



MINISTRY OF
JUSTICE
Tabū o te Ture

Home Detention

A review of the sentence of home
detention 2007–2011

New Zealand Government

Published by the Ministry of Justice in October 2011.

2011 © Crown Copyright

ISBN 978-0-478-32408-2 (print)

Ministry of Justice

The Vogel Centre, 19 Aitken Street

DX SX10088 Wellington

T: 04 918 8800

F: 04 918 8820

E: info@justice.govt.nz

W: www.justice.govt.nz

Table of Contents

Introduction	2
The Government's Home Detention Review	2
Sentencing of offenders	2
Home detention	3
Background of the sentence of home detention	4
Operation of the sentence of home detention	7
Pre-sentence reports	7
Electronic monitoring equipment	7
Authorised absences	8
Failure to comply with the sentence	9
Cost compared to imprisonment and other non-custodial sentences	9
Home detention in practice 2007–2011	10
Number of offenders on home detention	10
Types of offences resulting in a home detention sentence	11
The use of home detention compared to a short-term sentence of imprisonment	13
Successful completion of home detention sentences	16
Offences committed while serving a sentence of home detention	18
Reoffending by home detainees	20
Offenders sentenced to home detention for very serious offences	22
Summary and Discussion	26
Sentencing	26
Offenders sentenced to home detention	26
Violent, sex and drug offences	27
Short term risk to public safety	28
Long term risk to public safety	28
Conclusion	29
Appendix 1: Notes on Statistics	30
Appendix 2: Sentencing Act 2002 Subpart 2A – Home detention	31

Introduction

The Government's Home Detention Review

Public safety is a primary focus of the criminal justice system, with New Zealand Police, the Department of Corrections and the Ministry of Justice all working to ensure safe communities through crime prevention, an efficient response to criminal behaviour, ensuring that sentences imposed by the courts are completed and offenders are held to account, and helping victims of crime.

The sentence of home detention was introduced in November 2007. The Sentencing Act 2002 provides that home detention is the second most restrictive sentence – after imprisonment – available to the courts. A sentence of home detention requires an offender to remain at an approved residence under electronic monitoring. This sentence may only be imposed where the court would otherwise have imposed a short-term sentence of imprisonment, which is defined in the Act as a sentence of two years or less.

The Government's Home Detention Review is intended to give effect to the National Party's commitment at the time of the 2008 general election to "reassess the appropriateness of home detention for violent, sex and drug offenders".

Under the current law, a sentence of home detention may be imposed for any offence where the maximum penalty is imprisonment or home detention. In practice, it is extremely unusual for this sentence to be imposed for the most serious offences – those which have maximum penalties of ten years imprisonment or more – but there has been a very small number of such cases.

Home detention costs about \$58 a day, which is much less expensive than a sentence of imprisonment, which costs about \$249 per day, although it is the most expensive of the non-custodial sentences.

Sentencing of offenders

The court has the discretion to impose a sentence of home detention in any case where the maximum penalty available for an offence is imprisonment or home detention. There are no legislative restrictions on the sentence that may be imposed for a specific offence or type of offence.

The judge decides on the sentence to be imposed after considering the characteristics of the offence and the offender in the particular case. The judge takes into account the full details of the offender's actions, including aggravating and mitigating factors, along with a victim impact statement (where provided), the submissions of counsel, the pre-sentence report, and anything else deemed to be relevant.

The judge must also take account of the principles and purposes of sentencing set out in the Sentencing Act 2002 and other sentences imposed on similar offenders for comparable offending so that, as far as possible, consistency in sentencing is maintained. The appeal process is a safeguard in the justice system that helps to ensure that penalties are appropriate. The Crown and offender have the option of appealing the sentence imposed by the court if they consider that the sentence is inadequate or excessive. If the appeal court is of the opinion that a different sentence should have been passed, it can quash the original sentence and substitute any other sentence warranted by law, whether more or less severe.

Home detention

The sentence of home detention contributes to public safety by restricting offenders' ability to commit further crime following conviction. But, equally important, the sentence of home detention improves public safety in the longer term as it has shown to be an effective sentence with lower rates of reoffending than a short-term sentence of imprisonment. A significant portion of crime is committed by people with previous criminal behaviour, so reducing the number of convicted offenders who re-offend can greatly improve public safety, stemming the flow of people re-entering the criminal justice system (in turn, saving taxpayers' money).

The introduction of the home detention sentence has been beneficial to the extent that it has added to the range of non-custodial penalties available to the courts. Home detention has several advantages over a short-term prison sentence in that offenders can retain employment and access rehabilitative programmes in the community, as well as allowing them to maintain family relationships. Home detention is also a very cost-effective sentence. The cost of administering a sentence of home detention is about one quarter of that of a term of imprisonment.

Balanced against these advantages, the fact that offenders remain in the community means that they may have greater opportunity to commit further offences than they would have had if they had been sentenced to a term of imprisonment. The Government's primary concern in the criminal justice area is that public safety is not compromised.

The approach adopted in the review is to assess the sentence of home detention with reference to the short-term and long-term risk posed to public safety by those sentenced to home detention. Short-term risk refers to the risk of offenders committing further offences while serving this sentence. Long-term risk refers to reoffending after the completion of the sentence, compared to a short-term sentence of imprisonment and the other more restrictive non-custodial sentences.

The review sets out the data regarding the types of offences for which a sentence of home detention has been imposed since its introduction in 2007, offences committed while offenders were on home detention, and reoffending levels compared to short-term sentences of imprisonment and more restrictive non-custodial sentences such as intensive supervision and community detention. The review also looks more closely at the very small number of cases where a sentence of home detention was imposed for very serious offences.

Background of the sentence of home detention

Home detention is a sentence that requires the offender to remain at the approved home detention residence at all times – exceptions are emergency situations or when an absence has been authorised by the probation officer for a specific reason – under electronic monitoring. The offender is also required to comply with a range of standard conditions and special conditions imposed by the court. Following the completion of the home detention sentence, most offenders are subject to post-detention conditions, which are the same as the conditions that apply to offenders released after a short-term sentence of imprisonment, for a specified period.

Home detention has both punitive and rehabilitative elements, and can be designed to address both rehabilitative and reintegrative needs. The sentence enables offenders to access substance abuse treatment and other programmes to address offending behaviour that may not be available to short-term sentence prisoners. A sentence of home detention can be imposed jointly with:

- a monetary penalty (fine or reparation), and/or
- a sentence of community work.

Under the Sentencing Act 2002, home detention is provided as an alternative sentence to a short term of imprisonment. Home detention is available as a penalty for any offence punishable by imprisonment and can consequently be imposed for violent, sex and drug offences. The seriousness of the actual offence, however, will always be at the low to moderate end of the scale as the court may only impose a sentence of home detention where it would otherwise sentence the offender to a short-term sentence of imprisonment (two years or less).

The Home Detention Pilot

The first legislative provision for home detention was in the Criminal Justice Amendment Act 1993 which provided the legal framework for a home detention pilot, which ran for two years from April 1995. The pilot programme allowed prisoners who were serving determinate sentences of more than one year for offences that were not classified as “serious violent offences” and were able to provide a suitable address in the Auckland area, to be released on home detention by the parole authority.¹ The pilot had the following objectives:

- to ease the transition of prisoners back into the community through a staged process of release, by providing support and control structures
- to ensure that offenders who would ordinarily be released on parole are not released on home detention, thereby ensuring the best use of resources and avoid net-widening.

The Ministry of Justice evaluation of the pilot found that home detention worked both for and against the reintegration of prisoners.² Home detention was seen as having a positive effect upon

¹ The term “parole authority” is used because prior to 2002, the Parole Board considered the cases of prisoners serving sentences of seven years or more while those serving shorter sentences were considered by a District Prisons Board.

² Church, A & Dunstan, S. Home Detention: The Evaluation of the Home Detention Pilot Programme, Ministry of Justice, Wellington (1997).

reintegration in a number of ways. Both detainees and their families reported the establishment of a more positive lifestyle which persisted beyond the period of home detention. In particular they reported a closer relationship with family, especially children and an increased motivation to seek and retain employment. The surveillance component was viewed as detrimental to reintegration due to the restrictions placed on normal life outside of the home.

The Expansion of Home Detention

The home detention regime was expanded and extended to the whole of the country in 1999, when the legislation was amended to provide for “front-end” and “back-end” home detention. Under front-end home detention, an offender was sentenced to a short term of imprisonment and given leave to apply to the parole authority to serve the sentence on home detention. Under back-end home detention, a long sentence prisoner could be released on home detention by the parole authority prior to normal parole eligibility. Prisoners convicted of offences classified as “serious violent offences” were not eligible to apply for back-end home detention.

The 1999 provisions were largely carried over to the Sentencing Act and the Parole Act of 2002. However, there were no restrictions regarding the types of offences for which prisoners on home detention had been sentenced, as the “serious violent offence” classification was abolished at this time.

Home Detention as a Sentence

Home detention became a sentence in its own right from 1 October 2007. This meant that the court sentenced an offender to a term of home detention rather than imposing a prison sentence and giving the offender leave to apply to the parole authority to serve all or part of the sentence on home detention. Amendments to the Sentencing Act established home detention as the second most restrictive sentence available to the court (after imprisonment). At the same time, back-end home detention was replaced by “residential restrictions” that can be imposed as parole conditions. Residential restrictions can only be imposed after the offender’s parole eligibility date.

