



New South Wales

Bail (Consequential Amendments) Act 2014 No 5

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New South Wales

Bail (Consequential Amendments) Act 2014 No 5

Act No 5, 2014

An Act to make miscellaneous amendments to legislation as a consequence of the enactment of the *Bail Act 2013* and the repeal of the *Bail Act 1978*; to make minor amendments to the *Bail Act 2013*; and for other purposes. [Assented to 12 March 2014]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Bail (Consequential Amendments) Act 2014*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Bail Act 2013 No 26

[1] Section 26 Bail conditions can require security to be provided

Insert “acceptable” before “persons” in section 26 (2) (a).

[2] Section 26 (4)

Omit “whether”.

Insert instead “which person or persons, or class or description of persons, is an acceptable person and what”.

[3] Section 33 Bail acknowledgment to be given on grant of bail

Omit “for the offence for which bail is granted” from section 33 (4) (a).

Insert instead “for that offence”.

[4] Section 50 Prosecutor may make detention application

Insert after section 50 (5):

- (6) To avoid doubt, a prosecutor may oppose a release application made by an accused person to a court or authorised justice without making a detention application.

[5] Section 64 Powers specific to Local Court and authorised justices

Insert after section 64 (4) (after the note):

- (5) An authorised justice may hear a variation application for an offence if a bail decision has been made by a court and the variation application relates to bail conditions that are reviewable by a justice (within the meaning of section 52).
Note. Section 52 limits the powers that can be exercised by an authorised justice when hearing a variation application in relation to a bail decision made by a court. See also sections 57 and 58.

[6] Section 88 Return of bail money and security

Omit “must consider whether to make an order for the return of”.

Insert instead “must ensure that consideration is given to returning”.

[7] Section 88 (2)

Insert at the end of section 88:

- (2) The regulations may make further provision for the return of bail money and bail security.

[8] Section 98 Regulations

Insert after section 98 (1):

- (1A) In particular, the regulations may make provision for the forms to be used for the purposes of this Act.

Schedule 2 Amendment of other Acts

2.1 Child Protection (Offenders Registration) Act 2000 No 42

[1] **Section 3G Child protection registration orders made after grant of bail under Mental Health (Forensic Provisions) Act 1990**

Omit section 3G (5). Insert instead:

- (5) A decision to make an order under this section is taken to be part of a bail decision for the purposes of the *Bail Act 2013* and can be varied in accordance with that Act.

[2] **Section 3G (6) (c)**

Omit the paragraph. Insert instead:

- (c) the bail decision is varied under the *Bail Act 2013* and, on that variation, the order is quashed or set aside.

2.2 Children and Young Persons (Care and Protection) Act 1998 No 157

[1] **Section 3 Definitions**

Omit “*Bail Act 1978*” from paragraph (c) of the definition of *Registrar*.

Insert instead “*Bail Act 2013*”.

[2] **Sections 109U and 109V**

Omit the sections. Insert instead:

109U Bail decision may be made under Bail Act 2013

- (1) The Children’s Court, a Children’s Magistrate or a Registrar may make a bail decision under the *Bail Act 2013* in respect of a person who is brought before the Court, Magistrate or Registrar after being arrested on a warrant issued under this Part in relation to proceedings before the Children’s Court.
- (2) The *Bail Act 2013* applies in respect of the person as if:
 - (a) the person were accused of an offence, and
 - (b) the proceedings before the Children’s Court were proceedings for that offence.
- (3) For the purpose of applying the *Bail Act 2013*:
 - (a) the Children’s Court or a Children’s Magistrate has the same functions as the Local Court under that Act, and
 - (b) a Registrar has the same functions as an authorised justice under that Act, and
 - (c) section 74 of the *Bail Act 2013* (Multiple release or detention applications to same court not permitted) does not apply.
- (4) A power to issue a warrant of commitment under this Part is subject to the provisions of the *Bail Act 2013*, as applied by this section.
- (5) Without limiting section 9, in taking any action or making any decision under the *Bail Act 2013*, as applied by this section, concerning a particular child or young person, the safety, welfare and well-being of the child or young person must be the paramount consideration.

