*) effects of the outbreak of the (*infectious*) disease referred to in the notice”. 10
- 35 New section 13A inserted**
 The following section is inserted after section 13:
- “13A Procedure of Board during epidemic**
- “(1) While an epidemic management notice is in force, any decision or action that may or must be made or taken by the Board under this Act may, if the chairperson or a panel convenor is satisfied that it is desirable,— 15
- “(a) be made or taken by the Board on the basis of documents only, without the presence or submission of any person who would otherwise have the right to be present or make a submission; or 20
- “(b) be made or taken by the chairperson or the panel convenor, acting alone, either—
- “(i) in the usual way; or 25
- “(ii) on the basis of documents only, without the presence or submission of any person who would otherwise have the right to be present or make a submission.
- “(2) **Subsection (1)** overrides every provision of this Act to the contrary. 30
- “(3) The taking of a decision in accordance with **subsection (1)** is not an unattended hearing; and the provisions of this Act relating to unattended hearings (or to decisions on whether a hearing will be unattended or attended) do not apply to it. 35
- “(4) If the notice applies to only stated parts of New Zealand, **subsections (1) to (3)** apply within those parts only.”

36 New section 27A inserted

The following section is inserted after section 27:

“27A Consideration of offenders for parole during epidemic

- “(1) This subsection applies to a requirement in any of sections 21 to 27 for the Board to consider an offender for parole that (but for this section) would have the effect of requiring the Board to consider an offender for parole—
- “(a) while an epidemic management notice is in force; or
- “(b) after an epidemic management notice has expired, but while (in the Board’s opinion) there remains as *(a consequence)* an effect of the outbreak of the *(infectious)* disease referred to in the notice a backlog of offenders who, by virtue of one of those requirements, should have been considered for parole before the offender.
- “(2) It is a sufficient compliance with a requirement to which **subsection (1)** applies if the Board considers the offender concerned for parole as soon after he or she should have been considered as is reasonably practicable in the circumstances.
- “(3) The circumstances include—
- “(a) the number of appropriately qualified employees of the chief executive available to produce reports for the Board:
- “(b) the number of appropriately qualified employees of the chief executive available to participate in hearings of the Board:
- “(c) the number of Board members available to conduct hearings:
- “(d) the number of offenders who have not yet been considered for parole as required by any of sections 21 to 27:
- New (unanimous)**
- “(e) the number and seriousness of the other matters pending before the Board.
- “(4) In deciding the order in which it should consider for parole offenders who, by virtue of **subsection (2)**, may be considered for parole as soon after they should have been considered as is reasonably practicable in the circumstances, the Board—

- “(a) must first consider how much time has passed since each of them should have been considered; but
- “(b) may then consider them for parole in any order it thinks appropriate.
- “(5) If the notice applies to only stated parts of New Zealand, **subsections (1) to (4)** apply within those parts only.” 5

- 37 New section 40A inserted**
- The following section is inserted after section 40:
- “40A Applications for home detention during epidemic**
- “(1) This subsection applies to an application for home detention if section 33(4) has the effect of requiring the Board to consider it— 10
 - “(a) while an epidemic management notice is in force; or
 - “(b) after an epidemic management notice has expired, but while (in the Board’s opinion) there remains as *(a consequence)* an effect of the outbreak of the *(infectious)* disease referred to in the notice a backlog of offenders whose applications for home detention should, by virtue of section 33(4), have been considered before it. 15
- “(2) In relation to an application for home detention to which **subsection (1)** applies, it is a sufficient compliance with section 33(4) if the Board considers it as soon after it should have been considered as is reasonably practicable in the circumstances. 20
- “(3) The circumstances include— 25
 - “(a) the number of appropriately qualified employees of the chief executive available to produce reports for the Board;
 - “(b) the number of appropriately qualified employees of the chief executive available to participate in hearings of the Board: 30
 - “(c) the number of Board members available to conduct hearings:
 - “(d) the number of applications for home detention that have not yet been considered: 35

New (unanimous)

“(e) the number and seriousness of the other matters pending before the Board.

- “(4) In deciding the order in which it should consider applications for home detention that, by virtue of **subsection (2)**, may be considered as soon after they should have been considered as is reasonably practicable in the circumstances, the Board—
 - “(a) must first consider how much time has passed since each of them should have been considered; but
 - “(b) may then consider them in any order it thinks appropriate.
- “(5) If the notice applies to only stated parts of New Zealand, **subsections (1) to (4)** apply within those parts only.”

38 New section 56A inserted

The following section is inserted after section 56:

- “**56A Application of section 56 during epidemic**

While an epidemic management notice is in force, a probation officer who has made an application to the Board under section 56(2) for the variation of a release condition or detention condition imposed by the Board may himself or herself vary the condition; and the variation has effect until the application has been heard and disposed of.”

New (unanimous)

38A New section 65A inserted

The following section is inserted after section 65:

- “**65A Application of section 65 during epidemic**
 - “(1) This subsection applies to a recall application if, but for this section, section 65(1) or (2) would have the effect of requiring the Board to determine it—
 - “(a) while an epidemic management notice is in force; or
 - “(b) after an epidemic management notice has expired, but while (in the Board’s opinion) there remains as an effect of the outbreak of the disease referred to in the notice a

New (unanimous)

backlog of offenders in respect of whom a recall application should, by virtue of section 65(1) or (2), have been considered before it.