Eligibility: The Sentencing Act provides that a sentence of home detention may be imposed for any offence punishable by imprisonment or home detention, where the court is satisfied that (a) the purpose or purposes for which sentence is being imposed cannot be achieved by any less restrictive sentence or combination of sentences; and (b) it would otherwise sentence the offender to a short-term sentence of imprisonment.³ A sentence of home detention can only be imposed on an offender who was under 17 at the time of the offence if the latter was a purely indictable offence.⁴

In addition, the court must be satisfied that (i) the proposed home detention residence is suitable; and (ii) the relevant occupants of the proposed home detention residence understand the conditions of home detention that will apply to the offender, consent to the offender serving the sentence in the residence in accordance with those conditions, and have been informed that they may withdraw their consent to the offender serving the sentence in the residence at any time. The court must also be satisfied that the offender has been made aware of and understands the conditions that will apply during home detention, and agrees to comply with them. In addition, the proposed home detention

³ Sentencing Act 2002, section 15A (1).

⁴ Sentencing Act, section 15B (1). Purely indictable offences are offences that must be tried by a jury, which include the most serious offences such as murder, manslaughter and sexual violation.

residence must be in an area where the Department of Corrections administers this sentence.⁵ The length of a sentence of home detention is determined by the court but it must not be for less than 14 days or more than 12 months.⁶

Home detention conditions: Where an offender is sentenced to home detention, they are subject to the standard detention conditions set out in the Sentencing Act and any special conditions that are imposed by the court. The standard conditions, which apply to all offenders sentenced to home detention, prohibit the offender from leaving the home detention residence except in specified circumstances. The standard conditions also place the offender under the supervision of a probation officer and require them to comply with any lawful direction by the probation officer, which may include a direction not to engage in specified employment or associate with specified persons. In addition, the standard conditions empower the probation officer to require the offender to take part in a rehabilitative and reintegrative needs assessment as directed by the probation officer.

Special conditions are geared to the circumstances of the individual offender. The court may impose special conditions if it is satisfied that there is a significant risk of further offending by the offender, standard conditions alone would not adequately reduce the risk, and the imposition of special conditions would reduce the likelihood of further offending through the rehabilitation and reintegration of the offender. Special conditions can involve any conditions:

- relating to the offender's finances or earnings that the court thinks fit
- requiring the offender to take prescription medication⁷
- relating to a programme
- requiring the offender to comply with the requirements of judicial monitoring
- any other conditions that the court thinks fit to reduce the likelihood of further offending by the offender.

Post-detention conditions: A term of post-detention conditions, which are similar to release conditions for those serving a short-term sentence of imprisonment, is optional for those sentenced to home detention for six months or less but compulsory for those receiving a sentence of more than six months. The court must set the term of the post-detention conditions, which include standard conditions and special conditions in a similar way to home detention conditions, and this must be no longer than 12 months and no shorter than six months. Post-detention conditions are not electronically monitored.

⁵ Home detention is not available in areas where it is not possible to provide the monitoring and supervision this sentence requires.

⁶ Sentencing Act, section 80A. The maximum term of 12 months equates to the period an offender sentenced to a term of two years imprisonment actually spends in custody.

⁷ An offender cannot be required to take prescription medication unless the offender (a) has been fully advised, by a person qualified to prescribe that medication, about the nature and likely intended effect of the medication and any known risks, and (b) consents to taking the prescribed medication.

Operation of the sentence of home detention

Pre-sentence reports

Before sentencing an offender to home detention, the court must consider a probation officer's report on the suitability of home detention in this particular case. As noted in the previous section, the offender and all relevant occupants (over 16 years of age) of the proposed address must agree to comply with the conditions of home detention. Their willingness and ability to comply are assessed by a probation officer prior to sentencing and reported to the court.

The information included in a full pre-sentence report provides the court with the information it needs to meet the statutory requirements for imposing a sentence of home detention.⁸ The pre-sentence report also includes recommendations concerning both the type and length of the sentence(s) to be imposed, as well as details of any recommended special conditions.

During the preparation of the pre-sentence report, the probation officer will have discussed with the offender the arrangements to be followed in the event that the offender is sentenced to home detention.

Electronic monitoring equipment

Offenders sentenced to home detention are monitored using industry standard electronic monitoring technology. This involves having a home monitoring unit (HMU) installed in the residence and an ankle bracelet, known as a personal identification device (PID), securely attached to the offender's ankle. The PID remains in place at all times, unless specific arrangements are made to temporarily remove it (for example, because the offender is admitted to hospital, or has to travel by plane).

The HMU communicates with the PID and transmits monitoring information to operators who are continuously monitoring the activity of offenders. This is usually transmitted via cellular/mobile technology, but satellite and landline communication can be used as an alternative communication method when mobile communication is unsuitable.

⁸ Under section 80A of the Sentencing Act, the court must be satisfied that the proposed home detention residence is suitable, that the occupants understand the conditions to which the offender will be subject and consent to the offender serving the sentence at that residence, and that the residence is in an area where the Department of Corrections operates the home detention scheme.

The company that monitors the offender is alerted immediately if they fail to comply with curfew requirements or tampers with the equipment. Any indication of non-compliance or tampering is taken seriously, investigated, and can quickly lead to the offender being arrested and charged with breaching the conditions of the sentence.

Before the sentencing hearing, a probation officer will have made provisional arrangements for the installation of the monitoring equipment at the proposed residence. All installations are scheduled to occur on the day of sentencing.

Authorised absences

The offender must remain at the approved home detention residence at all times, other than in emergency situations or when a probation officer has approved the offender's absence. A probation officer takes a number of factors into account when approving such absences, including the nature of the offender's convictions, compliance with their sentence, the risk of potential harm they present to the community and the maintenance of the integrity of the home detention sentence. If an absence is approved, the monitoring company is informed of the time the offender is allowed to leave the detention address and the time that they must return. If the offender does not return or leaves the detention address during their curfew, an alert is triggered and a response and investigative process commences (this may involve dispatching a guard to the address to confirm the situation and in the most serious cases the police will respond and can arrest the offender without warrant in accordance with section 80V of the Sentencing Act).

Absences are generally approved for meeting ongoing requirements of the offender's sentence and in some instances when it cannot be met by another occupant of the residence, such as:

- a. employment
- b. education
- c. rehabilitation programmes (for example, alcohol and drug counselling)
- d. reporting to the probation officer
- e. medical needs
- f. child care
- g. grocery shopping.

All absences from the home detention address must be monitored in some way. Compliance with the requirements of each individual absence will be monitored using one or more techniques such as:

- a. installation of a second HMU (for example, at an employment address)
- b. random drive by monitoring by a security officer who uses a hand held device to detect an offender's presence at the approved absence address
- c. random visits and/or telephone calls by the probation officer at the approved absence address
- d. verification provided by an approved sponsor (for example, an employer or programme provider)
- e. other monitoring evidence to corroborate that the offender has complied with the authorised absence.

Where an offender is also required to undertake community work, the community work supervisor is responsible for monitoring the whereabouts of the offender during their community work hours and to report any non-compliance to the supervising probation officer.

If the offender's circumstances change, they are required to advise their probation officer immediately. The probation officer will advise the offender of the appropriate course of action to take.

Failure to comply with the sentence

If an offender fails to comply with one or more requirements of their home detention sentence the probation officer will investigate the circumstance of the non-compliance and take the appropriate action.

Department of Corrections policy requires probation officers to take action with all instances of non-compliance. Such actions may include an internal sanction, laying a charge for breaching conditions (under s80S of the Sentencing Act) or applying to the court to vary or cancel the sentence (under s80F).

Where the probation officer makes an application to cancel the sentence of home detention because of non-compliance and substitute it with an alternative sentence, the recommended sentence is usually imprisonment as this is the only sentence higher than home detention in the sentence hierarchy.

Cost compared to imprisonment and other non-custodial sentences

Home detention is much less expensive than a term of imprisonment but it is the most expensive of the non-custodial sentences, partly because of the external expenses associated with electronic monitoring equipment.

The daily cost of administering a sentence of home detention compared to a sentence of imprisonment or one of the other non-custodial sentences is set out in Table 1. Although a sentence of home detention is more than three times as expensive to administer as the next most expensive non-custodial sentence, the cost of imprisoning an offender is more than four times as expensive as managing that offender on home detention.

