



New South Wales

Bail Amendment (Lifetime Parole) Bill 2006

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Bail Act 1978* to provide for a presumption against bail for persons on lifetime parole in relation to offences carrying sentences of imprisonment.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the *Bail Act 1978* (the *Principal Act*) set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1 [1] inserts proposed section 8E into the Principal Act. The proposed section imposes a presumption against bail on any person who is accused of an offence for which a penalty of imprisonment may be imposed and who is serving a sentence of imprisonment for life and is on release on parole. The proposed section applies to persons who have been released on parole after having had non-parole periods determined by the Supreme Court under the *Crimes (Sentencing Procedure) Act 1999*, which applies to life sentences imposed during a particular period.

Schedule 1 [2] amends section 9 of the Principal Act to make it clear that the presumption in favour of bail does not apply to people to whom proposed section 8E applies.

Schedule 1 [3] amends section 9D of the Principal Act to make it clear that the presumption against bail under that section will still apply to people to whom proposed section 8E applies who are accused of serious personal violence offences.

Schedule 1 [4] amends section 32 of the Principal Act to make it clear that the criteria for determining bail apply to people to whom proposed section 8E applies and also that the person or court determining bail may consider other relevant matters.

Schedule 1 [5] amends section 38 of the Principal Act to require the reasons for granting bail to people to whom proposed section 8E applies to be recorded immediately.

Schedule 1 [6] inserts Part 17 into Schedule 1 to the Principal Act to apply the changes made by the proposed Act to a person who is charged with an offence before the proposed Act commences and to a review of any bail decision made before that commencement.

First print



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Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Bail Act 1978 No 161	2
4 Repeal of Act	2
Schedule 1 Amendments	3

Bail Amendment (Lifetime Parole) Bill 2006

Contents

Page

Contents page 2



New South Wales

Bail Amendment (Lifetime Parole) Bill 2006

No. , 2006

A Bill for

An Act to amend the *Bail Act 1978* to provide for a presumption against bail for persons on lifetime parole charged with offences carrying a penalty of imprisonment.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Bail Amendment (Lifetime Parole) Act 2006</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5
3 Amendment of Bail Act 1978 No 161	6
The <i>Bail Act 1978</i> is amended as set out in Schedule 1.	7
4 Repeal of Act	8
(1) This Act is repealed on the day following the day on which this Act commences.	9 10
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	11 12

Schedule 1	Amendments	1
	(Section 3)	2
[1]	Section 8E	3
	Insert after section 8D:	4
	8E Presumption against bail for persons on lifetime parole who commit offences carrying prison terms	5 6
	(1) This section applies to an accused person if:	7
	(a) the person is accused of an offence for which a penalty of imprisonment may be imposed, and	8 9
	(b) the person is serving a sentence of imprisonment for life and is on parole.	10 11
	(2) The accused person is not to be granted bail unless the person satisfies the authorised officer or court that bail should not be refused.	12 13 14
	(3) The requirement for bail cannot be dispensed with for the accused person and section 10 (2) does not apply with respect to any such offence.	15 16 17
	(4) Section 8 does not apply to an accused person to whom this section applies.	18 19
	(5) This section does not apply to an accused person to whom section 9C (Murder) applies.	20 21
[2]	Section 9 Presumption in favour of bail for certain offences	22
	Insert “or 8E” after “section 8C” in section 9 (1AA).	23
[3]	Section 9D Repeat offenders—serious personal violence offences	24
	Insert “, 8E” after “Sections 8C” in section 9D (3).	25
[4]	Section 32 Criteria to be considered in bail applications	26
	Insert “or 8E” after “section 8C” in section 32 (6).	27
[5]	Section 38 Reasons to be recorded	28
	Insert “or an accused person to whom section 8E applies” after “9D applies” in section 38 (1A).	29 30

[6] Schedule 1 Savings and transitional provisions	1
Insert after Part 16:	2
Part 17 Bail Amendment (Lifetime Parole) Act 2006	3
34 Persons charged with offences before commencement of Bail Amendment (Lifetime Parole) Act 2006	4
	5
(1) Section 8E, as inserted by the <i>Bail Amendment (Lifetime Parole) Act 2006</i> , extends to a grant of bail in respect of an offence alleged to have been committed before the commencement of that section, whether the person was charged with the offence before or after that commencement.	6
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(2) The operation of this clause extends to a review under Part 6 of this Act of a bail decision made before that commencement.	11
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