

**FINES AND FORFEITED RECOGNIZANCES (BAIL)
AMENDMENT ACT, 1978, No. 167**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 167, 1978.

An Act to amend the Fines and Forfeited Recognizances Act, 1954,
consequent upon the enactment of the Bail Act, 1978.
[Assented to, 29th December, 1978.]

Fines and Forfeited Recognizances (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 :—

1. This Act may be cited as the "Fines and Forfeited Recognizances (Bail) Amendment Act, 1978". short title.

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

(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.

3. The Fines and Forfeited Recognizances Act, 1954, is referred to in this Act as the Principal Act. Principal
Act.

4. The Principal Act is amended in the manner set forth in Schedule 1. Amendment
of Act No.
25, 1954.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Long title—

After "recognizances" wherever occurring, insert "and bail money".

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

(2) Section 3—

Omit the section, insert instead :—

Interpre-
tation.

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“bail agreement” means an agreement entered into pursuant to a monetary bail condition;

“bail money” means the amount of money agreed to be forfeited under a monetary bail condition;

“bail undertaking” means a bail undertaking under the Bail Act, 1978;

“justice” means a justice of the peace;

“monetary bail condition” means a bail condition under the Bail Act, 1978, that provides for a person to enter into an agreement to forfeit an amount of money.

(3) Section 3A—

After section 3, insert :—

Application
of Act to
bail
money.

3A. This Act (sections 4 and 6 excepted) applies to and in respect of bail money in the same way as it applies to and in respect of a recognizance.

(4) Section 4A—

After section 4, insert :—

Forfeiture
of bail
money.

4A. (1) Any court may, on due proof that the bail undertaking to which a monetary bail condition relates has not been complied with, forfeit the bail money agreed to

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

be forfeited by the bail agreement entered into pursuant to the condition and transmit the bail undertaking, the instrument by which the condition was imposed and the bail agreement, together with the certificate referred to in subsection (2), to the Clerk of the Peace to be proceeded upon according to law.

(2) Where bail money is forfeited under this section by any court, the court shall certify in what respects the bail undertaking has not been complied with, and the certificate shall be prima facie evidence of the matters stated therein.

(5) (a) Section 6 (1A)—

After section 6 (1), insert :—

(1A) Where a bail undertaking entered into for the appearance of a person—

- (a) before a court of summary jurisdiction; or
- (b) before a stipendiary or special magistrate or a justice or justices in proceedings to determine whether that person should be committed for trial,

to answer, or to answer further, to any charge, has not been complied with, and an amount of bail money, not exceeding \$300, has been deposited by any person pursuant to a bail agreement, then—

- (c) notwithstanding anything in this or any other Act, the documents referred to in section 4A (1) shall not be transmitted to the Clerk of the Peace and shall not be entered on any Estreat Roll;

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

- (d) the person who deposited the amount of bail money may, within the prescribed period from the date on which the bail money was forfeited, lodge with the clerk of the court of summary jurisdiction by, at or nearest to the place at which the bail money was forfeited an application for the discharge of the forfeited bail money;
- (e) the amount so deposited shall, if no application is lodged pursuant to paragraph (d) within the prescribed period, be paid to the Consolidated Revenue Fund upon the expiration of that period;
- (f) the amount so deposited shall, if the application is lodged pursuant to paragraph (d) within the prescribed period, be held by the person with whom it was deposited until the application is determined.

In this subsection "prescribed period" means 21 days or such longer period as may be prescribed in lieu thereof.

(b) Section 6 (2) (a)—

Omit "paragraph (b) of subsection one of this section", insert instead "subsection (1) (b) or (1A) (d)".

(c) Section 6 (2) (b) (ii)—

After "recognizance", insert "or bail money".

(d) Section 6 (3)—

After "recognizance" wherever occurring, insert "or bail money".

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) Section 17—

After “recognizance,” insert “or who, having been accepted under the Bail Act, 1978, by virtue of his ownership of specific property, as an acceptable person referred to in section 36 of that Act,”.

(7) Third Schedule—

After “recognizances”, insert “, bail money”.

(8) Fourth Schedule—

After “*recognizances*”, insert “, *bail money*”.