Table 1. Cost of administering sentences per offender

Sentence	Daily cost* \$	Six month term \$
Home detention	58	10,486
Community detention	17	3,046
Intensive supervision	17	3,116
Supervision	12	2,243
Community work	7	1,242
Imprisonment	249	45,500

* Daily costs are rounded to nearest dollar

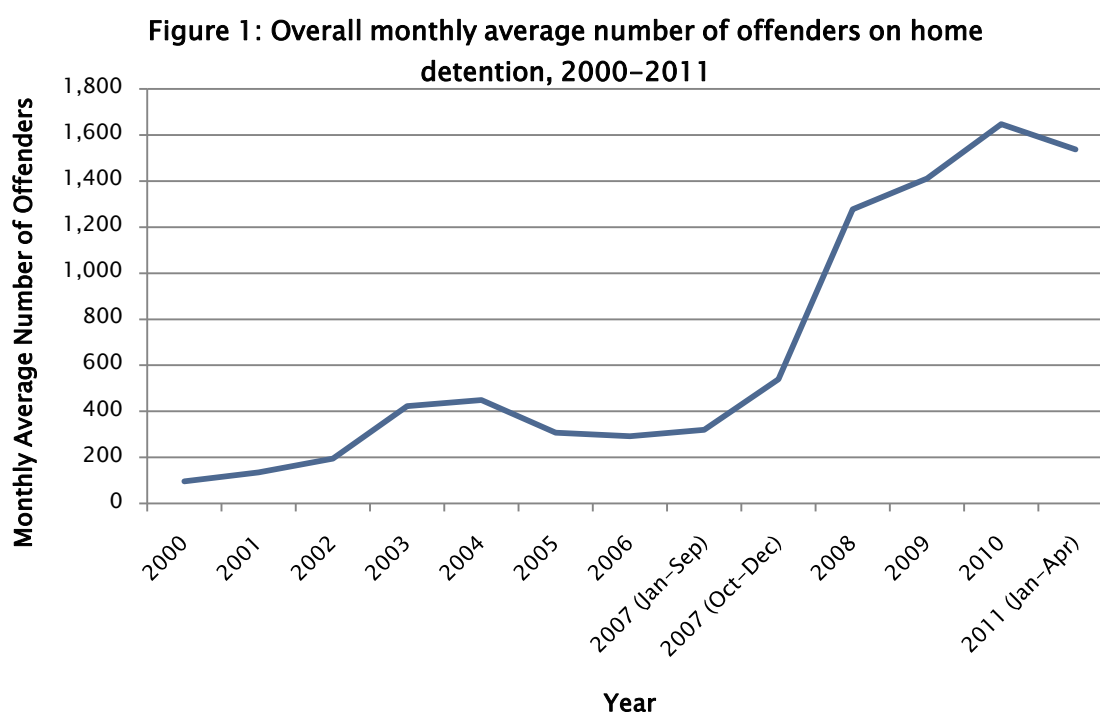
Home detention in practice

2007–2011

Number of offenders on home detention

The number of offenders on home detention under the original regime peaked at about 600 in late 2003. Of these, the majority were on front-end home detention – that is, they had been sentenced to a term of imprisonment of two years or less with leave to apply for home detention and the Parole Board had approved their placement on home detention. When the original regime ended in November 2007, there were about 400 offenders on home detention.

Following the introduction of the home detention sentence, there was a large increase in the number of offenders on home detention – from an average of 320 in January–September 2007 to 1,277 in 2008. This population increased slightly in subsequent years but seems to have stabilised around 1,500–1,600. See Figure 1.



Types of offences resulting in a home detention sentence

In this document, offences are categorised using the Australia and New Zealand Standard Offence Classification (ANZSOC) method, although violent and sexual offences have been separated for the purposes of this review. A brief outline of the offence categories and examples of the offences included in these categories are set out in the panel.

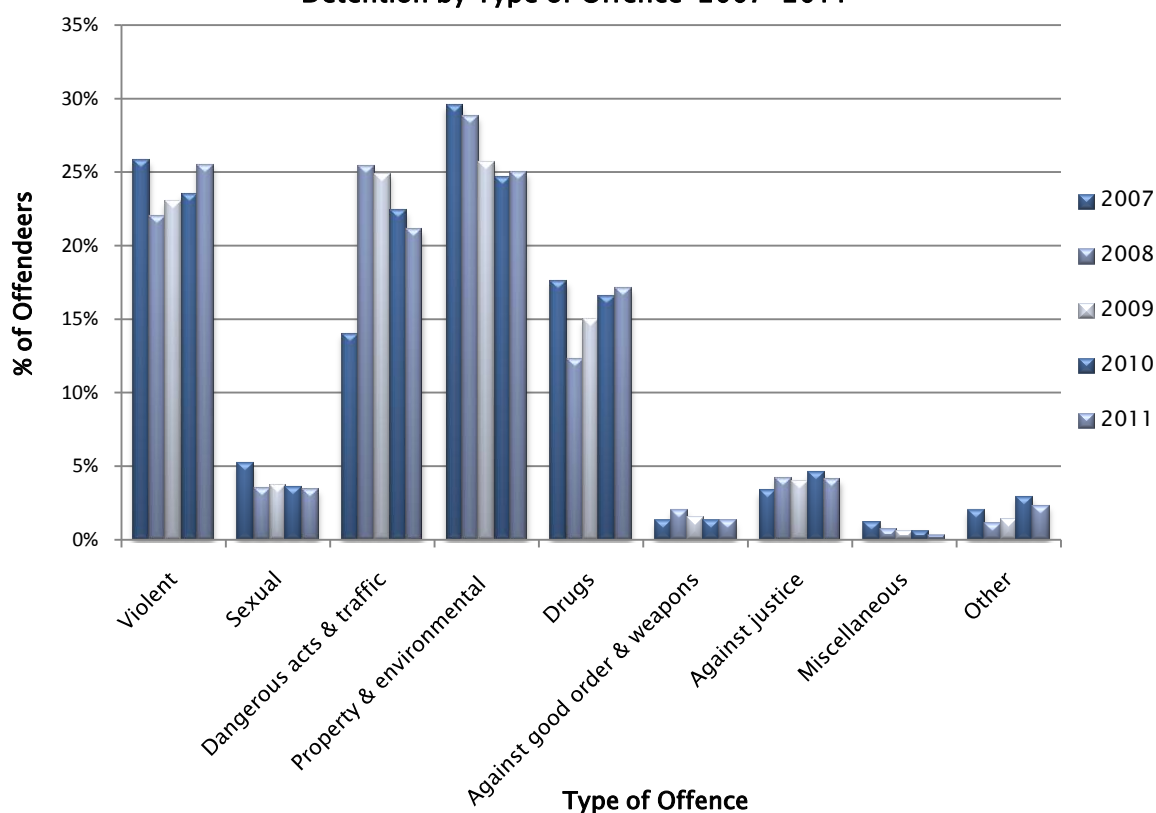
Offence categories
Violent offences: includes homicide and related offences; acts intended to cause injury; abduction, harassment and other related offences against a person; and robbery, extortion and related offences.
Sexual offences: includes sexual assault and related offences.
Dangerous acts and traffic offences: includes dangerous or negligent acts endangering persons (for example, failing to provide the necessities of life); and traffic and vehicle regulatory offences (for example, careless or dangerous driving, and driving while disqualified or drunk).
Property and environmental offences: includes unlawful entry with intent/burglary, break and enter; theft and related offences; fraud, deception and related offences; and property damage and environmental pollution.
Drug offences: includes all offences involving illicit drugs.
Offences against good order and weapons offences: includes prohibited and regulated weapons and explosives offences; and public order offences (for example, possessing an offensive weapon, disorderly behaviour, and trespassing).
Offences against justice: includes offences against justice procedures (for example, failure to comply with court orders and sentences, or obstructing the course of justice), government security and government operations.
Miscellaneous offences: offences that do not fit into any of the other categories, such as offences under the Arms Act 1983 or Dog Control Act 1996.

The profile by type of offence of offenders serving sentences of home detention has been relatively stable over the first three and a half years following the introduction of this sentence. The majority of offenders serving a home detention sentence over the period from November 2007 to April 2011 had been convicted of violent offences, dangerous acts and traffic offences, or property and environmental offences. These offences together accounted for approximately 70% of those serving home detention sentences. Drug offences accounted for a further 15% of those serving a sentence of home detention. See Figure 2.

Property and environmental offences, and dangerous acts and traffic offences are the only offence categories that appear to be decreasing over time. In 2007, 29.5% of offenders serving a home detention sentence had committed a property or environmental offence compared to 25.0% in 2010. Similarly, 25.4% of offenders serving sentence of home detention in 2008 had been convicted of a dangerous act or traffic offence compared to 21.1% in 2011.

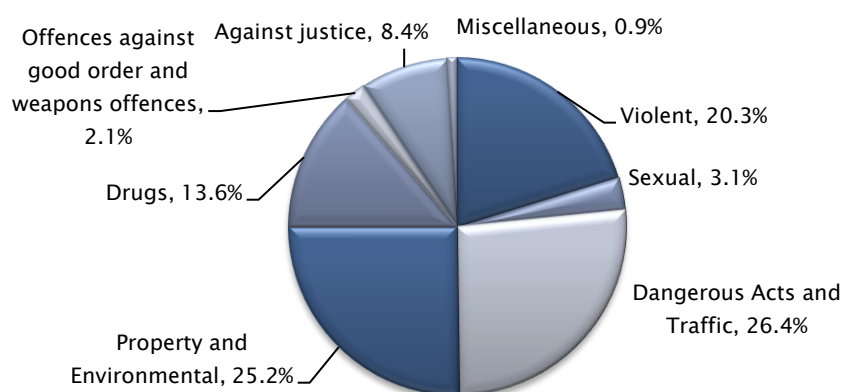
The data for 2007 and 2011 should be regarded as less reliable as it refers to incomplete years. If 2007 is excluded, the percentages of offenders convicted of violent offences and drug offences serving sentences of home detention appear to be increasing over the 2008–2011 period while those convicted of dangerous acts and traffic offences are decreasing over the same period.

Figure 2 : Percentage of Offenders Serving Sentence of Home Detention by Type of Offence 2007–2011



The offence profile is slightly different if one looks at sentences imposed rather than the number serving the sentence at any one time, which is due to the length of sentence imposed. In relation to home detention sentences imposed over the 2007–2010 period, the two largest groups were those convicted of dangerous acts and traffic offences (26.4%) and property and environmental offences (25.2%). Violent offences accounted for 20.3% of home detention sentences, with 13.6% of such sentences imposed for drug offences and 8.4% for against justice offences. Only 3.1% of home detention sentences were imposed for sexual offences. See Figure 3.

