

[Act 2002 No 4]



New South Wales

Bail Amendment (Confiscation of Passports) Bill 2002

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* so as to require bail granted to persons accused of offences occasioning death to be made subject, except in special circumstances, to conditions requiring the giving up of passports held by them.

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.

Clause 3 is a formal provision giving effect to the amendments to the *Bail Act 1978* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] inserts a definition of *passport* into section 4 of the *Bail Act 1978*. The definition gives passport the same meaning as it has in the *Migration Act 1958* of the Commonwealth, which states that *passport* includes “a document of identity issued from official sources, whether in or outside Australia, and having the characteristics of a passport, but does not include a document, which may be a document called or purporting to be a passport, that the regulations [under that Act] declare is not to be taken to be a passport”.

Schedule 1 [2] amends section 36 of the *Bail Act 1978* so as to enable bail granted to an accused person under that Act to be made subject to a condition requiring the person to surrender to a police officer or court any passport held by the person.

Schedule 1 [3] inserts proposed section 37A into the *Bail Act 1978*. The proposed section makes the imposition of a condition requiring the surrender of a passport mandatory. However, the proposed section empowers a court to direct that bail is to be granted without such a condition if the accused person satisfies the court that, in the circumstances of the case, the giving of such a direction is justified.