

NORTHERN TERRITORY OF AUSTRALIA
BAIL AMENDMENT (REPEAT OFFENDERS) ACT 2005

Act No. 34 of 2005

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 34 of 2005

AN ACT

to amend the *Bail Act*

[Assented to 22 September 2005]

[Second reading 30 June 2005]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Bail Amendment (Repeat Offenders) Act 2005*.

2. Principal Act amended

This Act amends the *Bail Act*.

3. Amendment of section 3 (Interpretation)

Section 3(1) –

insert (in alphabetical order)

"adult" means a person at least 18 years of age;

"serious offence" means an offence punishable by imprisonment for 5 or more years;

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"serious violence offence" means an offence against any of the following provisions of the Criminal Code that is punishable by imprisonment for 5 or more years:

- (a) Part V, Division 2;
- (b) Part VI, Divisions 3 to 6A;
- (c) section 211 or 212;
- (d) another provision prescribed by the Regulations;

4. Amendment of section 7A (Presumption against bail for certain offences)

(1) After section 7A(1)(d) –

insert

(e) a serious violence offence, other than the offence of murder, (the "relevant offence") if –

- (i) the person accused of the relevant offence is an adult who is charged with committing the relevant offence while on bail for a serious offence; and
- (ii) the person has been found guilty of another serious offence within the period specified in subsection (1A); and
- (iii) one or both of the serious offences mentioned in subparagraphs (i) and (ii) are serious violence offences.

(1A) The following periods are specified for subsection (1)(e)(ii):

- (a) if the serious offence mentioned in subsection (1)(e)(ii) is a serious violence offence – the period of 10 years immediately preceding the date of the relevant offence;
- (b) if the serious offence mentioned in subsection (1)(e)(ii) is not a serious violence offence – the period of 2 years immediately preceding the date of the relevant offence.

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- (2) After section 7A(2) –

insert

- (2A) However, subsection (2) does not apply to a person who –

- (a) is accused of an offence to which this section applies; but
- (b) is assessed to be suitable to participate in a program of rehabilitation that is prescribed by the Regulations.

5. Amendment of section 8 (Presumption in favour of bail for certain offences)

- (1) Section 8(1) –

omit

all the words before paragraph (b)

substitute

- (1) This section applies to all offences except the following:
 - (a) an offence mentioned in section 7A(1);
 - (aa) an offence against section 181, 192(3), (4), (6), (7) or (8) of the Criminal Code, or section 10 of the *Domestic Violence Act*, if the person accused of the offence has, within the period of 10 years immediately preceding the date of that offence, been found guilty of any of the following offences:
 - (i) the offence of murder;
 - (ii) an offence against section 181, 186, 188 or 192 of the Criminal Code;
 - (iii) an offence against a law of a State or other Territory or another country that is similar to an offence mentioned in subparagraph (i) or (ii);
 - (ab) a serious offence (the "relevant offence") if the person accused of the relevant offence –
 - (i) is an adult charged with committing the relevant offence while on bail for a serious offence; and
 - (ii) has been found guilty of another serious offence within the period specified in subsection (1A);

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(2) After section 8(1) –

insert

(1A) The following periods are specified for subsection (1)(ab)(ii):

- (a) if the serious offence mentioned in subsection (1)(ab)(ii) is a serious violence offence – the period of 10 years immediately preceding the date of the relevant offence;
- (b) if the serious offence mentioned in subsection (1)(ab)(ii) is not a serious violence offence – the period of 2 years immediately preceding the date of the relevant offence.

(3) Section 8, at the end –

insert

(5) To avoid doubt, if an offence mentioned in subsection (1)(a), (aa), (ab) or (b) is also mentioned in section 7A(1), section 7A applies to that offence.

6. Amendment of section 36 (Provisions relating to review of bail decisions)

Section 36(1) –

omit

this Division

insert

section 34 or 35

7. New section 36A

After section 36 –

insert

36A. Immediate review and stay of decision to grant bail

(1) This section applies if –

- (a) a magistrate or justice decides to release an accused person on bail;
and

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- (b) a police officer or legal practitioner appearing for the Crown immediately informs the magistrate or justice that a request for review of the decision is to be made to the Supreme Court under this section.
- (2) The decision of the magistrate or justice is stayed.
- (3) The accused person must not be released while the stay of the decision has effect under this section.
- (4) The stay of the decision has effect until the earliest of the following:
 - (a) the Court affirms or varies the decision or substitutes another decision for the decision of the magistrate or justice;
 - (b) a police officer or legal practitioner appearing for the Crown files in the Court a notice that the Crown does not desire to proceed with the review;
 - (c) 4 pm on the day that is 3 business days after the day the decision was made.
- (5) The Court may extend the time referred to in subsection (4)(c) if the Court thinks that it is appropriate to do so in the circumstances.
- (6) The Court may exercise its power under subsection (5) more than once.
- (7) The request for the review of the decision must be dealt with as expeditiously as possible.
- (8) The review is by way of rehearing.
- (9) Evidence or information in addition to, or in substitution for, the evidence or information given or obtained on the making of the decision may be given or obtained on the review.
- (10) A decision as varied or substituted under subsection (4)(a) must conform with this Act.
- (11) If the person is released because of subsection (4)(b) or (c), the conditions of bail are those that would have applied had the decision not been stayed.
- (12) In this section –
"business day" means a day other than a Saturday, Sunday or public holiday.

8. Amendment of section 37 (Right of accused to apply for bail)

Section 37 –

omit

Nothing in this Part limits

insert

Subject to section 36A, this Part does not limit

9. New Part IX

After section 53 –

insert

**PART IX – TRANSITIONAL MATTERS FOR BAIL AMENDMENT
(REPEAT OFFENDERS) ACT 2005**

54. Application of sections 7A, 8 and 36A to pre-commencement offences

Sections 7A and 8 as amended by the *Bail Amendment (Repeat Offenders) Act 2005*, and section 36A, apply in relation to the granting of bail to accused persons for offences committed before the commencement of that Act.
