



New South Wales

# Justice Legislation Amendment (Non-association and Place Restriction) Bill 2001

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The objects of this Bill are:

- (a) to amend the *Crimes (Sentencing Procedure) Act 1999* so as:
  - (i) to enable “non-association” and “place restriction” orders to be imposed on persons who are sentenced for offences carrying a maximum penalty of 6 months imprisonment or more, and
  - (ii) to enable “non-association” and “place restriction” conditions to be imposed on the grant of parole under that Act, and
- (b) to amend the *Children (Criminal Proceedings) Act 1987* so as to enable “non-association” and “place restriction” orders to be imposed on persons who are sentenced for offences carrying a maximum penalty of 6 months imprisonment or more, and

- (c) to amend the *Bail Act 1978* so as to enable “non-association” and “place restriction” conditions to be imposed on the grant of bail under that Act, and
- (d) to amend the *Crimes (Administration of Sentences) Act 1999* so as to enable “non-association” and “place restriction” conditions to be imposed on:
  - (i) the grant of leave under Part 2 of that Act, and
  - (ii) the grant of parole under Part 6 of that Act, and
  - (iii) a sentence of home detention referred to in Part 7 of that Act, and
- (e) to amend the *Children (Detention Centres) Act 1987* so as to enable “non-association” and “place restriction” conditions to be imposed on the grant of leave under section 24 of that Act.

The Bill also makes a consequential amendment to the *Criminal Appeal Act 1912*.

## 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 a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments set out in Schedule 1 in relation to various Acts relating to sentencing procedure.

**Clause 4** is a formal provision giving effect to the amendments set out in Schedule 2 in relation to various Acts relating to bail and sentence administration.

**Clause 5** requires the Ombudsman to keep under scrutiny, and to report to the Government on, the amendments made by the proposed Act.

## Non-association and place restriction orders

### Crimes (Sentencing Procedure) Act 1999

Amendments to the *Crimes (Sentencing Procedure) Act 1999* insert a new Division 4A into Part 2 (**Schedule 1.1 [2]**) and a new Part 8A (**Schedule 1.1 [7]**).

Proposed Division 4A contains a single provision (proposed section 17A) that enables a court to impose a non-association order or place restriction order on an offender whom it is sentencing for an offence that carries a penalty of imprisonment for 6 months or more if it is satisfied that it is reasonably necessary to do so in order to prevent the offender from committing further such offences. There will be two kinds of non-association order: one that prohibits the offender from being in

the same company as one or more specified persons, the other that prohibits the offender from all forms of association with one or more specified persons. There is one kind of place restriction order: it will prohibit the offender from frequenting or visiting a specified place or district. An order under the proposed section will last for up to 12 months.

Proposed Part 8A contains the following provisions:

**Proposed section 100A** prevents a non-association order from imposing certain restrictions on the persons with whom an offender may associate (that is, members of the offender's close family) and prevents a place restriction order from imposing certain restrictions on the places or districts that the offender may frequent or visit (that is, the offender's residence, or the residence of his or her close family, or the offender's place of work, educational institution or place of worship).

**Proposed section 100B** requires a court to explain to an offender on whom it has imposed a non-association order or place restriction order the obligations that arise under the order and the consequences that may follow a breach of the order.

**Proposed section 100C** provides that a non-association order or place restriction order commences when it is made or, if it is stayed on appeal but subsequently confirmed, when it is confirmed.

**Proposed section 100D** provides that a non-association order or place restriction order is suspended in certain circumstances, such as if the offender is taken into custody.

**Proposed section 100E** provides that it is an offence (punishable by a maximum penalty of 10 penalty units (\$1,100) or imprisonment for 6 months, or both) for a person to contravene a non-association order or place restriction order without reasonable excuse.

**Proposed section 100F** enables a court to vary or revoke an offender's existing non-association order or place restriction order when sentencing the offender for a new offence.

**Proposed section 100G** enables a Local Court to vary or revoke an offender's existing non-association order or place restriction order on application by the offender. The Commissioner of Police will be notified of all such applications and be entitled to appear as a party to proceedings on such an application.

**Proposed section 100H** provides that it is an offence, subject to specified exemptions, to publish or broadcast information as to the identity of any person with whom an offender is prohibited from associating pursuant to a non-association order, punishable by a maximum penalty of 10 penalty units (\$1,100).

An amendment is made to section 25 so as to prevent a non-association order or place restriction order from being imposed on an offender in his or her absence (**Schedule 1.1 [3]**).

An amendment is made to section 31 so as to include a reference to the making of a non-association order or place restriction order in the definition of *impose a penalty* in that section (**Schedule 1.1 [4]**).

An amendment is made to section 43 so as to include a reference to the making of a non-association order or place restriction order in the definition of *impose a penalty* in subsection (6) of that section (**Schedule 1.1 [5]**).

An amendment is made to clause 1 of Schedule 2 so as to enable the regulations under the Act to make provisions of a savings or transitional nature consequent on the enactment of the proposed Act (**Schedule 1.1 [8]**). A new Part is inserted at the end of Schedule 2, containing a clause that excludes offences committed before the commencement of proposed section 17A from the operation of that section (**Schedule 1.1 [9]**).

A consequential amendment is made to section 3 (**Schedule 1.1 [1]**).

### **Children (Criminal Proceedings) Act 1987**

An amendment to the *Children (Criminal Proceedings) Act 1987* inserts a new section 33D (**Schedule 1.3 [1]**) which enables a court exercising functions under that Act to impose a non-association order or place restriction order on a person whom it is dealing with under that Act. The proposed section adopts proposed Part 8A of the *Crimes (Sentencing Procedure) Act 1999* in relation to such orders.