109V Powers of District Court and Children's Court to hear fresh bail application

- (1) If the Children's Court or a Children's Magistrate makes a bail decision under section 109U, the District Court has power to hear a fresh bail application in relation to the matter.
- (2) If a Registrar makes a bail decision under section 109U, the Children's Court has power to hear a fresh bail application in relation to the matter.
- (3) A power to hear a bail application conferred by this section may be exercised only if the bail application is made by:
 - (a) the person who is the subject of the bail decision, or
 - (b) the Director-General (who is taken to be the prosecutor for the purposes of the bail application).

Note. Section 75 of the *Bail Act 2013* provides that a fresh bail application is to be dealt with as a new hearing.

- (4) If bail is refused or revoked on an application under this section, the District Court or Children's Court may:
 - (a) if the person is an adult—issue a warrant in accordance with Division 5 committing the person to a correctional centre or other place of security, or
 - (b) if the person is a child or young person—issue a warrant in accordance with Division 5 committing the person to a detention centre, and order the person to be brought before the Children's Court at the date, time and place specified in the warrant.
- (5) The regulations may make provision for bail applications, and the powers of the District Court and Children's Court in respect of bail applications, under this Division.
- (6) A detention application or variation application under the *Bail Act 2013* cannot be made in relation to a matter after a bail decision in relation to that matter is made under section 109U, except as provided for by this section.
- (7) Nothing in this section limits the rights of a person held in custody under this Part to make a release application under the *Bail Act 2013*.
- (8) In this section:
bail application has the same meaning as in the *Bail Act 2013*.

2.3 Children (Community Service Orders) Act 1987 No 56

Section 21A Revocation of children's community service order

Omit "*Bail Act 1978*" from section 21A (1) (b). Insert instead "*Bail Act 2013*".

2.4 Children (Criminal Proceedings) Act 1987 No 55

[1] Section 9 Expedition where child in custody

Omit "released on bail under the *Bail Act 1978*".

Insert instead "released (with or without bail under the *Bail Act 2013*)".

[2] Sections 20 (2) (a), 27 (3), 29 (1A) (b), 50 and 50A (1) (a)

Omit "*Bail Act 1978*" wherever occurring. Insert instead "*Bail Act 2013*".

[3] Section 30 Adjournments

Omit “grant bail under the *Bail Act 1978*”.

Insert instead “make a bail decision under the *Bail Act 2013*”.

[4] Section 33 Penalties

Omit section 33 (1) (c2). Insert instead:

- (c2) it may make an order adjourning proceedings against the person to a specified date (not later than 12 months from the date of the finding of guilt) for any of the following purposes (but only if bail for the offence is or has been granted or dispensed with under the *Bail Act 2013*):
 - (i) for the purpose of assessing the person’s capacity and prospects for rehabilitation,
 - (ii) for the purpose of allowing the person to demonstrate that rehabilitation has taken place,
 - (iii) for any other purpose the Children’s Court considers appropriate in the circumstances,

[5] Section 48F Summary of operation of scheme

Omit “the requirement for” from section 48F (1) (c).

[6] Section 48I Granting of bail for suitability assessments and charging procedure

Omit “section 36, 36A or 36B of the *Bail Act 1978*” from section 48I (1).

Insert instead “the *Bail Act 2013*”.

[7] Section 48L Youth conduct orders

Omit section 48L (7) (c). Insert instead:

- (c) the Children’s Court is taken to have dispensed with bail for the offence under the *Bail Act 2013*.

2.5 Children (Detention Centres) Act 1987 No 57

[1] Section 3 Definitions

Omit “*Bail Act 1978*” wherever occurring in the definition of *person on remand* in section 3 (1).

Insert instead “*Bail Act 2013*”.

[2] Section 28A Certain children may be remanded in correctional centres

Omit “*Bail Act 1978*” from section 28A (2) (b). Insert instead “*Bail Act 2013*”.

[3] Section 42A Admission to detention centre following arrest or apprehension for breach of bail

Omit section 42A (1). Insert instead:

- (1) A child who is arrested or apprehended under the *Bail Act 2013* for a failure, or threatened failure, to comply with a bail acknowledgment or bail condition, and who is to be detained before being taken before a court, must be detained in a detention centre rather than in a police station.

2.6 Community Protection Act 1994 No 77

Section 29 Bail Act 2013 does not apply

Omit “*Bail Act 1978*”. Insert instead “*Bail Act 2013*”.

2.7 Conveyancing Act 1919 No 6

[1] Section 186 Writs and orders under judgments or relating to legal proceedings

Omit section 186 (4). Insert instead:

- (4) In this section, *recognisance* includes a bail security agreement within the meaning of the *Bail Act 2013*.

