



Bail

Publication Number:

EM bail – Alarm activations

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What is electronically monitored bail (EM bail)

EM bail involves a court releasing on bail a defendant who has been remanded in custody, on condition they are electronically monitored by the Department of Corrections and a monitoring company. Legislation governing EM bail is found in sections 30A to 30S, 31(1A), 33, 34, 34A and 36A of the Bail Act 2000.

EM bail enables a defendant to reside at an approved specified address, which they may leave under section 30L(1) only as approved by the court through the notice of bail, to attend scheduled court appearances, to surrender to police custody or in an emergency. An emergency is defined in section 30L (1) as:

- to seek urgent medical or dental treatment, or
- to avoid or minimise a serious risk of death or injury to the defendant or any other person.

Agency responsibilities for EM Bail

Corrections	Police
<p>The Department of Corrections assumed the primary responsibility for EM bail from Police on 1 February 2014, including:</p> <ul style="list-style-type: none"> • writing EM bail assessment reports for the courts • inducting defendants who have been granted EM bail • overseeing, with the assistance of a monitoring company, the electronic monitoring of defendants subject to EM bail (EM bailees), and • managing an EM bailees' curfew schedules and approving their movements. <p>More information about EM bail can be found on the Corrections Internet page.</p>	<p>Police has retained responsibility for:</p> <ul style="list-style-type: none"> • responding to alarm notifications and instances of breach, as directed by the Police Communications Centre, and • undertaking all enforcement action in relation to EM bail, including breach of bail hearings. <p>Police may also visit or respond to tasks at an EM address (apart from responding to EM bail breaches), e.g. to conduct routine bail checks or general policing inquiries in response to a crime reported at the address.</p>

Entry powers to service or inspect monitoring equip

Under section 36A an authorised person, usually a security officer, may enter an EM address to service or inspect the monitoring equipment. It is an offence, punishable by a term of imprisonment of up to 3 months, for any person, including an EM bailee, to refuse to allow, without reasonable excuse, an authorised person entry to an EM address for the purpose of servicing or inspecting equipment.

Alarm activations requiring police response

Security officers respond to and attend any alarm activations relating to the functioning of the monitoring equipment and the ankle. However, if they encounter difficulties at an EM address they may seek police assistance. When alarm activation indicates a police response is necessary, the monitoring company contacts the relevant Police Communications Centre, stating the nature of the alarm.

The following alarm activation types require an operational police response.

Type of events requiring a response	Situation	Who responds
Equipment-related alarm	Equipment failure, or minor tampering with main unit (DCU) or the transmitters (Tx)	Monitoring company initially. Then, if bailee has absconded or is not cooperating, Police to respond (Priority 2).
Left during curfew	Bailee leaves the premises without a scheduled absence	Police (Priority 2)
Double strap tamper	Strap is cut and removed	Police (Priority 2)
Failed to return	Bailee has not returned from a scheduled absence	Police (Priority 2)
Security officer needs assistance.	Bailee or occupants are not cooperating or there is other trouble	Police (Priority 2)

Attending alarm activations

Police directed to attend EM bail alarm activations receive relevant information from the Police Communications Centre, including:

- a new event number
- the nature of the activation as reported by the monitoring company
- a description of the EM bailee (police may see a person of a similar description en route)
- a description, including the registration number, of any vehicles known to be associated with the EM address.

Alarm response procedures

Follow normal investigation processes when attending the alarm activation including the following actions.

Step	Action						
1	<table border="1"> <thead> <tr> <th>If the bailee has...</th> <th>then...</th> </tr> </thead> <tbody> <tr> <td>absconded</td> <td> Obtain: <ul style="list-style-type: none"> • details about anything the bailee said before they absconded, including where they intended to go or what they intended to do • a full description of the bailee, including the clothing they are wearing • information about the bailee's last known emotional state, including reasons why the bailee may have absconded • the bailee's last known direction and mode of travel, including vehicle details • information about whether the bailee has, or has access to, weapons • information about whether the bailee is with other people; and if so, their details. </td> </tr> <tr> <td>not absconded</td> <td>Interview the bailee about why the alarm has been activated, including about any equipment damage or destruction.</td> </tr> </tbody> </table>	If the bailee has...	then...	absconded	Obtain: <ul style="list-style-type: none"> • details about anything the bailee said before they absconded, including where they intended to go or what they intended to do • a full description of the bailee, including the clothing they are wearing • information about the bailee's last known emotional state, including reasons why the bailee may have absconded • the bailee's last known direction and mode of travel, including vehicle details • information about whether the bailee has, or has access to, weapons • information about whether the bailee is with other people; and if so, their details. 	not absconded	Interview the bailee about why the alarm has been activated, including about any equipment damage or destruction.
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not absconded	Interview the bailee about why the alarm has been activated, including about any equipment damage or destruction.						
2	Provide a situation report to the Communications Centre.						
3	Gather, and consider seizing, evidence of a breach (for instance, photographs of unplugged or damaged or destroyed equipment).						
4	Interview other occupants of the address or associates of the bailee if they are present.						
5	Make other enquiries as appropriate.						
6	Advise the Communications Centre of the job result.						
7	Enter a bail breach alert into NIA using code '6E – EM Bail Breach' and enter breach as a bail check outcome in the Bail Management Application.						
8	Phone or email, as soon as practicable, the Corrections EM Bail Helpdesk on 0800EMBAIL or embail@corrections.govt.nz						

Attending for unrelated matters and bail checks

If police are conducting a routine bail check unrelated to an alarm or attending any other unrelated matter at the address, standard task and activity codes apply.

In these circumstances EM bail is coded '5H – EM Bail Check/Visit'.