An amendment is made to clause 1 of Schedule 2 so as to enable the regulations under the Act to make provisions of a savings or transitional nature consequent on the enactment of the proposed Act (**Schedule 1.3 [2]**). A new Part is inserted at the end of Schedule 2, containing a clause that excludes offences committed before the commencement of proposed section 33D from the operation of that section (**Schedule 1.3 [3]**).

### **Criminal Appeal Act 1912**

A consequential amendment is made to the definition of *sentence* in section 2 (1) of the *Criminal Appeal Act 1912* (**Schedule 1.2**).

## Conditions of parole as to non-association and place restriction

### Crimes (Sentencing Procedure) Act 1999

An amendment to the *Crimes (Sentencing Procedure) Act 1999* inserts new sections 51A and 51B (**Schedule 1.1 [6]**).

**Proposed section 51A** enables the conditions of a parole order under that Act to include non-association and place restriction provisions.

**Proposed section 51B** provides that it is an offence, subject to specified exemptions, to publish or broadcast information as to the identity of any person with whom an offender is prohibited from associating pursuant to parole conditions imposed under proposed section 51A, punishable by a maximum penalty of 10 penalty units (\$1,100).

### Crimes (Administration of Sentences) Act 1999

An amendment to the *Crimes (Administration of Sentences) Act 1999* inserts a new section 128A (**Schedule 2.2 [2]**). The proposed section enables the conditions of a parole order to include non-association and place restriction provisions. Under existing section 257, the unauthorised disclosure of information as to the identity of any person with whom an offender is prohibited from associating pursuant to such conditions is an offence punishable by a maximum penalty of 10 penalty units (\$1,100).

## Conditions of bail as to non-association and place restriction

### Bail Act 1978

Amendments to the *Bail Act 1978* insert new sections 36B, 36C and 39B (**Schedule 2.1 [6]** and **[8]**).

**Proposed section 36B** enables the conditions of bail to include non-association and place restriction provisions.

**Proposed section 36C** provides that it is an offence, subject to specified exemptions, to publish or broadcast information as to the identity of any person with whom an accused person is prohibited from associating pursuant to bail conditions imposed under proposed section 36B, punishable by a maximum penalty of 10 penalty units (\$1,100).

**Proposed section 39B** generalises an existing requirement for an authorised officer or court to whom a bail undertaking is given to explain to any person entering into an associated bail agreement the obligations that arise under the undertaking and the consequences that may follow a breach of the undertaking.

Other consequential amendments are made to the *Bail Act 1978* (**Schedule 2.1 [1]–[5]** and **[7]**).

## **Conditions of leave as to non-association and place restriction**

### **Crimes (Administration of Sentences) Act 1999**

An amendment to the *Crimes (Administration of Sentences) Act 1999* inserts a new section 26A (**Schedule 2.2 [1]**). The proposed section enables the conditions of a local leave permit to include non-association and place restriction provisions. Under existing section 257, the unauthorised disclosure of information as to the identity of any person with whom an offender is prohibited from associating pursuant to such conditions is an offence punishable by a maximum penalty of 10 penalty units (\$1,100).

### **Children (Detention Centres) Act 1987**

An amendment to the *Children (Detention Centres) Act 1987* inserts a new section 24A (**Schedule 2.3**). The proposed section enables the conditions of leave under section 24 of that Act to include non-association and place restriction provisions. Under existing section 37D, the unauthorised disclosure of information as to the identity of any person with whom an offender is prohibited from associating pursuant to such conditions is an offence punishable by a maximum penalty of 10 penalty units (\$1,100) or imprisonment for 12 months, or both.

## **Conditions of home detention as to non-association and place restriction**

### **Crimes (Administration of Sentences) Act 1999**

An amendment to the *Crimes (Administration of Sentences) Act 1999* inserts a new section 165A (**Schedule 2.2 [3]**). The proposed section enables the conditions of home detention imposed under section 165 to include non-association and place restriction provisions. Under existing section 257, the unauthorised disclosure of

Justice Legislation Amendment (Non-association and Place Restriction) Bill 2001

Explanatory note

---

information as to the identity of any person with whom an offender is prohibited from associating pursuant to such conditions is an offence punishable by a maximum penalty of 10 penalty units (\$1,100).



New South Wales

# Justice Legislation Amendment (Non-association and Place Restriction) Bill 2001

## Contents

---

|  | Page |
|--|------|
| 1 Name of Act  | 2    |
| 2 Commencement   | 2    |
| 3 Amendment of Acts relating to sentencing procedure             | 2    |
| 4 Amendment of Acts relating to bail and sentence administration | 2    |
| 5 Monitoring of operation of amendments by Ombudsman             | 2    |
| <br>   |      |
| Schedules  |      |
| 1 Amendment of Acts relating to sentencing procedure             | 3    |
| 2 Amendment of Acts relating to bail and sentence administration | 15   |





New South Wales

# **Justice Legislation Amendment (Non-association and Place Restriction) Bill 2001**

No , 2001

---

## **A Bill for**

An Act to amend various Acts relating to sentencing, bail and sentence administration to reduce certain kinds of criminal activity; and for other purposes.