[2] Section 189 Judgments not to be a charge on land until writ or order registered

Omit section 189 (3). Insert instead:

- (3) In this section, *recognisance* includes a bail security agreement within the meaning of the *Bail Act 2013*.

2.8 Coroners Act 2009 No 41

[1] Section 71 Arrest of witness under arrest warrant

Omit “*Bail Act 1978*” from section 71 (3) (a). Insert instead “*Bail Act 2013*”.

[2] Section 71 (4)–(8)

Omit section 71 (4) and (5). Insert instead:

- (4) A coroner or authorised justice may make a bail decision in respect of the person under the *Bail Act 2013*.
- (5) The *Bail Act 2013* applies to the person as if:
- (a) the person were accused of an offence, and
 - (b) the proceedings in which the person is required to be examined or produce a document or thing were proceedings for that offence.
- (6) Bail may be granted for the period between:
- (a) the person’s being brought before a coroner under a warrant for the purpose of being examined as a witness or producing a document or thing, and
 - (b) the person’s being examined as a witness or producing the document or thing.
- (7) For the purpose of applying the *Bail Act 2013*, a coroner has the same functions as the Local Court under that Act.
- (8) In this section:
authorised justice has the same meaning as in the *Bail Act 2013*.

2.9 Crimes (Administration of Sentences) Act 1999 No 93

[1] Section 106X Arrest warrants

Omit “*Bail Act 1978*” from section 106X (3). Insert instead “*Bail Act 2013*”.

[2] Section 249 Definitions

Omit section 249 (2). Insert instead:

- (2) For the removal of doubt, *person in custody* in subsection (1) includes a person in lawful custody:
- (a) refused bail by a police officer with power to make a bail decision under the *Bail Act 2013*, or
 - (b) granted bail by a police officer with power to make a bail decision under the *Bail Act 2013* but not released, or
 - (c) arrested with or without warrant under section 77 of the *Bail Act 2013* for a failure or threatened failure to comply with a bail acknowledgment or a bail condition.

2.10 Crimes (Appeal and Review) Act 2001 No 120

[1] Section 63 Stay of execution of sentence pending determination of appeal

Omit section 63 (2) (c). Insert instead:

- (c) in the case of an appellant who is in custody when the appeal is made or leave to appeal is granted, when the appellant is entitled to be released from custody on bail under section 14 of the *Bail Act 2013* or bail is dispensed with under that Act.

[2] Sections 107 (6) and 117

Omit “*Bail Act 1978*” wherever occurring. Insert instead “*Bail Act 2013*”.

[3] Section 110 Bail

Omit the section.

2.11 Crimes (Domestic and Personal Violence) Act 2007 No 80

[1] Section 83 Application of Bail Act 2013

Omit “*Bail Act 1978*” where firstly occurring. Insert instead “*Bail Act 2013*”.

[2] Section 83 (b)

Omit “to which section 8 of the *Bail Act 1978* applies”.

Insert instead “for which there is a right to release under Part 3 of the *Bail Act 2013*”.

[3] Section 85 Presumption against stay of order

Omit section 85 (5). Insert instead:

- (5) A stay on the operation of the order does not have effect if the appellant is in custody when the appeal is made, unless and until the appellant is entitled to be released on bail under section 14 of the *Bail Act 2013* or bail is dispensed with under that Act. In the application of the *Bail Act 2013* to the appellant, the appellant is taken to be an accused person who, because of the prohibitions and restrictions imposed by the order, is in custody.

2.12 Crimes (High Risk Offenders) Act 2006 No 7

Section 28 Bail Act 2013 does not apply

Omit “*Bail Act 1978*”. Insert instead “*Bail Act 2013*”.

2.13 Crimes (Sentencing Procedure) Act 1999 No 92

[1] Section 11 Deferral of sentencing for rehabilitation, participation in an intervention program or other purposes

Omit “, and granting bail to the offender in accordance with the *Bail Act 1978*” from section 11 (1).

[2] Section 11 (1A)

Insert after section 11 (1):

- (1A) Proceedings must not be adjourned under this section unless bail for the offence is or has been granted or dispensed with under the *Bail Act 2013*.

[3] Section 11 (2A), note

Omit the note.

[4] Section 80 Referral of offender for assessment

Omit “*Bail Act 1978*” from section 80 (2) (b). Insert instead “*Bail Act 2013*”.

