

[Act 2002 No 4]



New South Wales

# **Bail Amendment (Confiscation of Passports) Bill 2002**

## **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* so as to require bail granted to persons accused of offences occasioning death to be made subject, except in special circumstances, to conditions requiring the giving up of passports held by them.

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## 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.

**Clause 3** is a formal provision giving effect to the amendments to the *Bail Act 1978* set out in Schedule 1.

## Schedule 1 Amendments

**Schedule 1 [1]** inserts a definition of *passport* into section 4 of the *Bail Act 1978*. The definition gives passport the same meaning as it has in the *Migration Act 1958* of the Commonwealth, which states that *passport* includes “a document of identity issued from official sources, whether in or outside Australia, and having the characteristics of a passport, but does not include a document, which may be a document called or purporting to be a passport, that the regulations [under that Act] declare is not to be taken to be a passport”.

**Schedule 1 [2]** amends section 36 of the *Bail Act 1978* so as to enable bail granted to an accused person under that Act to be made subject to a condition requiring the person to surrender to a police officer or court any passport held by the person.

**Schedule 1 [3]** inserts proposed section 37A into the *Bail Act 1978*. The proposed section makes the imposition of a condition requiring the surrender of a passport mandatory. However, the proposed section empowers a court to direct that bail is to be granted without such a condition if the accused person satisfies the court that, in the circumstances of the case, the giving of such a direction is justified.