

## BAIL (AMENDMENT) BILL 1989

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Bail Act 1978—

- (a) to qualify the right of an accused person to make repeated bail applications to the Supreme Court by empowering the Court to refuse to entertain a further application unless special facts or special circumstances justify the application; and
- (b) to provide for the review of bail conditions by a court at the request of the accused person or of the court's own motion if the person is granted bail but remains in custody because a bail condition has not been met (this will be in addition to the current right to request a general review of the bail decision); and
- (c) to provide that, when a person remains in custody because a bail condition has not been met, the court authorised to conduct a review of bail conditions under the proposed provision referred to in paragraph (b) must be notified that the person is still in custody; and
- (d) to provide that a provision of the Act relating to bail for a person in custody under a bench warrant applies to a bench warrant issued by a magistrate; and
- (e) to enact a transitional provision.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides that the proposed Act commences on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the Schedule of amendments to the Principal Act.

### SCHEDULE 1—AMENDMENTS

#### **Power of Supreme Court to reject repeated bail applications**

Schedule 1 (2) qualifies the current right of an accused person to make repeated bail applications to the Supreme Court by authorising the Court to refuse to entertain a bail application if it has previously dealt with the matter and is not satisfied that there are special facts or special circumstances justifying a further application.

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**Review of bail conditions**

Schedule 1 (3) inserts a provision dealing with a review of bail conditions. It authorises a court to review bail conditions when a person is granted bail but remains in custody because bail conditions are not met. The review can be initiated by a request from the person granted bail or by the court of its own motion. The review is limited to changing the conditions of bail. The current right of an accused person to request a complete review of a bail decision is not affected.

**Special notice where bail conditions not met**

Schedule 1 (4) requires the person who has custody of an accused person still in custody because bail conditions have not been met to inform the court that is authorised to review the bail conditions under the proposed bail condition review provision. The court must be informed within 8 days of the person being received into custody.

**Adjournments—bench warrants issued by magistrates**

Schedule 1 (1) provides that the period between the apprehension of a person under a bench warrant issued in criminal proceedings by a magistrate and the next court appearance of the person is to be considered to be an adjournment so that bail can be granted. Such a provision currently applies to a bench warrant issued by a judge.

**Transitional provision**

Schedule 1 (5) provides that the proposed provisions concerning bail condition reviews do not apply in respect of bail granted before the new provisions commence.

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