**Figure 3 : Home Detention Sentences Imposed by Type of Offence
2007–2010**



Additional information about cases where a sentence of home detention was imposed for violent, sexual and drug offences is set out below. In a very small proportion of cases – less than 2% – home detention was imposed for very serious offences. A later section of this review includes detailed information about these cases.

Violent Offences: Of those sentenced to home detention for violent offences between 2007 and 2010, the majority (72%) had been convicted of assault while 17% were convicted of aggravated robbery and 5%, threatening behaviour. There was a very small number of cases where a sentence of home detention was imposed for the very serious offences of attempted murder (one case) and manslaughter (four cases).

Sex offences: About 3% of home detention sentences between 2007 and 2010 were imposed for sexual offences. Over 80% of the offenders had been convicted of indecent assault (46%) and offences classified as “other sexual” (37%). The remaining cases involved more serious offences, including sexual violation by rape, sexual violation by unlawful sexual connection, and attempted sexual violation. The offenders convicted of serious sexual offences comprised about 16% of those convicted of sex offences and 0.5% of all offenders sentenced to home detention.

Drug offences: Of those convicted of drug offences, the majority (70%) had been convicted of dealing or trafficking in illicit drugs. A further 16% had been sentenced to home detention for cultivating illicit drugs, while 5% had been convicted of manufacturing and 2% of importing or exporting illicit drugs.

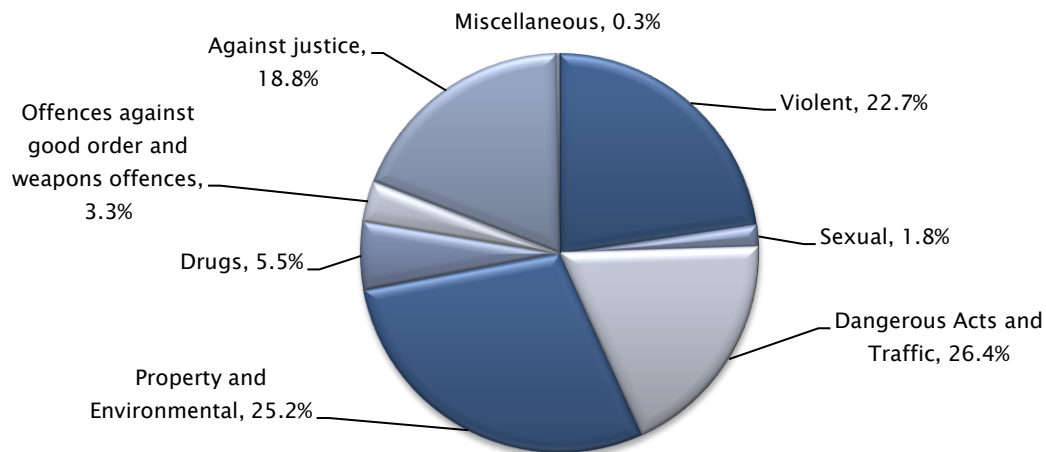
The use of home detention compared to a short-term sentence of imprisonment

Under the Sentencing Act, home detention is available as an alternative to a short-term sentence of imprisonment (two years or less). Looking at those who have received one of these two sentences over the 2007–2010 period as a single group, a much greater proportion (76%) received a short-term sentence of imprisonment compared to home detention (24%).

This section compares those receiving these two sentences with regard to the type of offence that the offender had been convicted of, and the offenders’ profile in terms of ethnicity, age and gender.

Type of Offence: For sentences imposed over the 2007–2010 period, a higher proportion of home detention sentences was imposed for drug offences (13.6% – see Figure 3) compared to short-term sentences of imprisonment (5.5%). A short-term sentence of imprisonment was imposed in a higher proportion of violent, property and environmental, and against justice offences. See Figure 4.

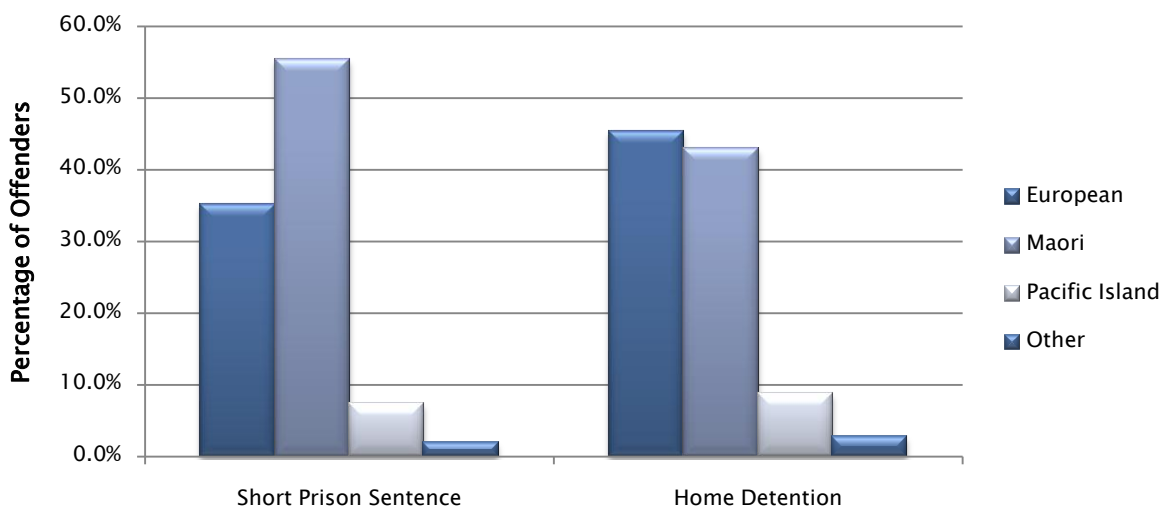
Figure 4: Short Prison Sentences Imposed by Type of Offence 2007–2010



Ethnicity of offenders. Of those sentenced to home detention, very similar proportions were European (45.4%) and Māori (43.0%). The other large ethnic group was Pacific peoples, who comprised 8.8% of those receiving a sentence of home detention. There was a similar distribution for other more restrictive non-custodial sentences such as intensive supervision and community detention.

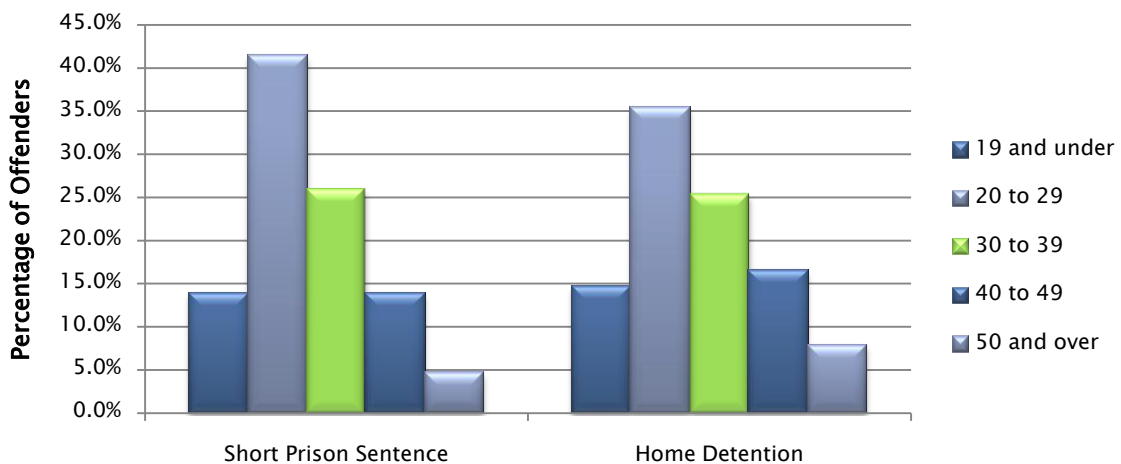
With regard to short-term prison sentences, however, a higher number of those receiving these sentences were Māori (55.4%), compared to Europeans (35.2%) and Pacific peoples (7.4%). The data did not include information regarding the criminal histories or past failures in completing non-custodial sentences which may explain the differences between the ethnic groups. See Figure 5.

Figure 5 : Ethnicity of offenders sentenced to a short term of imprisonment or home detention, 2007–2010



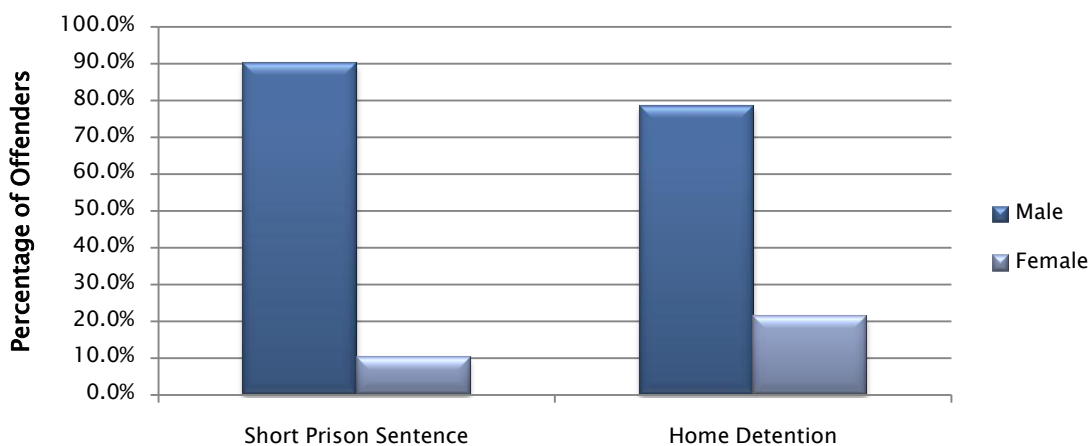
Age of offenders. The age profile of those sentenced to home detention was broadly similar to that of those receiving a short-term sentence of imprisonment. However, a larger proportion of those sentenced to a short term of imprisonment was in the 20–29 age range – 41.5% compared to 35.5% – while a larger proportion of those sentenced to home detention were aged 40 and over – 24.5% compared to 18.6%. The proportions aged 19 and under and 30 to 39 were similar for both groups. See Figure 6.