2.14 Criminal Appeal Act 1912 No 16

Sections 8A (2), 24, 25A (5) and 29

Omit “*Bail Act 1978*” wherever occurring. Insert instead “*Bail Act 2013*”.

2.15 Criminal Procedure Act 1986 No 209

[1] Sections 3 (1) (definition of “bail”), 21 (5) (c), 58 (2), 109 (note), 125 (2) (f), 317 and 352 (1)

Omit “*Bail Act 1978*” wherever occurring. Insert instead “*Bail Act 2013*”.

[2] Section 61 Discharge of accused person if prosecutor not present for taking of evidence

Omit section 61 (3) and the note. Insert instead:

- (3) Subsection (2) does not apply if the accused person is refused bail and section 41 of the *Bail Act 2013* (which provides for a maximum adjournment period) applies.

[3] Section 110

Omit the section. Insert instead:

110 Bail acknowledgment to be notified

If an accused person committed to a correctional centre on committal for trial or sentence is released on bail, the person who accepts the bail acknowledgment must transmit to the registrar of the relevant court:

- (a) the bail acknowledgment, and
(b) any cash or other thing deposited in compliance with a bail condition.

[4] Section 230

Omit the section. Insert instead:

230 Application of Bail Act 2013

- (1) A court may make a bail decision under the *Bail Act 2013* in respect of a person brought before the court after having been arrested under a warrant referred to in section 229.
- (2) The *Bail Act 2013* applies to the person as if:
 - (a) the person were accused of an offence, and
 - (b) the proceedings in which the person is required to be examined or produce a document or thing were proceedings for that offence.
- (3) Bail may be granted for the period between:
 - (a) the person's being brought before a court under a warrant for the purpose of being examined as a witness or producing a document or thing, and
 - (b) the person's being examined as a witness or producing the document or thing.

[5] Section 231 Action that may be taken if witness refuses to give evidence

Omit "the requirement for" from section 231 (5).

[6] Section 241 Power to commit person to correctional centre subject to Bail Act 2013

Omit "*Bail Act 1978*" wherever occurring. Insert instead "*Bail Act 2013*".

[7] Section 241, note

Omit "by a Magistrate". Insert instead "by a court".

[8] Section 247 Notices to be given to prosecutor

Omit "is given or sent (as referred to in section 34 of the *Bail Act 1978*)" from section 247 (2).

Insert instead "of a requirement to appear is given or sent (as referred to in section 33 of the *Bail Act 2013*)".

[9] Section 308

Omit the section. Insert instead:

308 Bail decision may be made in respect of witness who fails to attend trial

- (1) An authorised officer may make a bail decision in respect of a person who is bound by a bail acknowledgment under the *Bail Act 2013*, or is served with a subpoena, to attend as a witness in any court at a trial if the person:
 - (a) fails to appear when called in open court, either at such trial, or on the day appointed for such trial, and
 - (b) is arrested under a warrant issued by the court.
- (2) The *Bail Act 2013* applies to the person (not being an accused person) as if:
 - (a) the person were accused of an offence, and
 - (b) the proceedings in which the person is required to be examined or produce a document or thing were proceedings for that offence.

- (3) For the purpose of applying the *Bail Act 2013*, an authorised officer has the same functions as an authorised justice under that Act.

[10] Section 312 Persons arrested under bench warrants

Omit “(within the meaning of the *Bail Act 1978*)” from section 312 (1).

[11] Section 312 (2)–(2C)

Omit section 312 (2). Insert instead:

- (2) A Magistrate, authorised officer or authorised justice may make a bail decision in respect of the person under the *Bail Act 2013*.
- (2A) The *Bail Act 2013* applies to the person (not being an accused person) as if:
- (a) the person were accused of an offence, and
 - (b) the proceedings before the court out of which the bench warrant was issued were proceedings for that offence.
- (2B) Bail may be granted for the period between:
- (a) the person’s being brought before the Magistrate, authorised officer or authorised justice, and
 - (b) the person’s appearance before the court out of which the bench warrant was issued.
- (2C) For the purpose of applying the *Bail Act 2013*, an authorised officer has the same functions as an authorised justice under that Act.

[12] Section 312 (3)

Insert in alphabetical order:

authorised justice has the same meaning as in the *Bail Act 2013*.

