

BAIL AMENDMENT BILL 1993

EXPLANATORY NOTES

The objective of the legislation is to transfer from the Supreme Court to the Magistrates Court, the jurisdiction to grant bail in respect of all offences under the *Drugs Misuse Act 1986* by amending s. 13 of the *Bail Act 1980*.

At present, s. 13 of the *Bail Act 1980* provides that persons charged with an offence defined in ss. 5 (trafficking in dangerous drugs), 6 (supplying dangerous drugs), 7 (receiving or possessing property obtained from trafficking or supplying), 8 (producing dangerous drugs), 9 (possession dangerous drugs), 10(1) (possessing anything for use or that has been used in connection with the commission of a crime under the Act), 11 (permitting use of a place) or 12 (parties to offences committed outside Queensland) of the *Drugs Misuse Act 1986* can only be granted bail by order of the Supreme Court.

However, s. 13(2) does permit a member of the police force or a Magistrates Court to grant bail for charges preferred against offenders under these sections where proceedings may be taken summarily pursuant to s. 13 of the *Drugs Misuse Act* i.e where the person charged with the commission of the offence is liable upon conviction to imprisonment for 15 years.

The general effect of these provisions is to preclude stipendiary magistrates from granting bail in a large number of matters.

The only other offences where magistrates are denied jurisdiction to grant bail are those crimes (such as treason, murder, piracy, and demands with menaces upon agencies of government) where the penalty upon conviction is mandatory life imprisonment.

The penalty of mandatory life imprisonment which attached to certain offences under the *Drugs Misuse Act 1986* was revoked in 1990 and substituted with a maximum penalty of 25 years. The jurisdiction conferred

upon stipendiary magistrates to grant bail for all offences under the *Drugs Misuse Act* reflects that change.

Clause 1 Short title of the Act.

Clause 2 states the *Bail Act 1980* is amended as set out in the Act.

Clause 3 retains the present provisions of section 13(3) which are now located in the new section 10A.

Clause 4 replaces the existing section 13. The substance of the new section 13 is that the Supreme Court has the exclusive right to grant bail for the offences (other than offences defined in the *Drugs Misuse Act 1986*) referred to in the repealed section 13 namely treason, murder, piracy, and demands with menaces upon agencies of government) where the penalty upon conviction is mandatory life imprisonment.

Clause 5 amends s. 16 to reflect an appropriate reference in the new s. 13.

Clause 6 amends s. 20 to reflect an appropriate reference in the new s. 13.

SCHEDULE—MINOR AMENDMENTS

Clauses 1 - 28 are minor amendments such as—

- altering references from ‘**member of the police force**’ to ‘**police officer**’ to accord with consistent use of terms in Queensland legislation;
- altering references to penalties expressed in monetary terms to penalty units to accord with current drafting practices;
- adopting consistent language in legislation in sections conferring regulation-making powers.