



New South Wales

Bail Amendment Regulation 1998

under the
Bail Act 1978

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Bail Act 1978*.

JEFFREY SHAW, Q.C., M.L.C.,
Attorney General.

Explanatory note

The object of this Regulation is to amend the *Bail Regulation 1994* to ensure that the requirements relating to notice of bail decisions and bail conditions are consistent with section 6.12 and 6.13 of the Charter of Victims Rights as set out in section 6 of the *Victims Rights Act 1996*. The Regulation:

- (a) requires notice of bail decisions (given after the commencement of the amendments) with respect to a wider range of sexual assault offences than is presently the case to be given to alleged victims and close relatives of deceased alleged victims of offences (Schedule 1 [1]-[3], [S] and [6]), and
- (b) requires any specially affected person to be informed of any bail condition imposed for the protection and welfare of the person (Schedule 1 [7]).

The Regulation also prescribes the form of the acknowledgment that must be signed by the relevant police officer acknowledging that he or she has given an accused person written information about the person's entitlement to or eligibility for bail (Schedule 1 [4], [8] and [9]).

This Regulation is made under the *Bail Act 1978*, including sections 18 and 69 (the general regulation-making power).

1998 No 666

Clause 1 Bail Amendment Regulation 1998

Bail Amendment Regulation 1998

1 Name of Regulation

This Regulation is the *Bail Amendment Regulation 1998*.

2 Commencement

This Regulation commences on 11 December 1998.

3 Amendment of Bail Regulation 1994

The *Bail Regulation 1994* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Omit “a personal violence offence within the meaning” from paragraph (a) of the definition of ***personal violence offence*** in clause 3 (1).

Insert instead “an offence under, or mentioned in, section 19, 24, 27, 28, 29, 30, 33, 33A, 35, 39, 41, 44, 46, 47, 48, 49, 58, 59 or 61”.

[2] Clause 3 (1), definition of "personal violence offence"

Insert after paragraph (a) of the definition:

, or

(a1) an offence of attempting to commit an offence referred to in paragraph (a),

[3] Clause 3 (1)

Insert in alphabetical order:

sexual assault offence means:

- (a) an offence under, or mentioned in, section 61I, 61J, 61K, 61L, 61M, 61N, 61O, 65A, 66, 66A, 66C, 66F (except subsection (4)) 73, 78A, 78H, 78K, 78N, 78Q, 79 or 80A of the *Crimes Act 1900*, or
- (b) an offence under, or mentioned in, section 61B, 61C, 61D or 61E of the *Crimes Act 1900* committed or alleged to have been committed before 17 March 1991 (the date of the repeal of those sections by the *Crimes (Amendment) Act 1989*), or
- (c) an offence under, or mentioned in, section 66B, 66D, 74, 78I or 78L of the *Crimes Act 1900*, to the extent that it is an offence of assaulting a person with intent to commit an offence, or
- (d) an offence of attempting to commit an offence referred to in paragraph (a), (b) or (c).

[4] Clause 5 Information respecting entitlement to, or eligibility for, bail: sec 18

Insert at the end of the clause:

- (2) For the purposes of section 18 (1) (a) of the Act, the prescribed form of acknowledgment is the acknowledgment set out in Form 7.

[5] Clause 10 Notice of bail decisions in cases of alleged sexual assault and personal violence offences

Insert "sexual assault offence or" after "respect of a" in clause 10 (1).

[6] Clause 10 (4)

Insert after clause 10 (3):

- (4) Nothing in this clause requires any notice to be given with respect to a bail decision made before the commencement of the *Bail Amendment Regulation 1998* that was not required to be given before that commencement.

[7] Clause 10A

Insert after clause 10:

10A Information about special bail conditions

- (1) As soon as practicable after any bail condition is imposed on an accused person under section 37 (1) (b) of the Act for the purpose of the protection of and welfare of any specially affected person, the informant for the offence (being a police officer) must take appropriate steps to ensure that notice of the imposition of the bail condition is given to the specially affected person.
- (2) The notice may be given personally or by post.
- (3) This clause applies in respect of a bail condition imposed after the commencement of this clause.

[8] Schedule 1 Forms

Omit from Form 7:

- The accused has been provided with information as to his or her eligibility or entitlement to bail, being either Form 1 or Form 2.
(Mark with an "X" if this information has been provided)

[9] Schedule 1, Form 7

Omit from Form 7:

REASONS FOR DETERMINATION

The reason(s) for my decision is/are (or is/are attached):

.....

.....

Insert instead:

**REASONS FOR DETERMINATION AND
ACKNOWLEDGMENT THAT INFORMATION WAS
GIVEN TO ACCUSED**

The reason (s) for my decision is/are (or is/are attached):

.....

I, of

(name)

(police station)

acknowledge that I gave the accused person (named above) information as to his or her entitlement or eligibility for bail, being either Form 1 or Form 2.