

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.