Figure 6 : Age of offenders sentenced to a short term of imprisonment or home detention, 2007–2010



Gender of offenders. A much higher proportion of those sentenced to home detention in the 2007–2010 period were female (21.4%) compared to those receiving a short-term prison sentence (10.1%). See Figure 7.

Figure 7: Gender of offenders sentenced to short term of imprisonment or home detention, 2007–2010



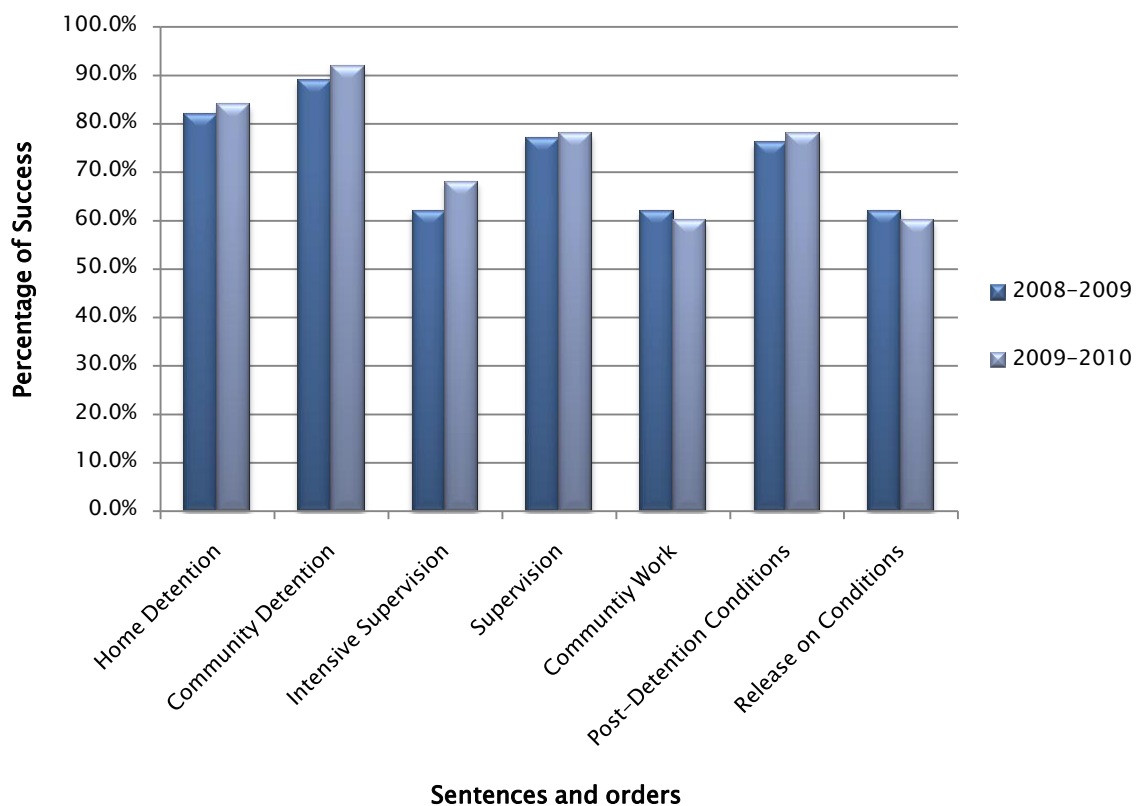
Successful completion of home detention sentences

Over 80% of home detention sentences served during 2008–09 and 2009–10 were deemed to have been successfully completed by the Department of Corrections, which is responsible for administering non-custodial sentences. “Successful” completion does not necessarily mean that the offender has not been subject to breach action at some point during the sentence.

Under the earlier “front-end” home detention regime, offenders had been sentenced to a term of imprisonment and could be recalled to prison by the parole authority if they failed to comply with the order. This option is not available with the home detention sentence and it was anticipated that a higher proportion of home detainees would be charged with breaching their conditions, as has proved to be the case.

Compared to other non-custodial sentences and orders, the proportion of successful completions of home detention sentences was higher than that for all such sentences and orders except for community detention. The completion rate for post-detention conditions was on a par with the supervision sentence but above the intensive supervision sentence and release on conditions (after a short-term sentence of imprisonment.) See Figure 8.

Figure 8: Successful completion of non-custodial sentences and orders 2008–2010



Types of sentences and orders

Community Detention – the offender must comply with an electronically-monitored curfew imposed by the court for a term of up to six months.

Intensive supervision – the offender must undertake activities to address the causes of their offending with intensive oversight from a probation officer for a term between six months and two years.

Supervision – the offender must report to a probation officer and comply with certain conditions for a term between six months and one year.

Community Work – the offender must do unpaid work in the community for non-profit organisations for no less than 40 and no more than 400 hours as a way of making up for their offending.

Post-Detention Conditions and **Release on Conditions** apply to offenders after they have completed a sentence of home detention or a short-term sentence of imprisonment.

Offences committed while serving a sentence of home detention

Number and proportion of offenders that offended while serving sentence of home detention

As noted earlier, a risk involved in offenders being sentenced to home detention in comparison with a short-term prison sentence is that such offenders remain in the community and consequently have greater opportunity to commit further offences than if they had been sentenced to a term of imprisonment. This is a short term risk compared to the longer term risk relating to reoffending following the completion of the sentence, which is addressed in the next section.

The data shows that a relatively high proportion of offenders sentenced to home detention were convicted of offences that occurred during the term of this sentence. However, the vast majority of these offences related to the administration of the sentence rather than other criminal offences and tended to be of low seriousness.

From 2007 to 2010, 21.0% of those sentenced to home detention were convicted of an offence that was committed while they were subject to this sentence. This proportion increased from 18.0% in 2008 to 26.0% in 2009 but then fell to 21.0% in 2010. See Table 2.

Table 2. Number of offenders sentenced to home detention that were convicted of offending while on home detention 2007–2010

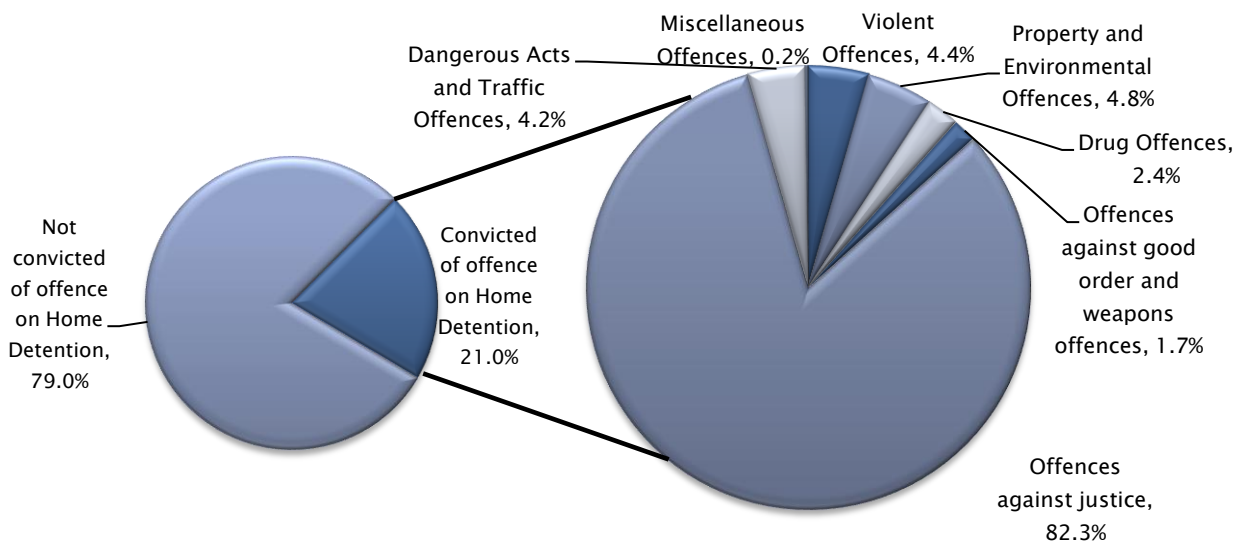
Year	Offenders sentenced to home detention	Number of offenders convicted of offending on home detention	Proportion convicted of offending on home detention
2007	294	5	1.7%
2008	2,366	426	18.0%
2009	2,626	683	26.0%
2010	3,547	744	21.0%
Total	8,833	1,858	21.0%

Type and seriousness of offending on home detention

A high proportion of the offences that were committed by offenders serving a sentence of home detention was classified as offences against justice. These generally involved breaches of conditions. As noted above, breach action is a mechanism for ensuring compliance with the sentence and the fact that an offender has been convicted of breaching their conditions does not necessarily mean that they are not deemed to have successfully completed the sentence.

