

BAIL (AMENDMENT) ACT 1989 No. 109

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Bail Act 1978 No. 161

SCHEDULE 1 - AMENDMENTS

BAIL (AMENDMENT) ACT 1989 No. 109

NEW SOUTH WALES



Act No. 109, 1989

An Act to amend the Bail Act 1978 to make further provision with respect to applications for bail and the review of bail decisions; and for other purposes. [Assented to 24 August 1989]

Bail (Amendment) 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Bail (Amendment) Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Bail Act 1978 No. 161

3. The Bail Act 1978 is amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

- (1) Section 16 (**Extension of meaning of adjournment in sec. 6**):

Section 16 (c):

Omit "as referred to in section 153A of the Justices Act 1902", insert instead "whether issued by a Judge or a magistrate".

- (2) Section 22A:

After section 22, insert:

Special power of Supreme Court to refuse to entertain bail application

22A Despite section 22 (1) and (2), the Supreme Court may refuse to entertain an application in relation to bail if:

- (a) an application in relation to that bail has already been made and dealt with by the Supreme Court (however constituted); and

SCHEDULE 1 - AMENDMENTS - *continued*

- (b) the Court is not satisfied that there are special facts or special circumstances that justify the making of the application.

(3) Section 48A:

After section 48, insert:

Special limited review - bail conditions

48A. (1) If an accused person has remained in custody after being granted bail because any condition of the bail has not been complied with, the decision in relation to bail may be reviewed pursuant to this Part by way of a bail condition review:

- (a) at the request of the accused person; or
- (b) at the request of a police officer; or
- (c) of the court's own motion.

(2) A bail condition review is a review pursuant to this Part of the decision in relation to bail to the extent only that it relates to the conditions of bail.

(3) A bail condition review requested under this section by a police officer is not to be conducted unless the court is satisfied that the request was made:

- (a) for the purpose of benefiting the accused person; and
- (b) with the consent of the accused person.

(4) On a bail condition review, the power to review the bail decision pursuant to this Part is a power to do any of the following:

- (a) to affirm the decision as to the conditions of bail;
- (b) to vary the decision by removing or imposing bail conditions;
- (c) to grant bail unconditionally.

(5) Despite section 45, the Supreme Court is empowered to conduct a bail condition review only in respect of bail granted by the Supreme Court (however constituted).

Bail (Amendment) 1989

SCHEDULE 1 - AMENDMENTS - *continued*

(6) This section does not affect:

- (a) the power of a court to review a decision in relation to bail pursuant to a request under section 48 (1); or
- (b) the right of a person to request such a review.

(4) Section 54A:

After section 54, insert:

Special notice where accused person remains in custody after bail granted

54A. (1) This section applies to a person who has been granted bail but who has remained in custody since bail was granted because a condition of the bail has not been complied with.

(2) The governor of the prison or the person in charge of the lock-up or police station where a person to whom this section applies is in custody shall give or cause to be given to an appropriate court notice that the person is still in custody because of a failure to meet a bail condition.

(3) An appropriate court is a court authorised to conduct a bail condition review in relation to the bail of its own motion, as referred to in section 48A.

(4) The notice must be given to an appropriate court before the expiration of 8 days after the person is received into custody.

(5) A notice under this section is required to be given only once in respect of any particular grant of bail.

(6) The regulations may make provision for the form of a notice under this section and for the information to accompany the notice.

(5) Schedule 1 (Savings and transitional provisions):

(a) Part 1, heading:

Before clause 1, insert:

PART 1 - GENERAL

Bail (Amendment) 1989

SCHEDULE 1 - AMENDMENTS - *continued*

- (b) Clause 1:
Omit "In this Schedule", insert instead "In this Part".
- (c) Part 2:
After clause 4, insert:

PART 2 - BAIL (AMENDMENT) ACT 1989

Application of amendments

5. Neither section 48A nor section 54A applies in respect of bail granted before the section commences.

[*Minister's second reading speech made in -
Legislative Assembly on 3 May 1989
Legislative Council on 1 August 1989*]