

1993—No. 606

BAIL ACT 1978—REGULATION

(Relating to the making of applications for bail, notice of bail decisions and
miscellaneous matters)

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.

J. P. HANNAFORD, M.L.C.,
Attorney General.

Commencement

1. This Regulation commences on 19 December 1993.

Amendments

2. The Bail Regulation 1979 is amended:

- (a) by omitting from clause 4 (b) the matter “section 9 (1) (b) or (c)” and by inserting instead the matter “section 9 (1) (b)–(g)”;
- (b) by inserting in clause 6 (2) after the words “lawful spouse,” the words “de facto partner,”;
- (c) by omitting clause 8;
- (d) by inserting after clause 8B the following clause:

Informant to give notice of bail decision in cases of personal violence offence

8C. (1) As soon as practicable after a bail decision is made in respect of a personal violence offence, the informant in relation to that offence (being a police officer) is to take appropriate steps to ensure that notice of the bail decision is given to the alleged victim of the offence or, if it is alleged that the victim died as a

result of the offence, a close relative of the alleged victim of the offence.

(2) The notice may be given personally or by post.

(3) Nothing in this clause affects the duty of an authorised officer or court to notify a bail decision to an informant under clause 8B.

(4) In this clause, “**personal violence offence**” means:

- (a) a personal violence offence within the meaning of section 4 (1) of the Crimes Act 1900 but, in the case of an offence under section 61 of that Act (Common assault prosecuted on indictment) or an offence of attempting to commit an offence under that section, only if the accused person has a domestic relationship (within the meaning of section 562A (3) of that Act) with the alleged victim of the offence; or
- (b) an offence under section 562AB of the Crimes Act 1900 of stalking or intimidating another person; or
- (c) an offence under section 562I of the Crimes Act 1900 of contravening a prohibition or restriction specified in an apprehended violence order, but only if the accused person has a domestic relationship (within the meaning of section 562A (3) of that Act) with the person for whose protection the order was made.

(5) If the personal violence offence is an offence under section 562I of the Crimes Act 1900 of contravening a prohibition or restriction specified in an order then the victim of the offence is taken to be the person for whose protection the order was made.

(e) by inserting after clause (1) (b) (vi) of Form 2 in Schedule 1 the following matter:

; or

(vii) murder; or

(viii) an offence referred to in section 9 (1) (g) of the Bail Act 1978 (a domestic violence offence or an offence of contravening an apprehended violence order where the accused person has a history of violence against anyone or there has been previous violence by the accused person against a person in respect of whom the offence so referred to is alleged to have been committed),

(f) by inserting at the end of clause (1) (c) (i) (c) of Form 2 in Schedule 1 the word “and”;

(g) by omitting clause (1) (c) (i) (e) from Form 2 in Schedule 1;

(h) by omitting Form 4 in Schedule 1;

(i) by renumbering clause 8 of Form 13 in Schedule 1 as clause 9 and by inserting before clause 9 (as so renumbered) the following clause:

Special right to review of reporting conditions

8. If you have been granted bail on condition you report to a police station while on bail, you may apply for a variation of that condition. You may apply for the police station to which you report or the times at or days on which you report to be varied. The application must be made to a justice employed in the Department of Courts Administration.

EXPLANATORY NOTE

The objects of this Regulation are:

- (a) to allow the de facto partner of a person to sign a bail application on that person's behalf; and
- (b) to require the informant (being a police officer) in relation to certain offences involving violence to notify the alleged victim of the offence (or a close relative of the victim, if it is alleged the victim died as a result of the offence) of a decision to grant or refuse bail to the person charged with the offence; and
- (c) to update provisions of the Bail Regulation 1979 consequential to the amendments to the Bail Act 1978 made by the Bail (Domestic Violence) Amendment Act 1993 (including removing the provisions relating to the rating of an accused person according to his or her background and community ties).

This Regulation is made under the Bail Act 1978, including sections 18 (1) (a) (relating to the provision of information concerning a person's eligibility for bail), 22 (3) (relating to the making of applications to courts for bail), 54 (5) (relating to the provision of information concerning review of bail decisions) and 69 (1) (general regulation making power).
