



New South Wales

Bail and Crimes Amendment Act 2024 No 18

Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Bail Act 2013 No 26	3
Schedule 2	Amendment of Crimes Act 1900 No 40	5
Schedule 3	Amendment of Criminal Procedure Act 1986 No 209	7



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Bail and Crimes Amendment Act 2024 No 18

Act No 18, 2024

An Act to amend the *Bail Act 2013* to provide for a temporary limitation on granting bail for certain young persons in relation to certain serious offences; to amend the *Crimes Act 1900* to provide for a new offence in relation to performance crimes; and to make consequential amendments to the *Criminal Procedure Act 1986*. [Assented to 3 April 2024]

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Bail and Crimes Amendment Act 2024*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Bail Act 2013 No 26

[1] Section 22C

Insert after section 22B—

22C Temporary limitation on bail for certain young persons in relation to certain serious offences

- (1) A bail authority must not grant bail to a relevant young person for a relevant offence alleged to have been committed while the young person is on bail for another relevant offence unless the bail authority has a high degree of confidence the young person will not commit a serious indictable offence while on bail subject to any proposed bail conditions.
- (2) A decision under subsection (1) may be made only after—
 - (a) an assessment of bail concerns is made under Division 2, and
 - (b) consideration of whether any bail conditions could reasonably be imposed to address any bail concerns or risk the relevant young person will commit a further serious indictable offence.
- (3) To avoid doubt, the requirement under this section to establish that bail should be refused for the relevant young person remains with the prosecution.
- (4) This section applies despite anything to the contrary in this Act.
- (5) This section expires 12 months after this section commences.
- (6) In this section—

motor theft offence means an offence under the following sections of the *Crimes Act 1900*—

- (a) section 154A,
- (b) section 154C,
- (c) section 154F.

relevant offence means—

- (a) a motor theft offence, or
- (b) a serious breaking and entering offence, or
- (c) an offence under the *Crimes Act 1900*, section 154K, if the underlying offence is a motor theft offence or serious breaking and entering offence.

relevant young person, for a relevant offence, means an individual who is, at the time the relevant offence is alleged to have been committed—

- (a) 14 years of age or more, and
- (b) less than 18 years of age.

serious breaking and entering offence means an offence under the *Crimes Act 1900*, Part 4, Division 4 that is punishable by imprisonment for a term of 14 years or more.

serious indictable offence has the same meaning as in the *Crimes Act 1900*, section 4(1).

[2] Schedule 3 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provision consequent on enactment of Bail and Crimes Amendment Act 2024

Application of amendments

An amendment made to this Act by the *Bail and Crimes Amendment Act 2024* extends to offences committed or alleged to have been committed, or charged, before the commencement of the amendment.

Schedule 2 Amendment of Crimes Act 1900 No 40

[1] Part 4, Division 5B

Insert after section 154J—

Division 5B Performance crime offences

154K Performance crime offences

- (1) A person (the *offender*) commits an offence (a *performance crime offence*) against this section if—
 - (a) the offender's act or omission constitutes—
 - (i) a motor theft offence, or
 - (ii) a breaking and entering offence, and
 - (b) the offender disseminates material to advertise—
 - (i) the offender's involvement in the offence, or
 - (ii) the act or omission constituting the offence.
- (2) An offender who commits a performance crime offence is liable for a maximum penalty that equals the total of the following—
 - (a) the maximum penalty for the motor theft offence or breaking and entering offence,
 - (b) imprisonment for 2 years.
- (3) To avoid doubt, if an offender is convicted of a performance crime offence the offender cannot also be convicted of a motor theft offence or breaking and entering offence in relation to the act or omission constituting the performance crime offence.
- (4) In this section—

advertise means attract the notice and attention of—

 - (a) the public, or
 - (b) a limited section of the public.

breaking and entering offence means an offence under the *Crimes Act 1900*, Part 4, Division 4.

disseminate, in relation to material, means send, supply, exhibit, transmit or communicate the material, including through social media and other electronic methods.

material includes anything that contains data from which text, images or sound can be generated.

motor theft offence means an offence under the following sections of the *Crimes Act 1900*—

 - (a) section 154A,
 - (b) section 154C,
 - (c) section 154F.

154L Review of division

- (1) The Minister must review this division to determine whether—
 - (a) the policy objectives of the division remain valid, and
 - (b) the terms of the division remain appropriate for achieving the objectives.

- (2) The review must be undertaken as soon as practicable after the period of 2 years after the commencement of this division.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 6 months after the end of the period of 2 years.

[2] Schedule 11 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provision consequent on enactment of Bail and Crimes Amendment Act 2024

Application of amendment

An amendment made to this Act by the *Bail and Crimes Amendment Act 2024* applies only in relation to an offence committed, or alleged to have been committed, on or after the commencement of the amendment.

Schedule 3 Amendment of Criminal Procedure Act 1986 No 209

[1] Schedule 1 Indictable offences triable summarily

Insert after Table 1, item 16E—

16F Performance crime offences

An offence under the *Crimes Act 1900*, section 154K, if the motor theft offence or breaking and entering offence that underlies the offence is already prescribed as an offence under this Table.

[2] Schedule 1, Table 2

Insert after Table 2, item 4G—

4H Performance crime offences

An offence under the *Crimes Act 1900*, section 154K, if the motor theft offence or breaking and entering offence that underlies the offence is already prescribed as an offence under this Table.

[Second reading speech made in—

Legislative Assembly on 12 March 2024

Legislative Council on 21 March 2024]