

NORTHERN TERRITORY OF AUSTRALIA

BAIL AMENDMENT ACT 1994

No.10 of 1994

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NORTHERN TERRITORY OF AUSTRALIA

No.10 of 1994

AN ACT

to amend the *Bail Act*

[Assented to 22 March 1994]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Bail Amendment Act 1994*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Bail Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

The definition of "appeal" in section 3(1) of the Principal Act is amended -

- (a) by omitting from paragraph (c) "or";
- (b) by omitting from paragraph (d) "Criminal Code;" and substituting "Criminal Code; or"; and
- (c) by inserting after paragraph (d) the following:
"(e) Part III of the *Supreme Court Act*;".

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5. NEW DIVISION

The Principal Act is amended by inserting after Division 1 of Part II the following:

*"Division 1A - Presumption against Bail
for Certain Offences*

"7A. PRESUMPTION AGAINST BAIL FOR CERTAIN OFFENCES

"(1) This section applies to the following offences:

- (a) murder;
- (b) treason;
- (c) an offence against the *Misuse of Drugs Act* the penalty for which, on conviction, is imprisonment for more than 7 years.

"(2) A person accused of an offence to which this section applies is not to be granted bail unless the person satisfies an authorised member or court that bail should not be refused.

"(3) The requirement for bail cannot be dispensed with for a person accused of an offence to which this section applies and section 9(2) does not apply with respect to any such offence."

6. PRESUMPTION IN FAVOUR OF BAIL FOR CERTAIN OFFENCES

Section 8 of the Principal Act is amended by omitting subsection (1) and substituting the following:

"(1) This section applies to all offences except -

- (a) an offence -
 - (i) referred to in section 7A(1);
 - (ii) against section 181 of the Criminal Code;
 - (iii) against section 192 of the Criminal Code where a penalty under subsections (2), (3) or (4) of that section may, on conviction, be imposed; or
 - (iv) against section 10 of the *Domestic Violence Act*,

where the accused person has, within the period of 10 years immediately preceding the date of the offence, been found guilty of murder or an offence against section 181, 186, 188 or 192 of the Criminal Code or an offence against a law of

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a State or another Territory of the Commonwealth, or of another country, that is similar to those offences; or

(b) an offence where the accused person is the subject of an order made under section 5(1)(b) of the *Criminal Law (Conditional Release of Offenders) Act* which may be breached if the person is convicted of the offence, unless -

(i) the offence is a contravention of or failure to comply with an instrument of a legislative or administrative character; or

(ii) the authorised member or court is of the opinion that the offence is so minor that a court is unlikely to regard it as a breach of the suspended sentence."

7. NEW SECTION

The Principal Act is amended by inserting after section 23, in Part IV, the following:

"23A. LIMITATION ON POWER TO GRANT BAIL

"Notwithstanding anything in this Act, where an appeal is pending in the Court of Appeal against -

(a) a conviction on indictment; or

(b) a sentence passed on conviction on indictment,

bail shall not be granted by the Court or any other court unless it is established that special or exceptional circumstances exist justifying the grant of bail."

8. TRANSITIONAL

The Principal Act, as amended by this Act, applies to and in relation to the grant of bail to an accused person notwithstanding that the offence in respect of which the person is accused was committed before the commencement of this Act or that proceedings in respect of the offence were instituted before that commencement.