---

|   |                      |
|---|----------------------|
| <b>The Legislature of New South Wales enacts:</b>   | 1                    |
| <b>1 Name of Act</b>  | 2                    |
| This Act is the <i>Justice Legislation Amendment (Non-association and Place Restriction) Act 2001</i> .   | 3<br>4               |
| <b>2 Commencement</b>   | 5                    |
| This Act commences on a day or days to be appointed by proclamation.  | 6<br>7               |
| <b>3 Amendment of Acts relating to sentencing procedure</b>   | 8                    |
| Each Act listed in Schedule 1 is amended as set out in that Schedule.   | 9                    |
| <b>4 Amendment of Acts relating to bail and sentence administration</b>   | 10                   |
| Each Act listed in Schedule 2 is amended as set out in that Schedule.   | 11                   |
| <b>5 Monitoring of operation of amendments by Ombudsman</b>   | 12                   |
| (1) For the period of 2 years from the commencement of this section, the Ombudsman is to keep under scrutiny the operation of the amendments made by this Act.  | 13<br>14<br>15       |
| (2) For that purpose, the Ombudsman may require any public authority to provide information concerning the authority's participation in the operation of the statutory provisions affected by those amendments.   | 16<br>17<br>18       |
| (3) As soon as practicable after the expiry of the period of 2 years, the Ombudsman must furnish a report to each Minister administering the statutory provisions affected by those amendments as to the operation and effect of those amendments during that period. | 19<br>20<br>21<br>22 |

---

|                   |   |    |
|-------------------|---|----|
| <b>Schedule 1</b> | <b>Amendment of Acts relating to sentencing procedure</b>   | 1  |
|                   |   | 2  |
|                   | (Section 3)   | 3  |
| <b>1.1</b>        | <b>Crimes (Sentencing Procedure) Act 1999 No 92</b>   | 4  |
| <b>[1]</b>        | <b>Section 3 Interpretation</b>   | 5  |
|                   | Insert in alphabetical order in section 3 (1):  | 6  |
|                   | <i>associate with</i> means:  | 7  |
|                   | (a) to be in company with, or   | 8  |
|                   | (b) to communicate with by any means (including post, facsimile, telephone and email).  | 9  |
|                   |   | 10 |
|                   | <i>non-association order</i> means an order referred to in section 17A (2) (a).   | 11 |
|                   |   | 12 |
|                   | <i>place restriction order</i> means an order referred to in section 17A (2) (b).   | 13 |
|                   |   | 14 |
| <b>[2]</b>        | <b>Part 2, Division 4A</b>  | 15 |
|                   | Insert after Division 4:  | 16 |
|                   | <b>Division 4A Non-association and place restriction orders</b>   | 17 |
| <b>17A</b>        | <b>Non-association and place restriction orders</b>   | 18 |
|                   | (1) This section applies to any offence that is punishable by imprisonment for 6 months or more, whether or not the offence is also punishable by fine.           | 19 |
|                   |   | 20 |
|                   |   | 21 |
|                   | (2) When sentencing an offender for an offence to which this section applies, a court may make either or both of the following orders in respect of the offender: | 22 |
|                   |   | 23 |
|                   |   | 24 |
|                   | (a) a non-association order, being an order prohibiting the offender from associating with a specified person for a specified term, or                            | 25 |
|                   |   | 26 |
|                   |   | 27 |

Justice Legislation Amendment (Non-association and Place Restriction)  
Bill 2001

Schedule 1 Amendment of Acts relating to sentencing procedure

---

|            |  |                            |
|------------|--|----------------------------|
| (b)        | a place restriction order, being an order prohibiting the offender from frequenting or visiting a specified place or district for a specified term,  | 1<br>2<br>3                |
|            | if it is satisfied that it is reasonably necessary to do so to ensure that the offender does not commit any further offences to which this section applies.  | 4<br>5<br>6                |
| (3)        | An order under subsection (2) (a) is to be one of the following:   | 7                          |
| (a)        | a limited non-association order, being an order prohibiting the offender from being in company with a specified person,  | 8<br>9<br>10               |
| (b)        | an unlimited non-association order, being an order prohibiting the offender:   | 11<br>12                   |
| (i)        | from being in company with a specified person,   | 13                         |
|            | and  | 14                         |
| (ii)       | from communicating with that person by any means.  | 15<br>16                   |
| (4)        | An order under this section is to be made in addition to, and not instead of, any other penalty for the offence, but may not be made if the only other penalty for the offence is an order under section 10 or 11.   | 17<br>18<br>19<br>20       |
| (5)        | The term of an order under this section is not limited by any term of imprisonment imposed for the offence, but must not exceed 12 months.   | 21<br>22<br>23             |
| (6)        | This section does not limit the kinds of prohibition or restriction that may be imposed on an offender by means of any other order or direction under this or any other Act, so that such an order or direction may include prohibitions of the kind referred to in subsections (2) and (3). | 24<br>25<br>26<br>27<br>28 |
| (7)        | This section is subject to the provisions of Part 8A.  | 29                         |
| <b>[3]</b> | <b>Section 25 Local Court not to impose certain penalties if offender is absent</b>  | 30<br>31                   |
|            | Insert after section 25 (1) (e):   | 32                         |
| (f)        | a non-association order or place restriction order.  | 33                         |

