



**Criminal Law
Review Division**
Attorney General's
department of nsw

The *Bail Amendment Act 2007* will commence on 14 December 2007.

The Act amends the *Bail Act 1978* in the following ways:

- 1) **Inserting a new s.22A to limit the number of bail applications that can be made by a person accused of an offence.**

Currently, there is no limit on the number of applications in relation to bail that may be made to a court by a person accused of an offence. Under the amended provisions, the court will not be able to proceed with a second bail hearing unless the applicant had no legal representation the first time around or the court can be satisfied that new facts or circumstances have arisen since the previous application. The amendment will also place restrictions on applications being made to a court by lawyers for an accused person.

- 2) **Adding two firearms offences to the list of those to which a presumption against bail applies (s.8B).**

The amended provisions will include sections 44A of the *Firearms Act 1996* (prescribed persons not to be involved in firearms dealing business) and s.62 of the *Firearms Act* (shortening firearms).

The *Law Enforcement (Powers and Responsibilities) Amendment Act 2007* (the Amending Act) and the *Law Enforcement (Powers and Responsibilities) Amendment (Authorised Officer's Name) Regulation 2007* (the Amending Regulation) are to commence on 17 December 2007.

The object of the Amending Act is to amend the *Law Enforcement (Powers and Responsibilities) Act 2002*:

- (a) to make it clear that the power to search a person under arrest includes a power to require the person to open his or her mouth or shake his or her hair (so as to enable inspection for concealed drugs or other items);
- (b) to remove the requirement that the name of the authorised officer who issues a search warrant appear on an occupier's notice;
- (c) to allow crime scene warrants issued in connection with terrorism offences to be extended so as to have effect for a period of up to 720 hours (30 days) after issue;

- (d) to allow administrative officers of the NSW Police Force to exercise certain crime scene powers in relation to vehicles in public places that are reported as being stolen, without the necessity of a police officer being present;
- (e) to repeal the provisions of that Act that provide for police use of medical imaging to search for internally concealed drugs; and
- (f) to allow the use of a tyre deflation device by police for the purpose of preventing the use of a vehicle by a person to escape lawful custody or avoid arrest.

The object of the Amending Regulation is to amend the *Law Enforcement (Powers and Responsibilities) Regulation 2005* to make a consequential amendment (as a result of the Amending Act) in respect of occupiers' notices (see (b) above) and to remove that requirement in respect of certain search and crime scene warrants. The Regulation is made under the *Law Enforcement (Powers and Responsibilities) Act 2002*, including sections 66 (Form of warrant), 67 (Notice to occupier of premises entered pursuant to warrant) and 238 (the general regulation-making power).