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EM bail - Breaches and unsuitable addresses

This section contains these topics:

- [Breaches of EM bail](#)
- [Arresting the bailee](#)
- [Removing the bailee from the EM address](#)
- [In the watchhouse](#)
- [When an EM address becomes unsuitable or unavailable](#)
- [Application to vary EM address](#)
- [EM bailee served with Police Safety Order \(PSO\)](#)

Breaches of EM bail

It is a breach of bail if the EM bailee:

- leaves the EM address without permission (unless as authorised by s30L(1)(b))
- leaves early for or returns late from an authorised absence from the EM address
- fails to comply with any of the obligations defined in section 30L or any of the conditions set out in the notice of bail.

Police must take breaches of EM bail seriously and, depending on their nature, the EM bailee is likely to be arrested and brought before the court. See info on exercising discretion in [Using warnings for breaches of bail conditions](#) for minor EM bail breaches.

The designated prosecutor must determine whether to oppose a continuation of EM bail, taking into account the breach information provided by police and any other relevant information.

Arresting the bailee

The defendant may be arrested *without warrant* only if police believe on reasonable grounds that the defendant:

- has absconded for the purpose of evading justice, or
- is about to abscond for the purpose of evading justice, or
- has contravened or failed to comply with any condition of bail.

(s35)

Note that police have no power of entry to premises under section 35, unless they are lawfully there, such as after having been invited in by an occupant.

See [Breaches of bail - Police powers and duties](#) in this chapter for more information on Police rights of entry to premises in relation to bail breaches.

Arresting children and young persons

Limited powers of arrest without warrant for breaches of EM bail apply in the case of children and young people. See [Power to arrest a child or young person without warrant](#) in this chapter.

Removing the bailee from the EM address

Police should follow these steps to remove the bailee from an EM address.

If bailee is...	then...						
not violent and there are no risks to parties' safety	<table border="1"> <thead> <tr> <th>Step</th> <th>Action</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Advise the Police Communications Centre of the bailee's impending removal. Comms will advise the monitoring company, so it can make an entry in the violation record not to respond until further notice.</td> </tr> <tr> <td>2</td> <td>After Comms has advised that the alarm has been deactivated, remove the bailee from the property.</td> </tr> </tbody> </table>	Step	Action	1	Advise the Police Communications Centre of the bailee's impending removal. Comms will advise the monitoring company, so it can make an entry in the violation record not to respond until further notice.	2	After Comms has advised that the alarm has been deactivated, remove the bailee from the property.
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In the watchhouse

Normal prisoner processes apply. (See the [Managing prisoners](#) chapter)

Note: the electronic ankle should not normally be removed. If removal is necessary for some reason, eg, safety of the bailee or the equipment, this may be done by police. Inform the Corrections EM Bail Helpdesk of this (0800EMBAIL or embail@corrections.govt.nz) at the earliest opportunity, so a security officer can recover it.

When an EM address becomes unsuitable or unavailable

A change of circumstances for the defendant or the address may mean that the defendant is required to leave the address. This includes where consent to reside at the EM address is withdrawn by a relevant occupant.

In this situation, an **EM assessor**, (a Corrections employee):

- may approve a temporary address under section 30N, or
- if no suitable temporary EM address is available, the EM assessor must notify the police and the defendant without

delay, and:

- the defendant must surrender to police custody
- police must then bring the defendant before a judicial officer at the earliest opportunity.

(s34A)

Note: Police are not authorised to act as EM assessors, and can not approve a temporary EM address without the prior agreement of an authorised EM assessor.

Always obtain the authorisation of an EM assessor that:

- a temporary EM address is approved as suitable before assisting to relocate a defendant to that address, or
- there is no suitable temporary EM address available before taking a defendant into police custody.

In most circumstances the EM assessor's authorisations will be provided to police through the Communications Centre as part of a notification to or request for assistance from police, received from the Corrections Centralised Services Helpdesk. If police involvement was not initiated by an EM assessor, police should contact the Corrections Helpdesk on 0800EMBAIL (0800 362245) to obtain the appropriate authorisation before taking any further action.

Children and young persons

If an address of a child or young person on EM bail becomes unsuitable for any reason, the Corrections' EM bail assessor will confer with the CYS social worker before authorising an alternative temporary address.

Application to vary EM address

Where a defendant is required to leave an EM address or otherwise applies to vary an EM address, an EM assessor may approve a temporary EM address. The defendant or an EM assessor must then apply to the court within five working days for a variation of the EM address. Police, (the OC Case or the relevant Intel office), should expect to be consulted with regard to any new EM address proposed, and a prosecutor will have the opportunity to review the variation application and either agree to or oppose the application.

If the prosecutor does not consent to an application to vary an EM address, the court will notify the defendant and schedule the matter for a hearing.

EM bailee served with Police Safety Order (PSO)

A Police Safety Order (PSO) issued to a defendant subject to EM bail by police attending a family violence incident, comes into effect immediately and may remain in force for up to five days. An EM bailee served with a PSO relating to their EM address will not be able to remain at that address for the duration of the PSO.

Under section 30N, if the defendant is able to propose an alternative address, the attending officer should contact an EM assessor at the Corrections Helpdesk on 0800EMBAIL to enquire whether the address proposed is an approved temporary address. If the address proposed is approved by an EM assessor, police may transport the defendant to the new EM address.

If the defendant is not able to propose an alternative address or Police are advised by an EM assessor that a proposed alternative is not a suitable temporary address, the defendant should be taken into police custody and brought before the court as soon as possible, for reconsideration of their bail status.

Since the defendant is unable to return to the EM address until the expiry of the PSO, the court should be invited to revoke the grant of bail to that address, either for the duration of the PSO or permanently. An incident of family violence at an EM address is likely to bring to attention risks pertaining to continuing EM bail at that address. Consider opposing continuation of EM bail to that address in this situation.