---

|  |    |
|--|----|
| <b>[4] Section 31 Definitions</b>  | 1  |
| Insert after paragraph (c) of the definition of <i>impose a penalty</i> :  | 2  |
| (c1) make a non-association order or place restriction order,  | 3  |
| or   | 4  |
| <b>[5] Section 43 Court may reopen proceedings to correct sentencing errors</b>  | 5  |
| Insert after paragraph (c) of the definition of <i>impose a penalty</i> in section 43 (6):   | 6  |
| (c1) make a non-association order or place restriction order,  | 8  |
| or   | 9  |
| <b>[6] Sections 51A and 51B</b>  | 10 |
| Insert after section 51:   | 11 |
| <b>51A Conditions of parole as to non-association and place restriction</b>  | 12 |
| (1) The conditions to which a parole order is subject may include either or both of the following:   | 13 |
| (a) provisions prohibiting or restricting the offender from associating with a specified person,   | 15 |
| (b) provisions prohibiting or restricting the offender from frequenting or visiting a specified place or district.   | 17 |
| (2) A condition referred to in subsection (1) (a) or (b) is suspended:   | 19 |
| (a) while the offender is in lawful custody (otherwise than while unescorted as referred to in section 38 (2) (a) of the <i>Crimes (Administration of Sentences) Act 1999</i> ), and   | 21 |
| (b) while the offender is under the immediate supervision of a public servant employed within the Department of Juvenile Justice pursuant to a condition of leave imposed under section 24 of the <i>Children (Detention Centres) Act 1987</i> . | 24 |
| (3) An offender does not contravene a prohibition or restriction as to his or her association with a specified person:   | 29 |
| (a) if the offender does so in compliance with an order of a court, or   | 30 |
|  | 31 |
|  | 32 |

---

- (b) if, having associated with the person unintentionally, the offender immediately terminates the association. 1  
2
- (4) An offender does not contravene a requirement not to frequent 3  
or visit a specified place or district if the offender does so in 4  
compliance with an order of a court. 5
- 51B Certain information not to be published or broadcast 6**
- (1) A person must not publish or broadcast: 7
  - (a) the fact that a named person (other than the offender) is 8  
specified in a condition of a parole order referred to in 9  
section 51A (1) (a), or 10
  - (b) any information calculated to identify any such person. 11Maximum penalty: 10 penalty units. 12
- (2) Subsection (1) does not apply to the disclosure of information 13  
to any of the following persons: 14
  - (a) the offender, 15
  - (b) any person specified in the parole order as a person with 16  
whom the offender is prohibited or restricted from 17  
associating, 18
  - (c) any member of the Police Service, 19
  - (d) any person involved in the administration of the parole 20  
order or of any penalty to which the offender is subject 21  
while on parole, 22
  - (e) any person involved in proceedings for an alleged 23  
breach of the parole order, 24
  - (f) any other person specified in the parole order as a 25  
person to whom such information may be disclosed, 26
  - (g) any other person to whom such information is required 27  
to be disclosed pursuant to any other Act or law, 28and does not apply to the publication or broadcasting of an 29  
official report of the proceedings of the court. 30

---

|  |    |
|--|----|
| <b>[7] Part 8A</b>   | 1  |
| Insert after Part 8:   | 2  |
| <br>   |    |
| <b>Part 8A Non-association and place restriction orders</b>  | 3  |
| <br>   |    |
| <b>100A Non-association and place restriction orders not to restrict certain associations or activities</b>  | 4  |
|  | 5  |
| (1) The persons specified in a non-association order as persons with whom the offender must not associate may not include any member of the offender's close family. | 6  |
|  | 7  |
|  | 8  |
| (2) The places or districts specified in a place restriction order as places or districts that the offender must not frequent or visit may not include:              | 9  |
|  | 10 |
|  | 11 |
| (a) the offender's place of residence or the place of residence of any member of the offender's close family, or   | 12 |
|  | 13 |
|  | 14 |
| (b) any place of work at which the offender is regularly employed, or  | 15 |
|  | 16 |
| (c) any educational institution at which the offender is enrolled, or  | 17 |
|  | 18 |
| (d) any place of worship at which the offender regularly attends,  | 19 |
|  | 20 |
| as at the time the order is made.  | 21 |
| (3) In this section, an offender's <i>close family</i> includes:   | 22 |
| (a) the offender's spouse, de facto or same-sex partner, and   | 23 |
| (b) the offender's parents, step-parents and grandparents, and   | 24 |
|  | 25 |
| (c) the offender's children, step-children and grandchildren, and  | 26 |
|  | 27 |
| (d) the offender's brothers and sisters, and step-brothers and step-sisters, and   | 28 |
|  | 29 |
| (e) the offender's guardians or carers.  | 30 |

|             |  |                            |
|-------------|--|----------------------------|
| <b>100B</b> | <b>Explanation of non-association and place restriction orders to offenders</b>  | 1<br>2                     |
| (1)         | Having made a non-association order or place restriction order in relation to an offender, a court must ensure that all reasonable steps are taken to explain to the offender (in language that the offender can readily understand):        | 3<br>4<br>5<br>6           |
| (a)         | the offender's obligations under the order, and  | 7                          |
| (b)         | the consequences that may follow if the offender fails to comply with those obligations.   | 8<br>9                     |
| (2)         | A non-association order or place restriction order is not invalidated by a failure to comply with this section.  | 10<br>11                   |
| <b>100C</b> | <b>Commencement of non-association and place restriction orders</b>  | 12                         |
|             | A non-association order or place restriction order commences:  | 13                         |
| (a)         | on the date on which it is made, or  | 14                         |
| (b)         | if it is stayed as a consequence of appeal proceedings but confirmed on appeal, whether expressly or impliedly, on the date on which it is confirmed.  | 15<br>16<br>17             |
| <b>100D</b> | <b>Suspension of non-association and place restriction orders while offenders in custody</b>   | 18<br>19                   |
| (1)         | An offender's non-association order or place restriction order is suspended:   | 20<br>21                   |
| (a)         | while the offender is in lawful custody (otherwise than while unescorted as referred to in section 38 (2) (a) of the <i>Crimes (Administration of Sentences) Act 1999</i> ), and   | 22<br>23<br>24             |
| (b)         | while the offender is under the immediate supervision of a public servant employed within the Department of Juvenile Justice pursuant to a condition of leave imposed under section 24 of the <i>Children (Detention Centres) Act 1987</i> . | 25<br>26<br>27<br>28<br>29 |
| (2)         | The suspension of an offender's non-association order or place restriction order does not operate to postpone the date on which the order comes to an end.   | 30<br>31<br>32             |