- “(2) In relation to an application for a recall application to which **subsection (1)** applies, it is a sufficient compliance with section 65(1) or (2) (as the case requires) if the Board considers it as soon after it should have been considered as is reasonably practicable in the circumstances. 5
- “(3) This subsection applies to the hearing of a recall application if the Board wishes to adjourn it, without the offender’s consent,— 10
- “(a) while an epidemic management notice is in force; or
- “(b) after an epidemic management notice has expired, but while (in the Board’s opinion) there remains as an effect of the outbreak of the disease referred to in the notice a backlog of matters pending before the Board. 15
- “(4) The Board may, without the offender’s consent, adjourn the hearing of a recall application to which **subsection (3)** applies for any period (not exceeding 21 days) it thinks appropriate in the circumstances. 20
- “(5) The circumstances referred to in **subsections (2) and (4)** include—
- “(a) the number of appropriately qualified employees of the chief executive available to provide administrative support to the Board: 25
- “(b) the number of appropriately qualified employees of the chief executive available to produce reports for and participate in hearings of the Board:
- “(c) the number of Board members available to conduct hearings: 30
- “(d) the number and nature of the other matters pending before the Board.
- “(6) The Board may decide the order in which it should consider recall applications that, by virtue of **subsection (2)**, may be considered as soon after they should have been considered as is reasonably practicable in the circumstances in any order it thinks appropriate. 35

New (unanimous)

“(7) If the notice applies to only stated parts of New Zealand, **subsections (1) to (6)** apply within those parts only.”

38B New section 107GA inserted

The following section is inserted after section 107G:

“107GA Application of section 107G during epidemic 5

“(1) This subsection applies to the hearing of an application for an extended supervision order relating to an offender who has been remanded in custody following arrest under a warrant issued under section 107G(3) if the Court wishes to adjourn it—

“(a) while an epidemic management notice is in force; or

“(b) after an epidemic management notice has expired, but while (in the Court’s opinion) there remains as an effect of the outbreak of the disease referred to in the notice a backlog of matters pending before the Court.

“(2) The Court may, without the offender’s consent, adjourn the hearing of an application for an extended supervision order to which **subsection (1)** applies for any period (not exceeding 21 days) it thinks appropriate in the circumstances.”

Struck out (unanimous)*Resource Management Act 1991* 20**39 Principal Act amended**

Section 40 amends the Resource Management Act 1991.

40 New section 330C inserted

The following section is inserted after section 330B of the Resource Management Act 1991: 25

“330C Actions taken without resource consent during epidemic

“(1) In this section,—

“**application period**, in relation to an epidemic emergency action, means a period, commencing on the day the action began, that is the sum of 3 months and any periods by which it has been extended under **subsection (5)** 30

Struck out (unanimous)

- “**epidemic emergency action** means an action, taken while an epidemic notice is in force,—
- “(a) that is taken, by or on behalf of a person acting under any of **sections 70 to section 71A** of the Health Act 1956—
- “(i) to remove or otherwise deal with the cause of an infectious disease; or
- “(ii) to mitigate any actual or adverse effect of an infectious disease; and
- “(b) whose taking would, but for **subsection (2)**, be a contravention of section 9, section 12, section 13, section 14, or section 15
- “**epidemic notice** means a notice under **section 5(1) of the Law Reform (Epidemic Preparedness) Act 2006** (or a notice under **section 6(2)** of that Act that is ancillary to such a notice) stating that the application of this Act is modified in order to deal with the practical consequences of the outbreak of the infectious disease referred to in the notice.
- “(2) This Act applies to the taking of an epidemic emergency action as if it were expressly allowed by a resource consent.
- “(3) The person by or on whose behalf an epidemic emergency action was taken must, within 5 working days after it began, advise the appropriate consent authority that it has been taken.
- “(4) If the adverse effects of an epidemic emergency action continue, the person by or on whose behalf it was taken must within the application period apply in writing to the appropriate consent authority for any resource consents that (but for **subsection (2)**) would have been required for its taking; and—
- “(a) if he or she does so, the action may continue until the application for the consents and any appeals have been finally determined; but
- “(b) if he or she does not, the action may continue only until the end of the application period.
- “(5) Before the application period for an epidemic emergency action expires, the Minister may, by written notice to the person by whom or on whose behalf the action was taken, extend that period by periods that do not exceed 21 months in total.

Struck out (unanimous)

- “(6) If, after the time until which **subsection (4)** allows an emergency action to continue, the person by or on whose behalf it was taken does not hold all resource consents that (but for **subsection (2)**) would have been required for its taking, this Act then applies to it as if it had not been expressly allowed by a resource consent. 5
- “(7) **Subsection (6)**—
 “(a) overrides **subsection (2)**; but
 “(b) is subject to **subsection (8)**.
- “(8) A person does not commit an offence against section 338(1)(a) by taking an epidemic emergency action.” 10

Legislative history

6 December 2006

Divided from Law Reform (Epidemic Preparedness)
 Bill (Bill 39–2) as Bill 39–3D