

BAIL (AMENDMENT) ACT 1990 No. 81

NEW SOUTH WALES



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BAIL (AMENDMENT) ACT 1990 No. 81

NEW SOUTH WALES



Act No. 81,1990

An Act to amend the Bail Act 1978 to make further provision with respect to the matters to be considered in bail applications. [Assented to 7 December 1990]

The Legislature of New South Wales enacts:

Short title.

1. This Act may be cited as the Bail (Amendment) Act 1990.

Commencement

2. This Act commences on a day 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.

Transitional provision

4. The amendments to the Bail Act 1978 made by this Act apply to a determination as to the grant of bail after the commencement of this Act even if the determination relates to an offence alleged to have been committed before that commencement

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

Section 32 (Criteria to be considered in bail applications):

- (a) Omit section 32 (1) (c) and all words following that paragraph in section 32 (1), insert instead:
 - (c) the protection and welfare of the community, having regard only to:
 - (i) the nature and seriousness of the offence, in particular whether the offence is of a sexual or violent nature; and
 - (ii) whether or not the person has failed, or has been arrested for an anticipated failure, to observe a reasonable bail condition previously imposed in respect of the offence; and
 - (iii) the likelihood of the person interfering with evidence, witnesses or jurors; and

SCHEDULE 1 - AMENDMENTS - *continued*

- (iv) the likelihood that the person will or will not commit an offence or offences while at liberty on bail, but the authorised officer or court may have regard to that likelihood only if permitted to do so under subsection (2).
- (b) Omit section 32 (2), insert instead:
- (2) The authorised officer or court may, for the purposes of subsection (1) (c) (iv), have regard to the likelihood that the person will commit an offence or offences while at liberty on bail if the officer or court is:
 - (a) satisfied that the person is likely to commit the offence or offences; and
 - (b) satisfied that the offence or offences is or are likely to be serious by reason of the likely consequences; and
 - (c) satisfied that the likelihood that the person will commit the offence or offences, together with the likely consequences, outweighs the person's general right to be at liberty.
 - (2A) The following matters are to be considered in determining for the purposes of subsection (2) whether an offence or offences is or are serious (but do not limit the matters that can be considered):
 - (a) whether the offence or offences is or are likely to be of a sexual or violent nature;
 - (b) the likely effect of the offence or offences on the victim or victims and on the community generally;
 - (c) the number of offences likely to be committed.

*[Minister's second reading speech made in -
Legislative Assembly on 14 November 1990
Legislative Council on 27 November 1990]*