

Bail Amendment Bill 2007

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*:

- (a) to create a presumption against bail in respect of certain serious firearms offences, and
- (b) to limit the number of applications in relation to bail that may be made to a court by a person accused of an offence, and
- (c) for statute law revision purposes.

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 that gives effect to the amendments to the *Bail Act 1978*.

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] creates a presumption against bail in respect of offences against sections 44A and 62 of the *Firearms Act 1996*.

Section 44A of the *Firearms Act 1996* makes it an offence for a licensed firearms dealer to involve prescribed persons in the business authorised by the licence. (Prescribed persons include persons who have had a firearms dealer licence revoked, persons who have been convicted of serious offences or persons who have had their firearms licence refused or revoked because of a failure to satisfy good character requirements.) The offence carries a maximum penalty of imprisonment for 14 years.

Section 62 of the *Firearms Act 1996* makes it an offence for a person to shorten a firearm or sell or possess a firearm that has been shortened. The offence carries a maximum penalty of imprisonment for 10 years.

Schedule 1 [2] makes a statute law revision amendment that updates cross-references to provisions of the *Crimes Act 1900* which were amended by the *Crimes Legislation Amendment (Gangs) Act 2006*.

Schedule 1 [3] limits the number of applications in relation to bail that may be made to a court by an accused person. At present, there is no limit on the number of applications that may be made to a court by an accused person in relation to bail.

The amendment will require a court to refuse to entertain an application for bail by a person accused of an offence if an application by the person in relation to that bail has already been made and dealt with by a court, unless:

- (a) the person was not legally represented when the previous application was dealt with, and the person now has legal representation, or

(b) the court is satisfied that new facts or circumstances have arisen since the previous application that justify the making of another application.

The amendment will also prevent further applications being made to a court by lawyers for an accused person (except where the application would be permitted under paragraph (a) or (b) above).

Schedule 1 [4] provides for transitional matters.