



Brad Hazzard MP
Attorney General
Minister for Justice

Stuart Ayres MP
Minister for Police and
Emergency Services

MEDIA RELEASE

20 May 2014

NEW 'SAFETY FIRST' BAIL LAWS BEGIN TODAY

The safety of the community, victims and witnesses will be at the forefront of all decisions made on bail in NSW, as the new Bail Act comes into force today, Attorney General Brad Hazzard and Police and Emergency Services Minister Stuart Ayres have said.

Mr Hazzard said police and the judiciary would apply a simple risk assessment when deciding whether to grant an accused person bail.

"The new Bail Act is about protecting the community and reducing the risk that an accused commits an offence, interferes with a witness or fails to attend court," Mr Hazzard said.

"If the accused poses an unacceptable risk that can't be sufficiently mitigated by bail conditions, he or she will be refused bail and taken into custody."

The Commander of Police Prosecutions, Chief Superintendent Tony Trichter said more than 16,000 police – and hundreds of lawyers, magistrates and judges - had received training about the new Bail Act.

"We welcome the new risk management approach which puts community safety first."

Police and Emergency Services Minister Mr Ayres said the vast majority of bail decisions were made by police and the straight-forward new laws would enable officers to make decisions quickly and with confidence.

"The new Bail Act is good news for policing and if you get it right for police, you get it right for the community," Mr Ayres said.

"The simplicity of the laws will mean officers will spend less time wading through legal jargon and more time working on the front line."

Mr Hazzard said the old Bail Act had been amended 57 times in 16 years under the previous Labor Government, making it difficult to use, even for people with legal training.

"The old Bail Act contained a complex and inconsistent set of presumptions about whether bail should be granted based on the charges the accused was facing, and resulted in some decisions which did not make sense."

"Improving the Bail Act was a Coalition election commitment and the new, simpler bail test will lead to fairer and more consistent outcomes, while safeguarding the rights of the accused," Mr Hazzard said.

BAIL FACT SHEET

Bail:

Bail has a number of purposes. The new law has been designed to protect the community, to ensure accused people turn up to court, and to prevent inappropriate contact with witnesses and victims. Bail is not about punishment. Bail applies only to people who have not yet had their case decided by the court; they are presumed innocent until proven guilty.

When a person is charged, police decide if a person should be released without bail, given conditional bail or kept in custody, a decision which is then reviewed by a court.

Last year nearly 105,000 adults were charged with offences in the Local Court. In more than two thirds of cases, the accused person was released without bail until their trial. About 24 per cent of people were released on bail, often with some conditions, while about 6 per cent were kept in custody, bail refused.

The old Bail Act:

The old Bail Act had become too complex after being amended 85 times in 36 years.

Under the old law, decisions about bail first looked at the offence a person was charged with. Some charges carried a presumption in favour of bail, others carried a presumption against bail, and some charges carried no presumptions either way. There were also offences for which exceptional circumstances had to be shown for bail to be granted.

These 'presumptions' were not always consistent with the seriousness of the offence. For example, serious offences such as sexual assault had a presumption in favour of bail.

Looking primarily at the presumption that applied to the offence a person was charged with, when deciding if they should be allowed to remain in the community while awaiting their trial didn't always adequately assess the risk they pose to the community.

The new Bail Act:

The new legislation is simple and clear. The new Act is *risk-based*. The risk the accused person poses to victims or the community, and the likelihood of them not turning up to court, is the prime consideration in deciding the bail outcome.

When a person is arrested and charged, police make the initial bail decision. If police refuse bail, the accused person can then go to court where a magistrate or judge decides if they should be granted bail.

When considering bail, the police and courts will need to decide if an accused person poses an unacceptable risk of:

- endangering the safety of the community;
- committing a serious offence;
- interfering with witnesses; or
- failing to attend court when required.

If they do present an unacceptable risk, and the risk cannot be mitigated by imposing conditions on the accused, bail will be refused.