

First print



New South Wales

Bail Amendment (Enforcement Conditions) Bill 2012

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 enable a court, when granting bail to an accused person, to impose a bail condition (an *enforcement condition*) that requires the accused person to comply, while on bail, with specified kinds of directions that are given by police officers for the purpose of monitoring or enforcing compliance with another bail condition. For example, an enforcement condition may require an accused person, who is subject to another bail condition that requires the accused person to refrain from consuming drugs or alcohol while on bail, to undergo testing for drugs or alcohol as directed by a police officer.

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.

Schedule 1 Amendment of Bail Act 1978 No 161

Schedule 1 [5] enables a court to impose an enforcement condition when granting bail to an accused person. An *enforcement condition* is a condition that requires the accused person to comply, while at liberty on bail, with one or more specified kinds of directions that are given by police officers for the purpose of monitoring or enforcing compliance with another bail condition (the *underlying bail condition*).

An enforcement condition is to specify the kinds of directions that may be given to the accused person and the circumstances in which each kind of direction may be given (in a manner that ensures the compliance with the condition is not unduly onerous).

An enforcement condition may be imposed only if the court considers it reasonable and necessary in the circumstances, having regard to the history of the accused person, the likelihood or risk of the accused person committing further offences while on bail and the extent to which compliance with a direction of a kind specified in the condition may unreasonably affect persons other than the accused person.

A police officer may give a direction to an accused person in the circumstances specified in the enforcement condition or at any other time the police officer has a reasonable suspicion that the accused person has contravened the underlying bail condition.

Currently, bail conditions may only be imposed for certain purposes, including promoting effective law enforcement, the protection and welfare of any specially affected person or the community and reducing the likelihood of future offences being committed by promoting the treatment or rehabilitation of an accused person. **Schedule 1 [4]** provides that an enforcement condition may be imposed on an accused person for the purpose of monitoring or enforcing the accused person's compliance with an underlying bail condition imposed on the accused person for one of those existing purposes.

Schedule 1 [3] makes it clear that the criteria to be taken into account when determining whether to impose an enforcement condition are additional to the existing criteria to be considered by a court in determining whether to grant bail to an accused person.

Schedule 1 [1], [2] and [6] are consequential amendments.