



New South Wales

# Bail Amendment Bill 2022

## 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 2013* to—

- (a) require bail to be refused following conviction and before sentencing for an offence for which the offender will be sentenced to imprisonment, and
- (b) require that electronic monitoring imposed as a bail condition must meet any minimum standards prescribed in the regulations.

## 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 2013 No 26

**Schedule 1[2]** provides that bail is to be refused following conviction and before sentencing for an offence for which the offender will be sentenced to a sentence of imprisonment to be served by full-time detention, unless it is established that special or exceptional circumstances exist that justify the bail decision. **Schedule 1[3]** inserts a definition of conviction to make it clear that conviction includes a plea of guilty. **Schedule 1[1]** are consequent on the amendment in Schedule 1[3].

**Schedule 1[4]** requires that electronic monitoring imposed as a bail condition must meet any minimum standards prescribed by regulations.



New South Wales

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New South Wales

## Bail Amendment Bill 2022

No. , 2022

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### **A Bill for**

An Act to amend the *Bail Act 2013* to require bail to be refused following conviction and before sentencing for an offence for which the offender will be sentenced to imprisonment; and to require that electronic monitoring imposed as a bail condition must meet any minimum standards prescribed in the regulations.

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**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

2

This Act is the *Bail Amendment Act 2022*.

3

**2 Commencement**

4

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

5

|                        |  |    |
|------------------------|--|----|
| <b>Schedule 1</b>      | <b>Amendment of Bail Act 2013 No 26</b>  | 1  |
| <b>[1] Section 22B</b> |  | 2  |
|                        | Insert after section 22A—  | 3  |
| <b>22B</b>             | <b>Limitation regarding bail during period following conviction and before sentencing for certain offences</b>   | 4  |
|                        | (1) During the period following conviction and before sentencing for an offence for which the accused person will be sentenced to imprisonment to be served by full-time detention, a court—   | 6  |
|                        | (a) on a release application made by the accused person—must not grant bail or dispense with bail, unless it is established that special or exceptional circumstances exist that justify the decision, or  | 9  |
|                        | (b) on a detention application made in relation to the accused person—must refuse bail, unless it is established that special or exceptional circumstances exist that justify the decision.  | 12 |
|                        | (2) If the offence is a show cause offence, the requirement that the accused person establish that special or exceptional circumstances exist that justify a decision to grant bail or dispense with bail applies instead of the requirement that the accused person show cause why the accused person’s detention is not justified. | 15 |
|                        | (3) Subject to subsection (1), Division 2 applies to a bail decision made by a court under this section.   | 19 |
|                        | (4) This section applies despite anything to the contrary in this Act.   | 21 |
|                        | (5) In this section—   | 22 |
|                        | <i>conviction</i> also includes a plea of guilty.  | 23 |
|                        | <b>Note— Conviction</b> is defined in section 4(1) to include a finding of guilt.  | 24 |
| <b>[2] Section 30A</b> |  | 25 |
|                        | Insert after section 30—   | 26 |
| <b>30A</b>             | <b>Bail conditions requiring electronic monitoring</b>   | 27 |
|                        | If bail conditions impose a requirement for the accused person to be subject to electronic monitoring—   | 28 |
|                        | (a) the bail authority must be satisfied the electronic monitoring is of a standard that at least meets any minimum standards prescribed in the regulations, and   | 30 |
|                        | (b) the bail condition must require the electronic monitoring to be of a standard that at least meets any minimum standards prescribed in the regulations.   | 33 |