



New South Wales

Bail Amendment (Terrorism) Bill 2004

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 a presumption against bail in respect of persons charged with certain terrorism offences.

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 that gives effect to the amendments to the *Bail Act 1978* set out in Schedule 1.

Schedule 1 Amendments

Currently, the *Bail Act 1978* generally provides for a presumption in favour of bail for persons charged with offences. That Act also provides for exceptions for particular offences.

Schedule 1 [2] amends section 8A which removes the presumption in favour of bail for certain offences and provides that bail is not to be granted in respect of those offences unless the accused person satisfies the officer or court hearing the bail application that bail should not be refused. The amendment extends this section to offences under Divisions 101, 102 and 103 of the *Criminal Code* of the Commonwealth. The offences concerned relate to terrorist acts, involvement with terrorist organisations and other related terrorist activity. **Schedule 1 [1]** makes a consequential amendment.

Schedule 1 [3] extends the operation of the amendments to offences committed before the amendments commence, whether or not the person concerned was charged before that commencement (including in connection with a review of any prior bail decision).

First print



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New South Wales

Bail Amendment (Terrorism) Bill 2004

No. , 2004

A Bill for

An Act to amend the *Bail Act 1978* with respect to the grant of bail to persons charged with certain terrorism offences, and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Bail Amendment (Terrorism) Act 2004*.

2 Commencement

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

3 Amendment of Bail Act 1978 No 161

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

Schedule 1 Amendments

(Section 3)

[1] Part 2, Division 2A, heading

Omit “drug”.

[2] Section 8A Presumption against bail for certain offences

Insert at the end of section 8A (1) (b):

, and

(c) to offences under Division 101, 102 or 103 of the *Criminal Code* of the Commonwealth.

[3] Schedule 1 Savings and transitional provisions

Insert in appropriate order with appropriate Part and clause number:

Part Bail Amendment (Terrorism) Act 2004

Offences committed or bail decision made before commencement of Bail Amendment (Terrorism) Act 2004

- (1) Section 8A, as amended by the *Bail Amendment (Terrorism) Act 2004*, extends to a grant of bail to a person in respect of an offence committed before the commencement of that amendment, whether the person was charged with that offence before or after that commencement.
- (2) The operation of this clause extends to a review under Part 6 of this Act of a bail decision made before that commencement.