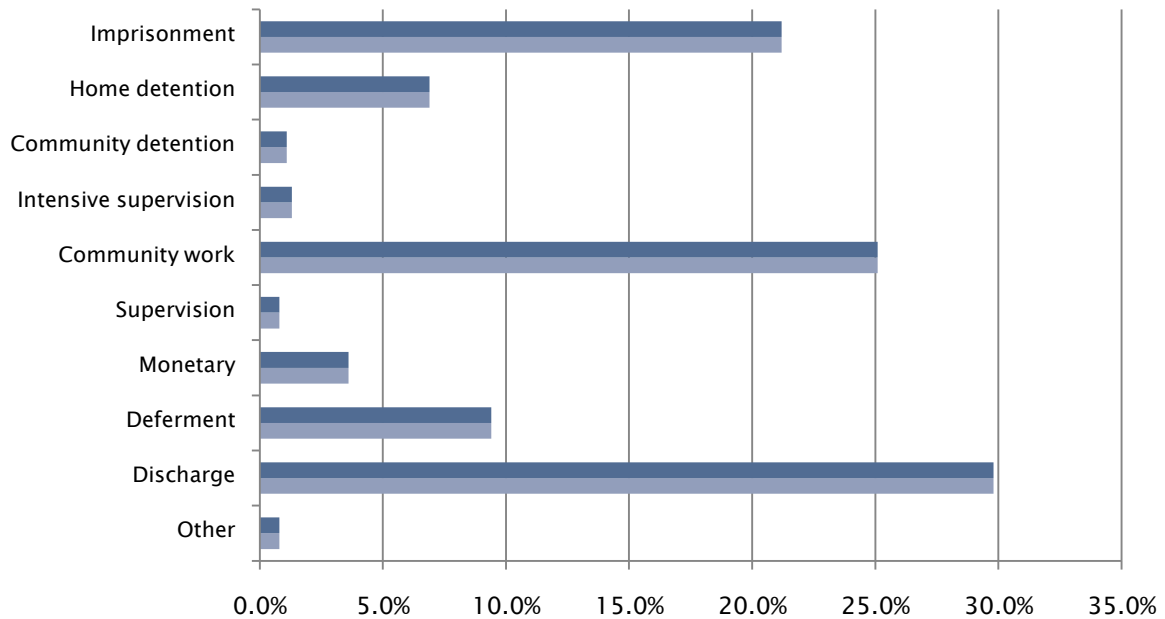
In total, 82.3% of offences committed on home detention resulting in a conviction were against justice offences. Of the remainder, the most serious offence was a property and environment offence in 4.8% of cases, a violent offence in 4.4%, a dangerous act and traffic offence in 4.2% and a drug offence in 2.4%. See Figure 9.

Figure 9: Percentage of offenders convicted of offences while on home detention by type of offence 2007–2010



The sentence imposed is a reliable indicator of the seriousness of the offence. With regard to offences committed while on home detention, the most severe sentence – a sentence of imprisonment – was imposed in about one fifth of cases (21.2%). In contrast, the three least severe penalties – discharge, deferment and monetary penalties – were imposed in 42.8% of cases. The most frequent outcome was a discharge, which occurred in 29.8% of cases. See Figure 10.

Figure 10: Most severe sentence imposed for offences committed while on home detention, 2007–2010



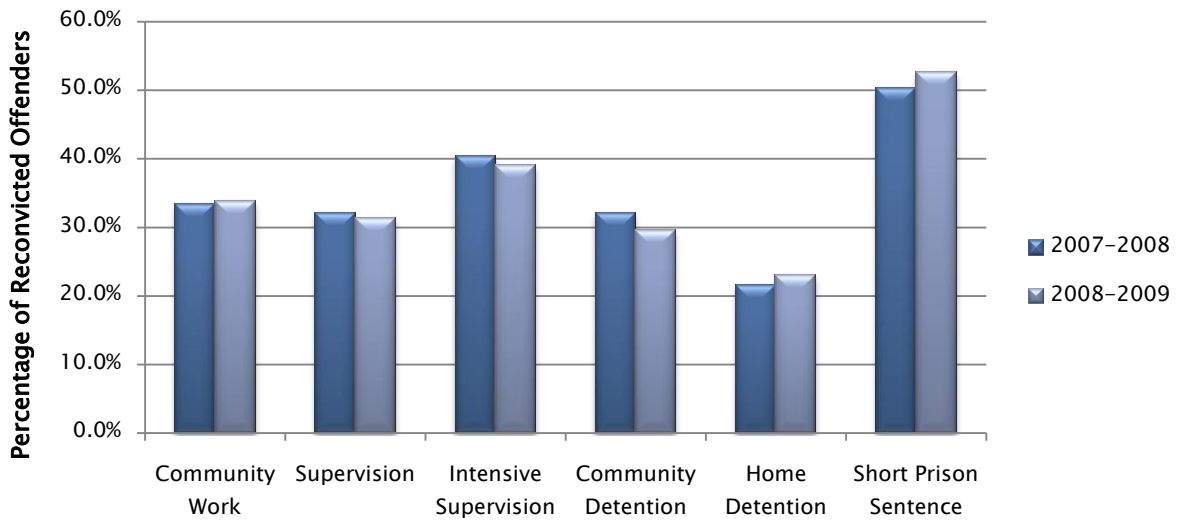
Reoffending by home detainees

This section compares reconviction and imprisonment/reimprisonment rates of those sentenced to home detention with offenders released from a short-term sentence of imprisonment or sentenced to one of the other non-custodial sentences. Imprisonment/reimprisonment is an indicator of more serious new offending as it indicates that the individual has been convicted of a relatively serious offence while reconviction may be for a minor offence.

The proportion of offenders sentenced to home detention in 2007–2008 and 2008–2009 that was reconvicted in the next 12 months (21.5% and 23.0% respectively) was less than half that of those released from a short-term prison sentence in the same years (50.3% and 52.6%).⁹ Compared to other non-custodial sentences, reconviction rates after 12 months for those sentenced to home detention were lower than those for each of the four other non-custodial sentences. See Figure 11.

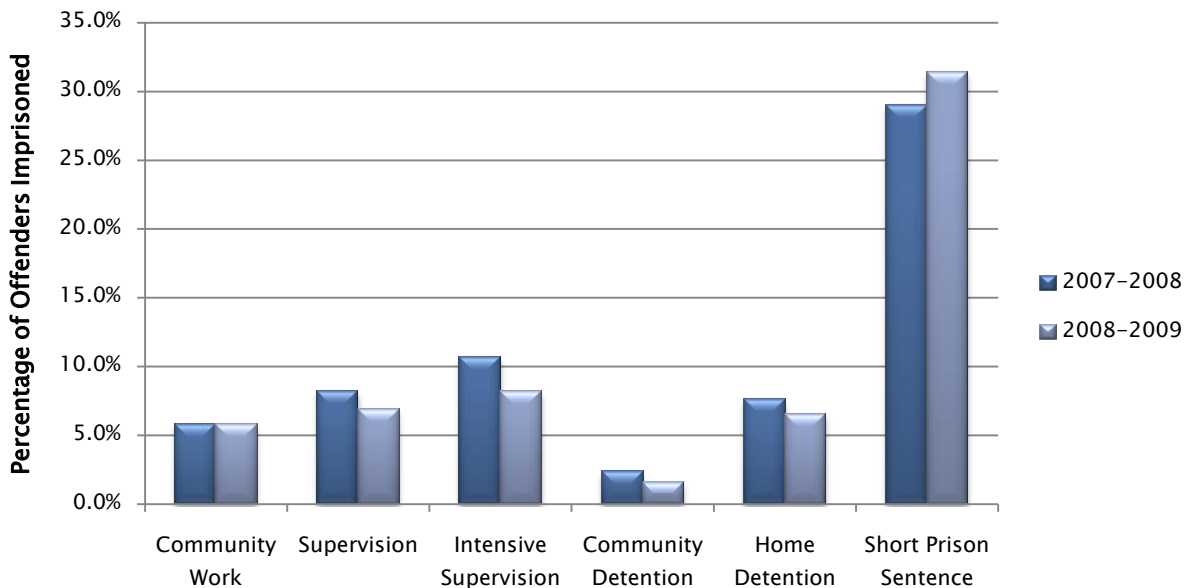
⁹ The periods under examination both refers to periods when the offenders were in the community.