---

|             |   |    |
|-------------|---|----|
| <b>100E</b> | <b>Contravention of non-association and place restriction orders</b>  | 1  |
| (1)         | An offender must not, without reasonable excuse, contravene a non-association order or place restriction order.   | 2  |
|             | Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.  | 3  |
|             |   | 4  |
|             |   | 5  |
| (2)         | Without limiting subsection (1), it is a reasonable excuse for associating with a specified person in contravention of a non-association order if:  | 6  |
|             |   | 7  |
|             |   | 8  |
| (a)         | the offender did so in compliance with an order of a court, or  | 9  |
|             |   | 10 |
| (b)         | having associated with the specified person unintentionally, the offender immediately terminated the association.   | 11 |
|             |   | 12 |
|             |   | 13 |
| (3)         | Without limiting subsection (1), it is a reasonable excuse for frequenting or visiting a specified place or district in contravention of a place restriction order if the offender did so in compliance with an order of a court.       | 14 |
|             |   | 15 |
|             |   | 16 |
|             |   | 17 |
| <b>100F</b> | <b>Variation or revocation of non-association and place restriction orders following subsequent conviction</b>  | 18 |
|             |   | 19 |
| (1)         | This section applies to an offender who is sentenced in respect of an offence (the <i>new offence</i> ) while subject to a non-association order or place restriction order in respect of some other offence (the <i>old offence</i> ). | 20 |
|             |   | 21 |
|             |   | 22 |
|             |   | 23 |
| (2)         | When sentencing the offender for the new offence, the court may vary or revoke the non-association order or place restriction order for the old offence, regardless of whether the order was made by it or by some other court.         | 24 |
|             |   | 25 |
|             |   | 26 |
|             |   | 27 |
| <b>100G</b> | <b>Variation or revocation of non-association and place restriction orders on application</b>   | 28 |
|             |   | 29 |
| (1)         | An offender who is subject to a non-association order or place restriction order may apply to a Local Court for variation or revocation of the order, regardless of whether the order was made by a Local Court or by some other court. | 30 |
|             |   | 31 |
|             |   | 32 |
|             |   | 33 |

- (2) Such an application must be accompanied by a copy of the relevant order, together with any variations to it that have been made under this Part. 1  
2  
3
- (3) Such an application may not be made except by leave of the Local Court, which leave may be granted only if it is satisfied that, having regard to changes in the applicant's circumstances since the order was made or last varied, it is in the interests of justice that leave be granted. 4  
5  
6  
7  
8
- (4) The Local Court may refuse to entertain an application for leave if it is satisfied that the application is frivolous or vexatious. 9  
10  
11
- (5) If leave to make an application for variation or revocation of a non-association order is granted: 12  
13
- (a) the Local Court must cause notice of the application to be served on the Commissioner of Police, and 14  
15
- (b) the Commissioner of Police is entitled to appear and be heard in any proceedings on the application. 16  
17
- (6) The Local Court may, at its discretion, deal with the application with or without the parties being present and in open court or in chambers. 18  
19  
20
- (7) The Local Court may dispose of the application: 21
- (a) by varying or revoking the non-association order or place restriction order in accordance with the application, or 22  
23  
24
- (b) by dismissing the application. 25
- (8) The Local Court's decision on the application is final. 26
- 100H Certain information not to be published or broadcast** 27
- (1) A person must not publish or broadcast: 28
- (a) the fact that a named person (other than the offender) is specified in a non-association order pursuant to section 17A (2) (a), or 29  
30  
31
- (b) any information calculated to identify any such person. 32
- Maximum penalty: 10 penalty units. 33

---

|  |    |
|--|----|
| (2) Subsection (1) does not apply to the disclosure of information to any of the following persons:  | 1  |
| (a) the offender,  | 2  |
| (b) any person specified in the non-association order as a person with whom the offender is prohibited or restricted from associating,                               | 3  |
| (c) any member of the Police Service,  | 4  |
| (d) any person involved in the administration of the non-association order or of any other penalty to which the offender is subject in relation to the same offence, | 5  |
| (e) any person involved in proceedings for an alleged breach of the non-association order,   | 6  |
| (f) any other person specified in the non-association order as a person to whom such information may be disclosed,   | 7  |
| (g) any other person to whom such information is required to be disclosed pursuant to any other Act or law,  | 8  |
| and does not apply to the publication or broadcasting of an official report of the proceedings of the court.   | 9  |
| <b>[8] Schedule 2 Savings, transitional and other provisions</b>   | 10 |
| Insert at the end of clause 1 (1):   | 11 |
| <i>Justice Legislation Amendment (Non-association and Place Restriction) Act 2001</i> (to the extent only to which it amends this Act)                               | 12 |
|  | 13 |
|  | 14 |
|  | 15 |
|  | 16 |
|  | 17 |
|  | 18 |
|  | 19 |
|  | 20 |
|  | 21 |
|  | 22 |
|  | 23 |
|  | 24 |