[13] Chapter 7, Part 4, note

Omit paragraph (a) of the note. Insert instead:

- (a) a court that grants bail to a person may impose a bail condition requiring the person to be assessed for, or to participate in, an intervention program or other program,

[14] Section 350 Court may adjourn proceedings to allow accused person to be assessed for or to participate in intervention program

Omit “, and granting bail to the person in accordance with the *Bail Act 1978*,” from section 350 (1).

[15] Section 350 (1), note

Omit the note.

[16] Section 350 (1A)

Insert after section 350 (1):

- (1A) Proceedings must not be adjourned under this section unless bail for the offence is or has been granted or dispensed with under the *Bail Act 2013*.

[17] Schedule 1 Indictable offences triable summarily

Omit item 17 of Table 1. Insert instead:

17 Bail Act 2013

An offence under section 86 of the *Bail Act 2013*.

2.16 Drug Court Act 1998 No 150

[1] Section 14 Arrest warrants

Omit “*Bail Act 1978*” from section 14 (3). Insert instead “*Bail Act 2013*”.

[2] Section 24 Jurisdiction of Drug Court

Omit “the *Bail Act 1978*” from section 24 (2) (b).

Insert instead “by the Local Court under the *Bail Act 2013*”.

2.17 Drug Misuse and Trafficking Act 1985 No 226

Section 36N Exemption from criminal liability for users of licensed injecting centre

Omit “*Bail Act 1978*” from section 36N (3) (b). Insert instead “*Bail Act 2013*”.

2.18 Evidence Act 1995 No 25

[1] Section 4 Courts and proceedings to which Act applies

Insert “, subject to Division 4 of Part 3 of the *Bail Act 2013*” after “bail” in section 4 (1) (a).

[2] Section 194 Witnesses failing to attend proceedings

Omit section 194 (4). Insert instead:

- (4) In this section, *recognisance* includes a bail acknowledgment within the meaning of the *Bail Act 2013*.

2.19 Fines Act 1996 No 99

[1] Section 111

Omit the section. Insert instead:

111 Definitions

In this Part:

appeal means:

- (a) an application to the Local Court to have a forfeiture order set aside duly made under Part 3 of Schedule 2 to the *Bail Act 2013*, or
- (b) an appeal to the District Court against the Local Court’s determination of an objection to a forfeiture order or of an application to set aside a forfeiture order duly made under Part 4 of Schedule 2 to the *Bail Act 2013*.

forfeited bail money means unpaid bail money the subject of a forfeiture order under Schedule 2 to the *Bail Act 2013*.

forfeited bail security means bail security given in relation to bail money the subject of a forfeiture order under Schedule 2 to the *Bail Act 2013*.

[2] Section 112 Enforcement of forfeited bail money

Omit “an application or appeal duly made under section 53K or 53N of the *Bail Act 1978*” from section 112 (2) (b1).

Insert instead “an appeal”.

[3] Section 112A Enforcement of forfeited bail security

Omit “an application or appeal duly made under section 53K or 53N of the *Bail Act 1978*” from section 112A (2) (a).

Insert instead “an appeal”.

2.20 Government Information (Public Access) Act 2009 No 52

Schedule 1 Information for which there is conclusive presumption of overriding public interest against disclosure

Omit the matter relating to the *Bail Act 1978* from clause 1 (1). Insert instead:

Bail Act 2013—section 89 (Restrictions on publication of association conditions)

2.21 Intoxicated Persons (Sobering Up Centres Trial) Act 2013 No 15

Section 27 Relationship with other laws

Insert at the end of the section:

- (2) The *Bail Act 2013* does not require a police officer who detains an intoxicated person under this Act for behaviour that constitutes an offence to make a bail decision in respect of the offence while the person is so detained.

2.22 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

[1] Part 8, note

Omit “section 50 of the *Bail Act 1978*, to arrest a person who breaches bail undertakings or agreements”.

Insert instead “the *Bail Act 2013*, to arrest a person who fails to comply with a bail acknowledgment or a bail condition”.

[2] Sections 104 (4) (b), 113 (2) (e) and 114 (5)

Omit “*Bail Act 1978*” wherever occurring. Insert instead “*Bail Act 2013*”.

[3] Section 104 (6)

Omit “undertaking” wherever occurring. Insert instead “acknowledgment”.

[4] Schedule 1 Acts not affected by this Act

Omit “*Bail Act 1978* No 161”. Insert instead “*Bail Act 2013* No 26”.

