



New South Wales

Bail Amendment (Electronic Monitoring) Regulation 2024

under the
Bail Act 2013

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Bail Act 2013*.

MICHAEL DALEY, MP
Attorney General

Explanatory note

The object of this regulation is to amend the *Bail Regulation 2021* to prescribe matters relating to the supervision, monitoring and enforcement of electronic monitoring imposed as a bail condition on a person accused of a serious domestic violence offence.

This regulation is made under the *Bail Act 2013*, including sections 28B(4) and 98(1), the general regulation making power.

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1 Name of regulation

This regulation is the *Bail Amendment (Electronic Monitoring) Regulation 2024*.

2 Commencement

This regulation commences on 11 October 2024.

Schedule 1 Amendment of Bail Regulation 2021

Part 4, Division 4

Omit the division. Insert instead—

Division 4 Mandatory electronic monitoring, serious domestic violence offences—the Act, s 28B(4)

31A Definitions

In this section—

approved electronic monitoring system means an electronic monitoring system approved by the Commissioner under section 31C.

authorised person means a person authorised by the Commissioner for the purposes of this division.

Commissioner means the Commissioner of Corrective Services.

electronic monitoring condition means a bail condition under the Act, section 28B(2).

electronic monitoring transmitter means electronic monitoring transmitter approved by the Commissioner as part of an approved electronic monitoring system.

31B Application of division

This division applies only to electronic monitoring imposed under the Act, section 28B as a bail condition for serious domestic violence offences.

31C Approval of electronic monitoring systems

The Commissioner may approve electronic monitoring systems for this division.

31D Information to be given by bail authority to accused person

A bail authority that grants bail to an accused person subject to an electronic monitoring condition must, with the bail acknowledgement given to the accused person, provide information about the obligations of the accused person under section 31G.

31E Information to be given by bail authority to Commissioner

A bail authority that grants bail to an accused person subject to an electronic monitoring condition must give the Commissioner notice, by email or other electronic means, that the accused person is subject to an electronic monitoring condition.

31F Fitting of electronic monitoring transmitter

The Commissioner must ensure an accused person subject to an electronic monitoring condition is fitted with an electronic monitoring transmitter as soon as practicable after the person has met the other conditions of the person's release on bail.

31G Compliance by accused person with electronic monitoring

- (1) An accused person subject to an electronic monitoring condition must submit to an electronic monitoring transmitter being fitted to the accused person by an authorised person.

- (2) An accused person fitted with an electronic monitoring transmitter under this section must—
- (a) as soon as possible after being released on bail—
 - (i) travel to the accused person’s residence, and
 - (ii) contact an authorised person to establish that the transmitter and related equipment is functioning, and
 - (b) keep the transmitter charged in accordance with directions given by an authorised person, and
 - (c) keep the transmitter and all related equipment secure, and
 - (d) immediately notify an authorised person of any concerns about the operation of the transmitter and related equipment, and
 - (e) give an authorised person the accused person’s preferred email address and mobile phone number to enable an authorised person to contact the accused person, and
 - (f) notify an authorised person of a change in the accused person’s preferred email address and mobile phone number within 24 hours after the change occurs, and
 - (g) not remove, damage, disable or otherwise interfere with the transmitter or related equipment, and
 - (h) comply with all other reasonable directions of the Commissioner or an authorised person about the transmitter or related equipment, including a direction requiring the accused person to—
 - (i) attend at a specified place and time for testing or maintenance of the transmitter or related equipment, or
 - (ii) return the transmitter or related equipment to a specified place at a specified time, or
 - (iii) allow the collection of the transmitter or related equipment from the person’s residence, or
 - (iv) allow an authorised person to enter the person’s residence to test, and take action necessary for the effective functioning of, the transmitter or related equipment.

Note— Failure of an accused person to comply with an obligation under this section may be dealt with under the Act, Part 8, as a breach of a bail condition.

31H Reporting of accused person’s non-compliance

- (1) An authorised person must notify a member of the NSW Police Force of the following matters as soon as practicable after becoming aware of the matter—
- (a) failure of an accused person to comply with an obligation under section 31G(2),
 - (b) unexplained loss of signal from the electronic monitoring transmitter fitted to an accused person.
- (2) If information obtained by electronic monitoring indicates an accused person may have breached one or more of the accused person’s bail conditions, an authorised person must notify a member of the NSW Police Force of the possible breach and give the member the relevant monitoring information.

Note— Police officers may, under the Act, Part 8, take action to enforce bail conditions.

31I Non-compliance caused by failure of electronic monitoring

- (1) If at any time an authorised person determines the electronic monitoring transmitter fitted to an accused person, or related equipment, is not functioning

effectively, whether for technical or other reasons, the authorised person must give notice to the following—

- (a) a member of the NSW Police Force,
 - (b) the accused person or the accused person's legal representative.
- (2) Notice under this section must be given—
- (a) within 2 days after an authorised person determines the electronic monitoring transmitter fitted to an accused person, or related equipment, is not functioning effectively, and
 - (b) in the way approved by the Commissioner.
- (3) The NSW Police Force must ensure that notice received under this section is dealt with in accordance with the Act, section 77.
- (4) If, following receipt of notice under this section, the accused person makes a variation application, the Court must list the application for hearing as soon as practicable.

Division 5 Independent electronic monitoring—the Act, s 30A

31J Minimum standards for electronic monitoring

- (1) For the Act, section 30A(a) and (b), the minimum standards for electronic monitoring are set out in Schedule 1.
- (2) This section does not apply to electronic monitoring imposed as a bail condition under the Act, section 28B(2).

Schedule 2 Amendment of Crimes (Administration of Sentences) Regulation 2014

Clause 326 Authority to disclose certain information

Omit “Commonwealth.” from clause 326(o). Insert instead—

Commonwealth,

- (p) facilitating the monitoring, supervision, enforcement and operation of a bail condition under the *Bail Act 2013*, section 28B(2).