

**CRIMINAL APPEAL (BAIL) AMENDMENT ACT,
1978, No. 165**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 165, 1978.

An Act to amend the Criminal Appeal Act, 1912, consequent upon the enactment of the Bail Act, 1978. [Assented to, 29th December, 1978.]

Criminal Appeal (Bail) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the "Criminal Appeal (Bail) Amendment Act, 1978".

**Commence-
ment.** **2.** (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Bail Act, 1978.

**Principal
Act.** **3.** The Criminal Appeal Act, 1912, is referred to in this Act as the Principal Act.

Schedules. **4.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

**Amendment
of Act No.
16, 1912.** **5.** The Principal Act is amended in the manner set forth in Schedule 1.

**Savings and
transitional
provisions.** **6.** Schedule 2 has effect.

Criminal Appeal (Bail) Amendment.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 1—

From the matter relating to Part VI, omit “ss. 26–28”, insert instead “s. 26”.

(b) Section 1—

After the matter relating to Part VI, insert :—

PART VII.—MISCELLANEOUS—ss. 27–29.

(2) Section 8 (2)—

Omit “, or for liberating him upon such conditions as to bail or recognizances as the court, or any judge thereof appointed for that purpose by the Chief Justice, shall deem fit”.

(3) Section 8A (2)—

After “may”, insert “, subject to the Bail Act, 1978,”.

(4) (a) Section 18 (1)—

Omit “admitted to”, insert instead “released on”.

(b) Section 18 (2)—

Omit the subsection.

(c) Section 18 (3)—

Omit “liberated on bail or recognizances”, insert instead “at liberty on bail”.

Criminal Appeal (Bail) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (5) (a) Section 22—
After “given,” insert “and”.
- (b) Section 22—
Omit “and to admit an appellant to bail.”.
- (6) (a) Section 24 (1)—
After “shall”, insert “, subject to the Bail Act, 1978,”.
- (b) Section 24 (1)—
Omit “, or for liberating him on bail, or recognizance,”.
- (c) Section 24 (2)—
After “may” where firstly occurring, insert “, subject to the Bail Act, 1978,”.
- (d) Section 24 (2)—
Omit “or for liberating him on bail or recognizance”.
- (7) Part VII, headings—
Before section 27, insert :—

PART VII.

MISCELLANEOUS.

- (8) Section 28 (2) (d)—
Omit “admission to bail or”.

Criminal Appeal (Bail) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) Section 29—

After section 28, insert :—

29. The Bail Act, 1978, shall prevail to the extent of any inconsistency between that Act and this Act and, without affecting the generality of the foregoing provisions of this section, shall prevail to the extent of any inconsistency between that Act and rules referred to in sections 8 (2) and 28.

Bail Act,
1978, to
prevail.

SCHEDULE 2.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule—

“authorised” means duly authorised by the Court of Criminal Appeal or a Judge thereof;

“bail” means bail that was authorised or granted before the commencement of this Schedule, so far as it could not have been so authorised or granted if this Act had then been in force;

“recognizance of bail” means a recognizance that was authorised or entered into before the commencement of this Schedule, so far as it could not have been so authorised or entered into if this Act had then been in force.

2. This Act does not affect bail authorised or granted, or a recognizance of bail authorised or entered into, under the Principal Act (or rules of court made for the purposes of the Principal Act) before the commencement of this Schedule, and for the purposes of or for purposes connected with any such bail or recognizance of bail this Act and the Bail Act, 1978, shall be deemed not to have been enacted.

3. Nothing in clause 2 prevents the making of a decision under the Principal Act, as amended by this Act, or the Bail Act, 1978, or the exercise or performance of a power, authority, duty or function thereunder, in respect of an offence or other matter (or any proceedings in connection therewith) to or with which the bail or recognizance of bail referred to in that clause relates or is connected.

Criminal Appeal (Bail) Amendment.

SCHEDULE 2—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

4. Rules of court may be made under the Supreme Court Act, 1970, containing other provisions of a savings or transitional nature consequent upon the enactment of this Act, and those provisions may, but need not, operate by reference to any provision of the Bail Act, 1978, and shall have effect notwithstanding anything in clause 2 or 3.