|  |                   |
|--|-------------------|
| <b>[9] Schedule 2</b>  | 1                 |
| Insert at the end of the Schedule, with appropriate Part and clause numbers:   | 2                 |
| <b>Part Provisions consequent on enactment of<br/>Justice Legislation Amendment (Non-<br/>association and Place Restriction) Act 2001</b>  | 3<br>4<br>5       |
| <b>Application of section 17A</b>  | 6                 |
| Section 17A, as inserted by the <i>Justice Legislation Amendment<br/>(Non-association and Place Restriction) Act 2001</i> , does not<br>apply to any offence committed before the commencement of<br>that section. | 7<br>8<br>9<br>10 |
| <b>1.2 Criminal Appeal Act 1912 No 16</b>  | 11                |
| <b>Section 2 Definitions</b>   | 12                |
| Omit “11 or 12” from paragraph (c) of the definition of <i>Sentence</i> in section<br>2 (1).   | 13<br>14          |
| Insert instead “11, 12 or 17A”.  | 15                |
| <b>1.3 Children (Criminal Proceedings) Act 1987 No 55</b>  | 16                |
| <b>[1] Section 33D</b>   | 17                |
| Insert after section 33C:  | 18                |
| <b>33D Non-association and place restriction orders</b>  | 19                |
| (1) This section applies to any offence that is punishable by<br>imprisonment for 6 months or more, whether or not the offence<br>is also punishable by fine.  | 20<br>21<br>22    |

- 
- (2) When sentencing a person for an offence to which this section applies, a court that has made an order under section 33 (1) (paragraphs (a), (c1) and (c2) excepted) may make either or both of the following orders in respect of the person:
- (a) a non-association order, being an order prohibiting the person from associating with a specified person for a specified term, or
  - (b) a place restriction order, being an order prohibiting the person from frequenting or visiting a specified place or district for a specified term,
- if it is satisfied that it is reasonably necessary to do so to ensure that the person does not commit any further offences to which this section applies.
- (3) An order under subsection (2) (a) is to be one of the following:
- (a) a limited non-association order, being an order prohibiting the person from being in company with a specified person,
  - (b) an unlimited non-association order, being an order prohibiting the person:
    - (i) from being in company with a specified person, and
    - (ii) from communicating with that person by any means.
- (4) The term of an order under this section is not limited by any term of detention imposed for the offence, but must not exceed 12 months.
- (5) This section does not limit the kinds of prohibition or restriction that may be imposed on a person by means of any other order or direction under this or any other Act (such as an order referred to in section 33 (1) (b) or (e)), so that such an order or direction may include prohibitions of the kind referred to in subsections (2) and (3).
- (6) Part 8A of the *Crimes (Sentencing Procedure) Act 1999* applies to and in respect of a non-association order or place restriction order under this section in the same way as it applies to and in respect of a non-association order or place restriction order under that Act.

Justice Legislation Amendment (Non-association and Place Restriction)  
Bill 2001

Schedule 1      Amendment of Acts relating to sentencing procedure

---

|             |   |                       |
|-------------|---|-----------------------|
| (7)         | In the application of section 100G of the <i>Crimes (Sentencing Procedure) Act 1999</i> to or in respect of a non-association order or place restriction order under this section, a reference in that section to a Local Court is to be read as a reference to the Children's Court. | 1<br>2<br>3<br>4<br>5 |
| (8)         | In this section, <i>associate with</i> means:   | 6                     |
|             | (a) to be in company with, or   | 7                     |
|             | (b) to communicate with by any means (including post, facsimile, telephone and email).  | 8<br>9                |
| <b>[2]</b>  | <b>Schedule 2 Savings and transitional provisions</b>   | 10                    |
|             | Insert at the end of clause 1 (1):  | 11                    |
|             | Schedule 1.3 to the <i>Justice Legislation Amendment (Non-association and Place Restriction) Act 2001</i>   | 12<br>13              |
| <b>[3]</b>  | <b>Schedule 2</b>   | 14                    |
|             | Insert at the end of the Schedule, with appropriate Part and clause numbers:  | 15                    |
| <b>Part</b> | <b>Provisions consequent on enactment of Justice Legislation Amendment (Non-association and Place Restriction) Act 2001</b>   | 16<br>17<br>18        |
|             | <b>Application of section 33D</b>   | 19                    |
|             | Section 33D, as inserted by the <i>Justice Legislation Amendment (Non-association and Place Restriction) Act 2001</i> , does not apply to any offence committed before the commencement of that section.  | 20<br>21<br>22<br>23  |

---

|                   |   |    |
|-------------------|---|----|
| <b>Schedule 2</b> | <b>Amendment of Acts relating to bail and sentence administration</b>   | 1  |
|                   |   | 2  |
|                   | (Section 4)   | 3  |
| <b>2.1</b>        | <b>Bail Act 1978 No 161</b>   | 4  |
| <b>[1]</b>        | <b>Section 4 Definitions</b>  | 5  |
|                   | Omit “36 or 36A” from the definition of <i>bail condition</i> in section 4 (1).   | 6  |
|                   | Insert instead “36, 36A or 36B”.  | 7  |
| <b>[2]</b>        | <b>Section 4 (3) (a)</b>  | 8  |
|                   | Omit “or section 36A (2) (a) or (b)”.   | 9  |
|                   | Insert instead “, section 36A (2) (a) or (b) or section 36B (1) (a) or (b)”.  | 10 |
| <b>[3]</b>        | <b>Section 36 Conditions of bail</b>  | 11 |
|                   | Omit “One or more” from section 36 (2).   | 12 |
|                   | Insert instead “Subject to sections 36A and 36B, one or more”.  | 13 |
| <b>[4]</b>        | <b>Section 36 (7)</b>   | 14 |
|                   | Omit the subsection.  | 15 |
| <b>[5]</b>        | <b>Section 36A Additional bail conditions for persons requiring drug or alcohol assessment, treatment or rehabilitation</b> | 16 |
|                   | Insert “or 36B” after “36” in section 36A (3).  | 17 |
| <b>[6]</b>        | <b>Sections 36B and 36C</b>   | 19 |
|                   | Insert after section 36A:   | 20 |
| <b>36B</b>        | <b>Additional bail conditions as to non-association and place restriction</b>   | 21 |
|                   |   | 22 |
|                   | (1) Either or both of the following conditions may be imposed on the grant of bail:   | 23 |
|                   |   | 24 |