2.23 Local Court Act 2007 No 93

[1] Section 65 Arrest of respondent during proceedings

Insert after section 65 (1):

- (1A) A Magistrate, registrar or authorised officer before whom the respondent is brought after having been arrested under the warrant may make a bail decision in respect of the respondent under the *Bail Act 2013*.
- (1B) The *Bail Act 2013* applies to the respondent as if:
 - (a) the respondent were accused of an offence, and
 - (b) the proceedings at which the respondent is required to appear were proceedings for that offence.
- (1C) Bail may be granted for the period between:
 - (a) the respondent's being brought before the Magistrate, registrar or authorised officer, and
 - (b) the respondent's appearance before the Court in the proceedings at which he or she is required to appear.

[2] Section 65 (4)

Insert after section 65 (3):

- (4) For the purpose of applying the *Bail Act 2013*, an authorised officer has the same functions as an authorised justice under that Act.

2.24 Local Government Act 1993 No 30

[1] Section 680 Demanding name of offender

Omit "within the meaning of the *Criminal Procedure Act 1986*" from section 680 (3).

[2] Section 680 (4) and (4A)

Omit section 680 (4). Insert instead:

- (4) A Magistrate or authorised officer before whom a person is taken under subsection (3) may make a bail decision under the *Bail Act 2013* in respect of the person.
- (4A) If the person has not been charged with an offence, the *Bail Act 2013* applies to the person as if the person were accused of an offence.

[3] Section 680 (6) and (7)

Insert after section 680 (5):

- (6) For the purpose of applying the *Bail Act 2013*, an authorised officer has the same functions as an authorised justice under that Act.
- (7) In this section:
authorised officer means an authorised officer under the *Criminal Procedure Act 1986*.

2.25 Mental Health (Forensic Provisions) Act 1990 No 10

Sections 10 (3) (b), 14 (b) (ii), 17 (2), 31 (1), 32 (2) (b) and 33 (1) and (1D) and Schedule 1, clause 20

Omit "*Bail Act 1978*" wherever occurring. Insert instead "*Bail Act 2013*".

2.26 NSW Trustee and Guardian Act 2009 No 49

Section 68 Security may be required in respect of estate management

Omit “Part 7A of the *Bail Act 1978*” from section 68 (5).

Insert instead “Schedule 2 to the *Bail Act 2013*”.

2.27 Protection of the Environment Operations Act 1997 No 156

[1] Section 204 Power of authorised officers to demand name and address

Omit “authorised officer within the meaning of the *Criminal Procedure Act 1986*” from section 204 (3).

Insert instead “court officer”.

[2] Section 204 (4)–(4B)

Omit section 204 (4). Insert instead:

(4) Bail

A Magistrate or court officer before whom a person is taken under subsection (3) may make a bail decision under the *Bail Act 2013* in respect of the person.

(4A) If the person has not been charged with an offence, the *Bail Act 2013* applies as if the person were accused of an offence.

(4B) For the purpose of applying the *Bail Act 2013*, a court officer has the same functions as an authorised justice under that Act.

[3] Section 204 (6)

Insert after section 204 (5):

(6) In this section:

court officer means an authorised officer under the *Criminal Procedure Act 1986*.

2.28 Supreme Court Act 1970 No 52

Section 69C Stay of execution of conviction, order or sentence pending review

Omit “enters into a bail undertaking in accordance with the *Bail Act 1978*” from section 69C (3).

Insert instead “is entitled to be released on bail under the *Bail Act 2013*”.

2.29 Water Management Act 2000 No 92

[1] Section 338D Power of authorised officers to demand name and address

Omit “authorised officer within the meaning of the *Criminal Procedure Act 1986*” from section 338D (3).

Insert instead “court officer”.

[2] Section 338D (4)–(7)

Omit section 338D (4). Insert instead:

- (4) A Magistrate or court officer before whom a person is taken under subsection (3) may make a bail decision under the *Bail Act 2013* in respect of the person.
- (5) If the person has not been charged with an offence, the *Bail Act 2013* applies as if the person were accused of an offence.
- (6) For the purpose of applying the *Bail Act 2013*, a court officer has the same functions as an authorised justice under that Act.
- (7) In this section:
court officer means an authorised officer under the *Criminal Procedure Act 1986*.

[Second reading speech made in—
Legislative Assembly on 20 November 2013
Legislative Council on 5 March 2014]