



New South Wales

Bail Amendment Act 2007 No 55

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New South Wales

Bail Amendment Act 2007 No 55

Act No 55, 2007

An Act to amend the *Bail Act 1978* to make further provision with respect to bail for accused persons. [Assented to 15 November 2007]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Bail Amendment Act 2007*.

2 Commencement

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

3 Amendment of Bail Act 1978 No 161

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

4 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments

(Section 3)

[1] Section 8B Presumption against bail for serious firearms and weapons offences

Omit “51B or 51BB” from section 8B (1) (c).

Insert instead “44A, 51B, 51BB or 62”.

[2] Section 9D Repeat offenders—serious personal violence offences

Omit “195 (b), 196 (b)” from paragraph (a) of the definition of *serious personal violence offence* in section 9D (4).

Insert instead “195 (1) (b) or (2) (b), 196 (1) (b) or (2) (b)”.

[3] Sections 22 and 22A

Omit the sections. Insert instead:

22 General provisions as to court bail

- (1) An application to a court in relation to bail is to be dealt with as soon as reasonably practicable.
- (2) The regulations may make provision for or with respect to the manner of making applications to courts in relation to bail.

22A Power to refuse to hear bail application

- (1) A court is to refuse to entertain an application for bail by a person accused of an offence if an application by the person in relation to that bail has already been made and dealt with by a court, unless:
 - (a) the person was not legally represented when the previous application was dealt with, and the person now has legal representation, or
 - (b) the court is satisfied that new facts or circumstances have arisen since the previous application that justify the making of another application.
- (2) A court may refuse to entertain an application in relation to bail if it is satisfied that the application is frivolous or vexatious.
- (3) The Supreme Court may refuse to entertain an application in relation to bail if the bail application comprises a bail condition review that could be dealt with under section 48A by a magistrate or authorised justice or the District Court.

- (4) Except as provided by subsection (3), this section does not affect the power of a court to review a decision in relation to bail under Division 2 of Part 6 or the right of a person to request such a review.
- (5) If a court has previously dealt with an application for bail for a person accused of an offence, a further application to a court for bail in relation to that offence may not be made by a lawyer on behalf of that person, unless the lawyer is satisfied that:
 - (a) the person was not legally represented when the previous application was dealt with, or
 - (b) new facts or circumstances have arisen since the previous application that justify the making of another application.
- (6) In this section, a reference to a court does not include a reference to an authorised justice exercising the functions of a court.

[4] Schedule 1 Savings and transitional provisions

Insert after Part 18:

Part 19 Bail Amendment Act 2007

36 Persons charged with firearms offences before commencement of Bail Amendment Act 2007

The amendment made to section 8B by the *Bail Amendment Act 2007* extends to a grant of bail to a person in respect of an offence committed before the commencement of that amendment, but only if the person is charged with the offence on or after that commencement.

37 Limit on bail applications

The amendments made to sections 22 and 22A by the *Bail Amendment Act 2007* extend to an application in relation to bail made by or on behalf of a person in a case where an application in relation to that bail has already been made by or on behalf of the person and dealt with by a court before the commencement of the amendments.

[Second reading speech made in Legislative Council on 17 October 2007

Agreement in principle speech made in Legislative Assembly on 6 November 2007]

BY AUTHORITY