Figure 11: Reconvicted in 12 months after beginning non-custodial sentence or release from short prison sentence



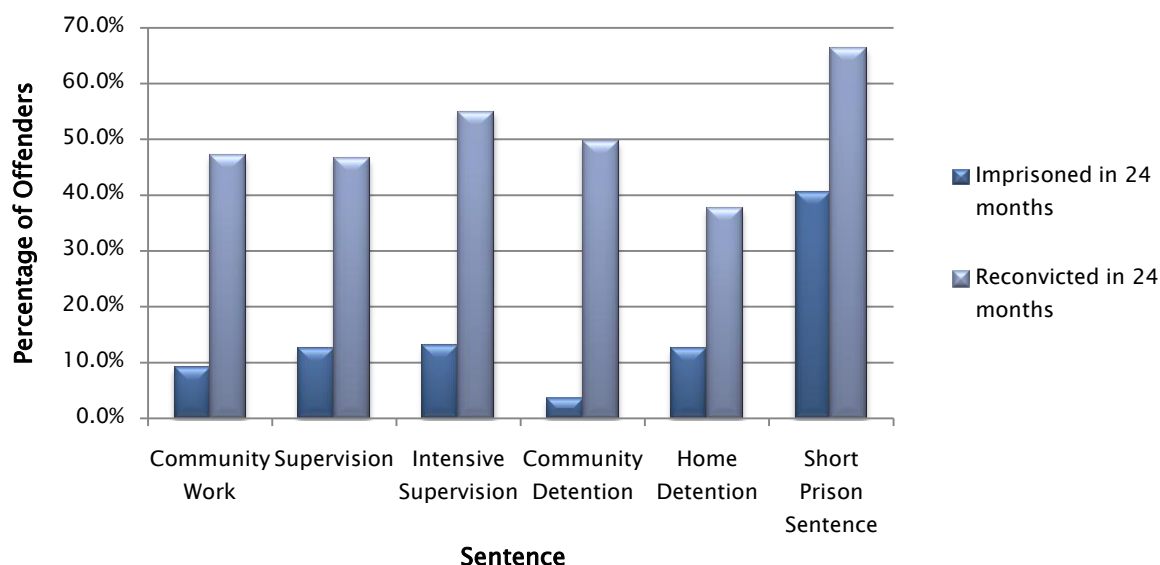
The proportion of offenders sentenced to home detention in 2007-2008 and 2008-2009 that was imprisoned in the next 12 months (7.6% and 6.6% respectively) was lower than that of those released from a short-term prison sentence that was re-imprisoned in the same years (29.0% and 31.4%) by a factor of more than four - more than twice as high as the difference in reconviction levels for the two groups. Compared to other non-custodial sentences, imprisonment rates after 12 months for those sentenced to home detention were lower than those sentenced to intensive supervision and supervision but higher than those sentenced to community work and community detention. See Figure 12.

Figure 12: Imprisoned/Re-imprisoned in 12 months after beginning non-custodial sentence or release from short-term prison sentence



Reconviction and imprisonment/reimprisonment rates after 24 months for those sentenced to home detention or one of the other non-custodial sentences, or released from a short-term sentence of imprisonment are set out in Figure 13. The proportion of offenders sentenced to home detention that was reconvicted was the lowest of any of the sentence groups. Released short-term sentence prisoners had the highest reconviction rate followed by those sentenced to intensive supervision. Imprisonment rates for offenders sentenced to home detention were similar to those for intensive supervision and supervision at 12–13% while the reimprisonment rate for those released from a short-term sentence of imprisonment after 24 months was more than three times as high at 40.6%.

Figure 13: Imprisoned/reconvicted in 24 months after beginning non-custodial sentence or release from short prison sentence, 2007–2008



Offenders sentenced to home detention for very serious offences

A very small proportion of offenders sentenced to home detention – less than 2% – had been convicted of very serious offences. This section of the review looks at this group more closely and presents demographic information about these offenders and compares data on offending during the course of the sentence and reoffending by this group with other offenders sentenced to home detention.

At the outset, the point must be made that although these offenders had been convicted of offences normally classified as very serious, the actual circumstances of the case or the offender’s involvement in the offence must have been less serious as the court may only impose a home detention sentence where it would otherwise have imposed a prison sentence of two years or less. The most serious cases of these offences generally attract long prison sentences.

Type of offences

The group of offenders convicted of very serious offences sentenced to home detention over the 2007–2010 period comprises 138 individuals – 1.6% of those receiving this sentence during this period. The majority (65.2%) of these offenders had been convicted of serious drug offences; 31.2% had been convicted of serious sexual offences and 3.6% of serious violent offences. See Table 2.

Table 2. Offenders sentenced to home detention for very serious offences (2007–2010)

Offence	Offenders sentenced to home detention	%
Attempted murder	1	0.7
Manslaughter	4	2.9
Sexual violation by rape	4	2.9
Sexual violation by unlawful sexual connection	33	23.9
Attempted sexual violation	6	4.4
Manufacture illicit drugs	64	46.4
Import/export illicit drugs	26	18.8
TOTAL	138	100.0

Profile of offenders

Compared to all offenders sentenced to home detention, those convicted of very serious offences had the following characteristics:

- a larger proportion was European (61.2% compared to 45.4% of all home detention offenders) and a smaller proportion was Māori (19.0% compared to 43%)
- a larger proportion was aged 19 and under (25.4% compared to 14.7%) and a smaller proportion was aged 20 to 29 (27.5% compared to 35.5%)
- a smaller proportion was female (15.2% compared to 21.4%).

Within the group of offenders sentenced to home detention for very serious offences, there were marked differences between those sentenced for violent and sexual offences (combined as a single group because of the very small number of violent offences) and serious drug offences. The differences can be summarised as follows:

- a larger proportion of those convicted of serious violent and sexual offences (45.8%) was aged 19 and under compared to those convicted of serious drug offences (14.4%)
- conversely, a larger proportion of those convicted of serious drug offences (22.2%) was aged 40 and over compared to those convicted of serious violent and sexual offences (16.6%)
- a larger proportion of those convicted of serious drug offences (20.0%) was female compared to those convicted of serious violent and sexual offences (6.3%)
- in both groups, Europeans comprised the largest group by ethnicity – 57.5% of those convicted of serious violent and sexual offences and 63.0% of those convicted of serious drug offences
- the proportion of Māori offenders sentenced to home detention for very serious offences was very low compared to the proportion of all offenders receiving this sentence – 12.5% of those

convicted of serious violent and sexual offences and 22.2% of those convicted of serious drug offences were Māori compared to 43.0% of all offenders sentenced to home detention

- offenders of Pacific Island ethnicity comprised 20.0% of those sentenced to home detention for very serious violent and sexual offences but just 2.5% of those convicted of serious drug offences
- a larger proportion of those convicted of serious drug offences (32.2%) was sentenced in the High Court compared to those convicted of serious violent and sexual offences (18.8%)
- a larger proportion of those convicted of serious violent and sexual offences (52.1%) received the maximum possible sentence of 12 months compared to those convicted of serious drug offences (27.8%)
- conversely, a larger proportion of those convicted of serious drug offences (15.6%) received sentences of less than six months compared to those convicted of serious violent and sexual offences (2.1%).

The group of 35 offenders aged 19 and under sentenced to home detention for very serious offences included 17 individuals who were under 17 years of age. Of those under 17, 16 had been convicted of serious sexual offences, including six 14 year olds and four 15 year olds, and one had been convicted of manslaughter. Under section 15B of the Sentencing Act, the court may only impose a sentence of home detention on an offender under 17 years of age, where the offender has been convicted of a purely indictable offence.

It was not possible from the information available to explain the very low proportion of Māori offenders sentenced to home detention for very serious offences. There could be a variety of explanations for this, including criminal history, a record of non-compliance with non-custodial sentences and the availability of a suitable home detention residence.

Offending while on home detention

Thirteen of the 138 offenders (9.4%) sentenced to home detention for very serious offences were convicted of an offence that occurred during the term of the sentence compared to 21.0% of all offenders sentenced to home detention. One female offender who was sentenced to home detention for a serious drug offence was convicted of new offences on two occasions. She was sentenced to six months imprisonment for theft on the second occasion.

For eight of the 13 offenders (61.5%) who were convicted of offences while serving a sentence of home detention the only offence was breaching the conditions of the sentence. The first conviction of the female offender referred to in the previous paragraph was for breaching the conditions of her home detention sentence. Thus, nine of the 138 offenders (6.5%) sentenced to home detention for very serious offences were convicted of breaching their conditions compared to 17.3% of all offenders sentenced to home detention.

The remaining five offenders were convicted of minor drug offences (2), theft, dangerous driving and an against justice offence.

With regard to the seriousness of the offences committed while on home detention, one of the 13 offenders sentenced to home detention for a very serious offence was sentenced to imprisonment, as mentioned above. Of the other 12 offenders, seven were discharged and five received a community-based sentence that was served concurrently with their home detention sentence.

Reconviction

A manual check of new convictions by the 138 offenders sentenced to home detention for very serious offences was carried out. This showed that 25 of these offenders (18.1%) were convicted of offences in the 12 months following the sentence end date. After 24 months, this figure was 33 (23.9%). These percentages cannot be directly compared with the reoffending data presented earlier in this review because a different methodology has been used. However, the data indicates that offenders sentenced to home detention for very serious offences did not have higher levels of reconviction than all offenders sentenced to home detention.

Summary and Discussion

The Government's Home Detention Review arises from the National Party's commitment at the 2008 general election to reassess the appropriateness of the sentence of home detention for violent, sex and drug offences.

The key focus of the Government's criminal justice policy is public safety. For the purposes of this review, therefore, the appropriateness of the sentence of home detention has been assessed with reference to the short-term and long-term risk posed to public safety by those sentenced to home detention.

Short-term risk refers to the risk of offenders committing further offences while serving a sentence. Long-term risk refers to the level of offending following the completion of the sentence – whether the sentence has been successful in preventing further offending.

Sentencing

Under the Sentencing Act, the sentence of home detention is second in terms of restrictiveness to imprisonment in the hierarchy of sentences and orders. Home detention is provided as an alternative to a short-term sentence of imprisonment, which is defined in the Act as a sentence of two years or less. The court may only impose a sentence of home detention where it would otherwise have imposed a short-term sentence of imprisonment. This means the offending for which a sentence of home detention is imposed is relatively serious but is not of a level of seriousness that would justify a long term sentence of imprisonment (more than two years.)

