



New South Wales

Bail Amendment (Bail Agreements) Regulation 2000

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*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to amend the *Bail Regulation 1999* in connection with the commencement of the *Criminal Procedure Legislation Amendment (Bail Agreements) Act 1998*. The amendments deal with the following matters:

- (a) the notice to be given to an accused person whose bail a court proposes to revoke under section 42B of the *Bail Act 1978*,
- (b) the prescription of various matters in relation to bail agreements under Part 7A of the *Bail Act 1978*.

This Regulation is made under the *Bail Act 1978*, including section 69 (the general power to make regulations) and sections 42B, 53, 53B, 53C, 53E and 53H.

2000 No 590

Clause 1 Bail Amendment (Bail Agreements) Regulation 2000

Bail Amendment (Bail Agreements) Regulation 2000

1 Name of Regulation

This Regulation is the *Bail Amendment (Bail Agreements) Regulation 2000*.

2 Commencement

This Regulation commences on 1 October 2000.

3 Amendment of Bail Regulation 1999

The *Bail Regulation 1999* 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 21A

Insert after clause 21:

21A Written notice prior to revocation of bail: sec 42B

- (1) For the purposes of section 42B (3) (a) of the Act, the information to be contained in a written notice given to a person by a court under that section (being a notice of the court's intention to revoke the person's bail on the ground that the person's current bail security is no longer intact) is the following:
 - (a) the date on which the person was granted bail, and the offence or offences to which the bail relates,
 - (b) the reason for which the court considers that the current bail security is no longer intact,
 - (c) the fact that the court proposes to revoke the person's bail unless the person:
 - (i) demonstrates to the court that the current bail security is still intact, or
 - (ii) arranges for the deposit of replacement or supplementary security, whether by the person by whom the current bail security was deposited or by some other person,
 - (d) the date on which the court proposes to revoke the person's bail if neither of the things referred to in paragraph (c) is done, and the procedure to be followed if the person wished to do either of the things referred to in that paragraph.
- (2) The written notice must be accompanied by a copy of the relevant bail agreement.

[2] Part 6A

Insert after Part 6:

Part 6A Bail agreements

22A Appropriate State authorities: sec 53

- (1) For the purposes of Part 7A of the Act, the following persons and bodies are appropriate State authorities:
- (a) in relation to a forfeiture order relating to bail money under a bail agreement for:
 - (i) an offence being prosecuted by a police officer, or
 - (ii) an offence being prosecuted by any other person (otherwise than on behalf a public authority or the Director of Public Prosecutions) in a Local Court,

the Commissioner of Police is the appropriate State authority, and
 - (b) in relation to a forfeiture order relating to bail money under a bail agreement for an offence being prosecuted by or on behalf of a public authority, the public authority is the appropriate State authority, and
 - (c) in relation to a forfeiture order relating to bail money under a bail agreement for:
 - (i) an offence being prosecuted by or on behalf of the Director of Public Prosecutions, or
 - (ii) an offence being prosecuted by any other person (other than a police officer and otherwise than on behalf of a public authority) in any court other than a Local Court,

the Director of Public Prosecutions is the appropriate State authority.
- (2) In this clause, **public authority** means the Crown, a Minister of the Crown or a statutory body representing the Crown, and includes a council or county council within the meaning of the *Local Government Act 1993*.

22B Written notice concerning making of forfeiture order: sec 53B

- (1) For the purposes of section 53B (2) (a) of the Act, the information to be contained in a written notice given to a person affected by a forfeiture order (being a notice to the effect that the order has been made) is the following:
 - (a) the terms of the order and the date on which it was made,
 - (b) the fact that a person affected by the order may object to the confirmation of the order,
 - (c) the date on which the order will be confirmed if no objection is made,
 - (d) the procedure to be followed if the person wishes to object to the confirmation of the order.
- (2) The written notice must be accompanied by a copy of the relevant bail agreement.

22C Giving of notice to appropriate State authority: sec 53C

- (1) For the purposes of section 53C (4) of the Act, the manner in which a court must give notice of an objection to the appropriate State authority is by means of a written notice sent to the authority.
- (2) The written notice must set out the date fixed for the hearing of the objection (if such a date has been fixed) and must be accompanied by a copy of the objection as filed in the court.

22D Giving of notice to appropriate State authority: sec 53E

- (1) For the purposes of section 53E (2) of the Act, the manner in which a court must give notice of an objection to the appropriate State authority is by means of a written notice sent to the authority.
- (2) If a representative of the appropriate State authority is appearing before the court when the objection is made, notice of the objection may instead be given to the authority by means of an oral statement to the representative.
- (3) The notice or statement must indicate the date fixed for the hearing of the objection (if such a date has been fixed) together with particulars of the objection.

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Schedule 1 Amendments

22E Written notice concerning taking effect of forfeiture order: sec 53H

- (1) For the purposes of section 53H (2) (a) of the Act, the information to be contained in a written notice given to a person affected by a forfeiture order (being a notice to the effect that the order has taken effect) is the following:
 - (a) the terms of the order and the date on which it was made,
 - (b) the fact that the order has taken effect,
 - (c) the person's obligations under the Act with respect to the payment of bail money forfeited by the order,
 - (d) the fact that the person may apply to have the order set aside,
 - (e) the procedure to be followed if the person wishes to apply to have the order set aside.
- (2) The written notice must be accompanied by a copy of the relevant bail agreement.

[3] Schedule 1 Forms

Insert at the end of the matter appearing under the heading "**Undertakings**" in Form 5:

I further undertake to notify the court referred to above of any change in my residential address, and to do so on each occasion on which any such change occurs.

BY AUTHORITY