

1992—No. 251

BAIL ACT 1978—REGULATION

(Requiring more information to be given to an accused about the review of bail decisions and revising certain forms)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Bail Act 1978, has been pleased to make the Regulation set forth hereunder.

PETER COLLINS
Attorney General.

Commencement

1. This Regulation commences on 24 May 1992.

Amendment

2. The Bail Regulation 1979 is amended:

- (a) by omitting from clause (1) of Form 5 in Schedule 1 the following words:

- Court of Petty Sessions
- District Court

and by inserting instead the following words:

- Local Court
- District Court
- Industrial Court
- Land and Environment Court

- (b) by omitting from the footnotes to clause (1) of Form 9 in Schedule 1 the words “District Court or Court of Petty Sessions” and by inserting instead the words “Land and Environment Court, Industrial Court, District Court or Local Court”;

- (c) by omitting Form 13 from Schedule 1 and by inserting instead the following form:

Form 13

(Clause 19)

BAIL ACT 1978

Notice About the Review of a Bail Decision

Right of review

1. Part 6 of the Bail Act 1978 provides that a bail decision may be reviewed.

2. A “bail decision” includes a refusal to grant bail, a granting of bail conditionally or unconditionally and a dispensing with bail.

3. A review may be had only at the request of:

- the accused person; or
- the informant (being a police officer); or
- the informant or complainant (whether or not a police officer) in the case of bail granted in respect of a domestic violence offence or a complaint for an apprehended violence order under Part 15A of the Crimes Act 1900; or
- the Attorney General or the Director of Public Prosecutions.

4. A request for review may be made to the appropriate court as set out below:

If a bail decision was made by: it may be reviewed by:

an authorised officer	a Magistrate or the Supreme court
a Justice	the Justice or a Magistrate or the Supreme Court
a Magistrate	a Magistrate or the Supreme court
the District Court	the District Court or the Supreme Court
the Industrial Court	the Industrial Court or the Supreme Court

the Land and Environment Court	the Land and Environment Court or the Supreme Court
the Court of Criminal Appeal	the Court of Criminal Appeal
the Supreme Court	the Supreme Court or, if: <ul style="list-style-type: none"> • you are appearing before the Court or Magistrate in criminal proceedings; and • the Court or Magistrate is satisfied that special facts or special circumstances exist, the Land and Environment Court, the Industrial Court, the District Court or a Magistrate

5. A court in reviewing a bail decision may confirm or vary that decision or substitute another decision. A request for review of a bail decision must be in writing in or to the effect of Form 3 in Schedule 1 to the Bail Regulation 1979, a copy of which may be obtained from a court office or at a prison.

Special right in case of inability to meet bail conditions

6. If you have been granted bail but remain in custody because you cannot meet one or more of your bail conditions, you may apply for a bail condition review. The application must be made to the court that granted the conditional bail (or, if the bail was granted by an authorised officer or a justice—to a Magistrate).

7. The Governor of the prison or officer-in-charge of the lock-up or police station at which you are in custody is required to notify the appropriate court that you are in custody because the bail conditions have not been met but, even if this notice has not been sent, you can still apply for a review of your bail conditions.

Second or subsequent applications to the Supreme Court

8. If you are applying to the Supreme Court about your bail, and if this is not your first application in respect of that bail, you must show that there are special facts or special circumstances that justify the making of the application, otherwise the Court may refuse to entertain your application.

EXPLANATORY NOTE

The object of this Regulation is to make the information given to an accused in a form (Form 13) when bail is granted or refused more comprehensive so as to assist the accused in deciding whether to apply for a review of the bail decision.

The substitute form has been extended to refer to:

- reviews of Supreme Court bail decisions that may be undertaken by the Land and Environment Court, the Industrial Court, the District Court or Magistrates (now allowed by the Bail (Amendment) Act 1992); and
- reviews of bail decisions of the Land and Environment Court or the Industrial Court that may be undertaken by those Courts or the Supreme court.

The Regulation also makes certain other forms used for the purposes of the Act more Comprehensive by inserting references to the Land and Environment Court and the Industrial Court and changes outdated references to Courts of Petty Sessions to references to Local Courts.