Subject to the guidance set out in the Sentencing Act and restrictions relating to the age of the offender, a sentence of home detention may be imposed for any offence that is punishable by imprisonment or home detention. This is also true for other non-custodial sentences such as intensive supervision and community work that are lower than home detention in the hierarchy of sentences and orders. There are no restrictions in New Zealand law on the sentence that may be imposed for a specific offence or type of offence.

Offenders sentenced to home detention

As noted above, home detention is available to the courts as an alternative to a short-term sentence of imprisonment. The court may only impose a sentence of home detention where it would otherwise have imposed a short-term sentence of imprisonment.

The review looked at the general characteristics of offenders who were sentenced to home detention or a short-term sentence of imprisonment between October 2007 and December 2010, which revealed the following:

- a slightly larger proportion of offenders sentenced to a short-term sentence of imprisonment had been convicted of violent offences compared to those sentenced to home detention – 22.7% compared to 20.3%
- a larger proportion of offenders sentenced to home detention had been convicted of drug offences (13.6% compared to 5.5%) and sex offences (3.1% compared to 1.8%)
- a larger proportion of those receiving a short-term sentence of imprisonment was Māori while a larger proportion of those sentenced to home detention was European
- a larger proportion of those receiving a short-term sentence of imprisonment was aged 20 to 29 years while a larger proportion of those sentenced to home detention was aged 40 years and over
- over 20% of those sentenced to home detention were female, compared to about 10% of those sentenced to a short-term sentence of imprisonment.

Violent, sex and drug offences

Although a significant proportion of offenders sentenced to home detention between October 2007 and December 2010 had been convicted of violent, sex and drug offences, the actual offences tended to be at the lower end of the scale in terms of seriousness. Nearly three quarters (72%) of those convicted of violent offences had been convicted of assaults of various sorts. A similar proportion (70%) of those convicted of drug offences had been convicted of dealing or trafficking in illicit drugs and over 80% of those convicted of sexual offences were sentenced for indecent assault or offences classified as “other sexual”.

A very small proportion of those sentenced to home detention in this period had been convicted of the more serious offences within the broad categories of violent, sex and drug offences. Only 138 offenders – 1.6% of those receiving this sentence between October 2007 and December 2010 – had been convicted of very serious offences. Over two thirds of these offenders (65.2%) had been convicted of very serious drug offences while the remainder had been convicted of very serious sexual offence (31.2%) or a very serious violent offence (3.6%).

Some of the characteristics of the 138 offenders convicted of very serious offences compared to all offenders sentenced to home detention between October 2007 and December 2010 were as follows:

- a larger proportion of those convicted of very serious offences were European (61.2%) compared to all offenders sentenced to home detention (45.4%), while a smaller proportion were Māori (19.0% compared to 43.0%)
- a larger proportion of those convicted of very serious offences were aged 19 and under (25.4%) compared to all offenders sentenced to home detention (14.7%), while a smaller proportion were aged 20 to 29 (27.5% compared to 35.5%)
- a smaller proportion of those convicted of very serious offences were female (15.2%) compared to all offenders sentenced to home detention (21.4%).

The data did not include the criminal histories or information about past non-compliance with non-custodial sentences which may explain some of these discrepancies.

Short term risk to public safety

Offenders sentenced to home detention remain in the community and consequently present a higher short term risk to public safety than those receiving a short-term sentence of imprisonment, in that they have greater opportunity to commit further offences while serving the sentence. For both sentences, the maximum period of time covered by the sentence is relatively brief. The maximum term of a home detention sentence is one year, while a short-term prison sentence is two years or less but prisoners are released after serving a half of the sentence imposed.

The data showed a relatively high level of convictions for offences committed while an offender was serving a sentence of home detention: 21.0% of those sentenced to home detention between October 2007 and December 2010 were convicted of offences that occurred during the term of the sentence. On closer examination, however, it was found that the vast majority of these offences (82.3%) related to the administration of the sentence rather than other types of criminal offending.

With regard to the seriousness of the offences committed while an offender was serving a sentence of home detention, as indicated by the severity of the penalty imposed, these tended to be at the lower end of the scale. A sentence of imprisonment was imposed in 21.2% of cases while the three least severe penalties (deferment, discharge or a monetary penalty) were imposed on 29.9% of offenders and a further 28.3% received a community-based sentence. Bearing in mind that it is an aggravating factor under the Sentencing Act for the offence to have been committed while the offender was subject to a sentence, the data indicates that most of the offences committed while an offender was serving a sentence of home detention were of a relatively minor nature.

Looking at the 138 offenders sentenced to home detention for very serious offences, 13 (9.4%) were convicted of offences committed while they were serving a sentence of home detention – compared to 21.0% of all offenders sentenced to home detention. For eight of the 13 offenders, the only offence was breaching the conditions of the sentence. With regard to the seriousness of the offences committed while these offenders were serving a sentence of home detention, one was sentenced to imprisonment (for theft) while five received a community-based sentence and seven were discharged.

Long term risk to public safety

Reoffending by offenders is an important measure of the effectiveness of a sentence. This review included data relating to reconviction and imprisonment (or reimprisonment) during the 12 months or 24 months following the commencement of a home detention sentence or other non-custodial sentence, or release from a short-term sentence of imprisonment. Imprisonment or reimprisonment is indicative of more serious new offending as it suggests that the offender has been charged with or convicted of a relatively serious offence while reconviction may be for a minor offence.

The data shows that home detention is a very successful sentence in terms of reducing the likelihood of reconviction and imprisonment. The proportion of offenders reconvicted in the next 12 months after commencing a sentence of home detention in 2007–2008 and 2008–2009 was less than half of that of those released from a short-term prison sentence and lower than that of each of the four other non-custodial sentences. The proportion of home detainees that was imprisoned in the same period was four times lower than those released from a short-term prison sentence, lower than those completing a sentence of intensive supervision or supervision, but higher than those sentenced to community work or community detention.

Looking at the data for 24 months after the completion of a non-custodial sentence or release from a short-term prison sentence in 2007–2008, the proportion of offenders sentenced to home detention that was convicted of a new offence was lower than any other non-custodial sentence and much lower than a short-term prison sentence. The imprisonment rate for home detainees after 24 months was similar to that for offenders who had completed a sentence of supervision or intensive supervision but higher than the imprisonment rate for those sentenced to community work or community detention. Once again, however, the reimprisonment rate for offenders released from a short-term prison sentence was much higher than for those completing non-custodial sentences and was more than three times as high as for those completing a sentence of home detention.

Strictly comparable data was not available for the 138 offenders sentenced to home detention for very serious offences but manually obtained data showed reconviction levels of 18.1% after 12 months and 23.9% after 24 months, which are somewhat lower than the percentages for all offenders completing a sentence of home detention.

Conclusion

A significant proportion of those sentenced to home detention had been convicted of violent, sex and drug offences but these tended to be at the lower end of the scale in terms of seriousness. A very small proportion – less than 2% – of offenders sentenced to home detention had been convicted of very serious offences.

Home detention is provided as an alternative to a short-term sentence of imprisonment (two years or less) under the Sentencing Act and as such it presents a higher short-term risk to public safety. Home detainees remain in the community and consequently have greater opportunity to commit further offences than those sentenced to a short term of imprisonment. About a fifth of those sentenced to home detention between October 2007 and December 2010 was convicted of an offence that occurred in the term of the sentence but over 80% of these offences related to the administration of the sentence. A very small proportion of offences committed on home detention involved other types of offending.

In terms of long term risk to public safety – reoffending by those who have completed a sentence imposed by the court – home detention has significantly lower reconviction and imprisonment rates than a short-term sentence of imprisonment and compares favourably with other non-custodial sentences.

The data presented in this review indicates that the home detention sentence has operated very successfully since its introduction in October 2007. There is no compelling case for a total prohibition on the use of this sentence for specific types of offences such as violent, sex and drug offences.

Appendix 1: Notes on Statistics

The statistics count individuals

The statistics in this document count people, as opposed to charges or cases. A person is counted once in each year that they are convicted and sentenced for an offence, regardless of the number of charges and whether they relate to one or more cases. For example, a person convicted and sentenced for two or more offences in 2010 will be counted only once, for the offence which received the most severe sentence in the 2010 statistics.

Offences cover a range of conduct

Many of New Zealand's offences are generic and cover a range of conduct with differing degrees of seriousness. For example, the offence of wounding with intent technically covers anything from a minor cut through to injuries that nearly result in death.

Statistics rounded to one decimal place

The statistics in this document are generally rounded to one decimal place. For example 14.578% is rounded to 14.6%. The rounding means that percentages may not always add to exactly 100%.

Statistics may not be comparable to previous statistics

The statistics in this document may not necessarily be comparable to other statistics on home detention previously released by the Ministry of Justice due to differences in the data. Apart from the data relating to the number of offenders on home detention for the period from 2000 to 2011 and some of the reoffending data, the statistics in this document come from the Courts' computer system, which is continually updated. The data can change over time for a number of reasons, such as successful appeals.

More detail is in the appendices

The most important statistics are contained in the relevant sections of this document. More detailed statistics are contained in the appendices.

Appendix 2: Sentencing Act 2002

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 constable 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.

80O 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 constable or any probation officer may arrest, without warrant, an offender who the constable 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.



MINISTRY OF
JUSTICE
Tāhū o te Ture

newzealand.govt.nz