Justice Legislation Amendment (Non-association and Place Restriction)  
Bill 2001

Schedule 2      Amendment of Acts relating to bail and sentence administration

---

- (a) that the accused person enter into an agreement to comply with specified requirements prohibiting or restricting the person from associating with a specified person, 1  
2  
3  
4
- (b) that the accused person enter into an agreement to comply with specified requirements prohibiting or restricting the person from frequenting or visiting a specified place or district. 5  
6  
7  
8
- (2) Conditions of the kind referred to in subsection (1) may be imposed in addition to, or instead of, any condition imposed under section 36 or 36A. 9  
10  
11
- (3) An agreement under this section must be in writing. 12
- (4) A condition or agreement under this section may be entered into in respect of more than one offence. 13  
14
- (5) A condition referred to in subsection (1) (a) or (b) is suspended while the accused person is in lawful custody. 15  
16
- (6) The accused person does not contravene a condition not to associate with a specified person: 17  
18
  - (a) if the accused person does so in compliance with an order of a court, or 19  
20
  - (b) if, having associated with the specified person unintentionally, the accused person immediately terminates the association. 21  
22  
23
- (7) The accused person does not contravene a requirement not to frequent or visit a specified place or district if the accused person does so in compliance with an order of a court. 24  
25  
26
- (8) In this section, *associate with* means: 27
  - (a) to be in company with, or 28
  - (b) to communicate with by any means (including post, facsimile, telephone and email). 29  
30



---

|            |  |                |
|------------|--|----------------|
| <b>36C</b> | <b>Certain information not to be published or broadcast</b>  | 1              |
| (1)        | A person must not publish or broadcast:  | 2              |
| (a)        | the fact that a named person (other than the accused person) is specified in a condition imposed on the grant of bail referred to in section 36B (1) (a), or | 3<br>4<br>5    |
| (b)        | any information calculated to identify any such person.  | 6              |
|            | Maximum penalty: 10 penalty units.   | 7              |
| (2)        | Subsection (1) does not apply to the disclosure of information to any of the following persons:  | 8              |
| (a)        | the accused person,  | 9<br>10        |
| (b)        | any person specified in the bail agreement as a person with whom the accused person is prohibited or restricted from associating,                            | 11<br>12<br>13 |
| (c)        | any member of the Police Service,  | 14             |
| (d)        | any person involved in the administration of the bail agreement or of any penalty to which the accused person is subject while on release on bail,           | 15<br>16<br>17 |
| (e)        | any person involved in proceedings for an alleged breach of the bail agreement,  | 18<br>19       |
| (f)        | any other person specified in the bail agreement as a person to whom such information may be disclosed,  | 20<br>21       |
| (g)        | any other person to whom such information is required to be disclosed pursuant to any other Act or law,  | 22<br>23       |
|            | and (in the case of bail granted by a court) does not apply to the publication or broadcasting of an official report of the proceedings of the court.        | 24<br>25<br>26 |
| <b>[7]</b> | <b>Section 39 Entry into agreement and acceptance of acknowledgment or security</b>  | 27<br>28       |
|            | Omit “36 or 36A”. Insert instead “36, 36A or 36B”.   | 29             |

|  |    |
|--|----|
| <b>[8] Section 39B</b>   | 1  |
| Insert after section 39A:  | 2  |
| <b>39B Explanation of bail agreement to persons affected</b>   | 3  |
| The authorised officer or court to whom a bail undertaking is given must take all reasonable steps to ensure that any person (including the accused person) who enters into an agreement in compliance with the accused person's bail conditions is made aware of: | 4  |
| (a) the obligations incurred by the person under that agreement, and   | 5  |
| (b) in particular, the consequences that may follow if the accused person fails to comply with that undertaking.   | 6  |
|  | 7  |
|  | 8  |
|  | 9  |
|  | 10 |
|  | 11 |
|  | 12 |
| <b>2.2 Crimes (Administration of Sentences) Act 1999 No 93</b>   | 13 |
| <b>[1] Section 26A</b>   | 14 |
| Insert after section 26:   | 15 |
| <b>26A Conditions of leave as to non-association and place restriction</b>   | 16 |
| (1) The conditions to which a local leave permit is subject may include either or both of the following:   | 17 |
| (a) provisions prohibiting or restricting the inmate from associating with a specified person,   | 18 |
| (b) provisions prohibiting or restricting the inmate from frequenting or visiting a specified place or district.   | 19 |
| (2) A condition referred to in subsection (1) (a) or (b) is suspended while the inmate is in lawful custody (otherwise than while unescorted as referred to in section 38 (2) (a)).  | 20 |
| (3) An inmate does not contravene a prohibition or restriction as to his or her association with a specified person:   | 21 |
| (a) if the inmate does so in compliance with an order of a court, or   | 22 |
|  | 23 |
|  | 24 |
|  | 25 |
|  | 26 |
|  | 27 |
|  | 28 |
|  | 29 |

---

|                           |  |                            |
|---------------------------|--|----------------------------|
| (b)                       | if, having associated with the person unintentionally, the inmate immediately terminates the association.  | 1<br>2                     |
| (4)                       | An inmate does not contravene a requirement not to frequent or visit a specified place or district if the inmate does so in compliance with an order of a court.   | 3<br>4<br>5                |
| (5)                       | In this section, <i>associate with</i> means:  | 6                          |
| (a)                       | to be in company with, or  | 7                          |
| (b)                       | to communicate with by any means (including post, facsimile, telephone and email).   | 8<br>9                     |
| <b>[2] Section 128A</b>   |  | 10                         |
| Insert after section 128: |  | 11                         |
| <b>128A</b>               | <b>Conditions of parole as to non-association and place restriction</b>  | 12                         |
| (1)                       | The conditions to which a parole order is subject may include either or both of the following:   | 13<br>14                   |
| (a)                       | provisions prohibiting or restricting the offender from associating with a specified person,   | 15<br>16                   |
| (b)                       | provisions prohibiting or restricting the offender from frequenting or visiting a specified place or district.   | 17<br>18                   |
| (2)                       | A condition referred to in subsection (1) (a) or (b) is suspended:   | 19<br>20                   |
| (a)                       | while the offender is in lawful custody (otherwise than while unescorted as referred to in section 38 (2) (a)), and  | 21<br>22<br>23             |
| (b)                       | while the offender is under the immediate supervision of a public servant employed within the Department of Juvenile Justice pursuant to a condition of leave imposed under section 24 of the <i>Children (Detention Centres) Act 1987</i> . | 24<br>25<br>26<br>27<br>28 |
| (3)                       | An offender does not contravene a prohibition or restriction as to his or her association with a specified person:   | 29<br>30                   |
| (a)                       | if the offender does so in compliance with an order of a court, or   | 31<br>32                   |

|             |  |                |
|-------------|--|----------------|
|             | (b) if, having associated with the person unintentionally, the offender immediately terminates the association.  | 1<br>2         |
|             | (4) An offender does not contravene a requirement not to frequent or visit a specified place or district if the offender does so in compliance with an order of a court. | 3<br>4<br>5    |
|             | (5) In this section, <i>associate with</i> means:  | 6              |
|             | (a) to be in company with, or  | 7              |
|             | (b) to communicate with by any means (including post, facsimile, telephone and email).   | 8<br>9         |
| <b>[3]</b>  | <b>Section 165A</b>  | 10             |
|             | Insert after section 165:  | 11             |
| <b>165A</b> | <b>Conditions of home detention as to non-association and place restriction</b>  | 12<br>13       |
|             | (1) The conditions to which a home detention order under section 165 is subject may include either or both of the following:   | 14<br>15       |
|             | (a) provisions prohibiting or restricting the offender from associating with a specified person,   | 16<br>17       |
|             | (b) provisions prohibiting or restricting the offender from frequenting or visiting a specified place or district.   | 18<br>19       |
|             | (2) A condition referred to in subsection (1) (a) or (b) is suspended while the offender is in lawful custody.   | 20<br>21       |
|             | (3) An offender does not contravene a prohibition or restriction as to his or her association with a specified person:   | 22<br>23       |
|             | (a) if the offender does so in compliance with an order of a court, or   | 24<br>25       |
|             | (b) if, having associated with the person unintentionally, the offender immediately terminates the association.  | 26<br>27       |
|             | (4) An offender does not contravene a requirement not to frequent or visit a specified place or district if the offender does so in compliance with an order of a court. | 28<br>29<br>30 |

---

|  |                |
|--|----------------|
| (5) In this section, <i>associate with</i> means:  | 1              |
| (a) to be in company with, or  | 2              |
| (b) to communicate with by any means (including post, facsimile, telephone and email).   | 3<br>4         |
| <br>   |                |
| <b>2.3 Children (Detention Centres) Act 1987 No 57</b>   | 5              |
| <br>   |                |
| <b>Section 24A</b>   | 6              |
| Insert after section 24:   | 7              |
| <br>   |                |
| <b>24A Conditions of leave as to non-association and place restriction</b>   | 8              |
| (1) The conditions of leave that may be imposed under section 24 on a person subject to control may include either or both of the following:       | 9<br>10<br>11  |
| (a) provisions prohibiting or restricting the person subject to control from associating with a specified person,                                  | 12<br>13       |
| (b) provisions prohibiting or restricting the person subject to control from frequenting or visiting a specified place or district.                | 14<br>15<br>16 |
| (2) A condition referred to in subsection (1) (a) or (b) is suspended:   | 17<br>18       |
| (a) while the person subject to control is in lawful custody, and  | 19<br>20       |
| (b) while the person subject to control is under the immediate supervision of a public servant employed within the Department of Juvenile Justice. | 21<br>22<br>23 |
| (3) A person subject to control does not contravene a prohibition or restriction as to his or her association with a specified person:             | 24<br>25<br>26 |
| (a) if the person subject to control does so in compliance with an order of a court, or  | 27<br>28       |
| (b) if, having associated with the specified person unintentionally, the person subject to control immediately terminates the association.         | 29<br>30<br>31 |

Justice Legislation Amendment (Non-association and Place Restriction)  
Bill 2001

Schedule 2      Amendment of Acts relating to bail and sentence administration

---

- (4) A person subject to control does not contravene a requirement not to frequent or visit a specified place or district if the person does so in compliance with an order of a court. 1  
2  
3
- (5) In this section, *associate with* means: 4
  - (a) to be in company with, or 5
  - (b) to communicate with by any means (including post, 6  
facsimile, telephone and email). 7