



New South Wales

# Bail (Consequential Amendments) Bill 2013

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Bail Act 2013*:
  - (i) to make it clear that a bail authority can decide who is an acceptable person to provide security for the grant of bail (in the same way as the bail authority can decide who is an acceptable person to give a character acknowledgment), and
  - (ii) to expand the regulation-making powers conferred by the Act, and
  - (iii) to make other minor changes of a statute law revision nature,
- (b) to make amendments to other legislation as a consequence of the enactment of that Act and the repeal of the *Bail Act 1978*.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Bail Act 2013 No 26

**Schedule 1 [1] and [2]** make it clear that a bail authority, or an officer or court to whom a bail acknowledgment is given, has power to decide which person or persons, or class or description of persons, is an acceptable person to enter into a bail security agreement. A bail security agreement

is an agreement under which a person agrees to forfeit a specified amount of money if a person granted bail fails to appear before a court in accordance with his or her bail acknowledgment. The amendments ensure that the powers of a bail authority to decide who is an acceptable person to provide bail security mirror the powers of a bail authority to decide who is an acceptable person to give a character acknowledgment. This is consistent with current practice under the *Bail Act 1978*.

**Schedule 1 [3]** corrects a reference to an offence.

**Schedule 1 [4]** makes it clear that it is not necessary for a prosecutor to make a detention application to a court (an application for the refusal or revocation of bail in respect of a person) in order to oppose a release application (an application for the grant of bail) made by the accused person.

**Schedule 1 [5]** amends a provision that lists the powers of the Local Court and authorised justices to hear bail applications, to make it clear that an authorised justice has power to hear a variation application in relation to bail conditions imposed by a court if the bail conditions are reviewable by a justice, as contemplated by section 52 of the *Bail Act 2013*.

**Schedule 1 [6]** permits a court to put in place a process that ensures that consideration is given to the return of bail money if an accused person is convicted or acquitted of an offence. This replaces a requirement that the court itself give consideration to the return of bail money when an accused person is convicted or acquitted of an offence. Accordingly, the amendment will permit a court to deal with the matter by referring it to a registrar or other court officer for consideration.

**Schedule 1 [7]** permits the regulations to make further provision for the return of bail money and bail security.

**Schedule 1 [8]** permits the regulations to make provision for the forms to be used for the purposes of the *Bail Act 2013*.

## **Schedule 2     Amendment of other Acts**

Schedule 2 amends the Acts specified in that Schedule as a consequence of the enactment of the *Bail Act 2013* and the repeal of the *Bail Act 1978*.

The amendments continue the existing practice of permitting a bail decision to be made in respect of certain persons who are taken into State custody and are not charged with an offence (for example, a witness who fails to appear in proceedings before a court or a coroner, or a person who fails to provide a name and address to an enforcement officer). In such a case, the *Bail Act 2013* will apply to the person in custody as if the person were accused of an offence. The amendments also make it clear who is permitted to make a bail decision in such cases and otherwise modify the operation of the *Bail Act 2013* to accommodate a non-offence situation (as contemplated by clause 2 of Schedule 1 to the Act). See **Schedule 2.2 [2], 2.8, 2.15 [4], [9] and [11], 2.23, 2.24, 2.27 and 2.29**.

The *Evidence Act 1995* states that the *Evidence Act 1995* applies to proceedings relating to bail. An amendment to that Act makes it clear that the application of that Act is subject to certain provisions of the *Bail Act 2013* that require bail decisions to be made having regard to any credible or trustworthy evidence or information, and for decisions to be made on the balance of probabilities. See **Schedule 2.18 [1]**.

An amendment to the *Intoxicated Persons (Sobering Up Centres Trial) Act 2013* makes it clear that a police officer is not required to make a bail decision in respect of an intoxicated person while the person is detained under that Act. See **Schedule 2.21**.

The other amendments in Schedule 2 update references to the *Bail Act 1978* and to specific provisions of, or terminology used in, that Act, to reflect the appropriate provisions and terminology of the *Bail Act 2013*.



New South Wales

# Bail (Consequential Amendments) Bill 2013

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New South Wales

# Bail (Consequential Amendments) Bill 2013

No. , 2013

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## **A Bill for**

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.

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**The Legislature of New South Wales enacts:**

1

**1 Name of Act**

2

This Act is the *Bail (Consequential Amendments) Act 2013*.

3

**2 Commencement**

4

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

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<b>Schedule 1</b>	<b>Amendment of Bail Act 2013 No 26</b>	1
<b>[1]</b>	<b>Section 26 Bail conditions can require security to be provided</b>	2
	Insert “acceptable” before “persons” in section 26 (2) (a).	3
<b>[2]</b>	<b>Section 26 (4)</b>	4
	Omit “whether”.	5
	Insert instead “which person or persons, or class or description of persons, is an acceptable person and what”.	6 7
<b>[3]</b>	<b>Section 33 Bail acknowledgment to be given on grant of bail</b>	8
	Omit “for the offence for which bail is granted” from section 33 (4) (a).	9
	Insert instead “for that offence”.	10
<b>[4]</b>	<b>Section 50 Prosecutor may make detention application</b>	11
	Insert after section 50 (5):	12
	(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.	13 14 15
<b>[5]</b>	<b>Section 64 Powers specific to Local Court and authorised justices</b>	16
	Insert after section 64 (4) (after the note):	17
	(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).	18 19 20
	<b>Note.</b> 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.	21 22 23
<b>[6]</b>	<b>Section 88 Return of bail money and security</b>	24
	Omit “must consider whether to make an order for the return of”.	25
	Insert instead “must ensure that consideration is given to returning”.	26
<b>[7]</b>	<b>Section 88 (2)</b>	27
	Insert at the end of section 88:	28
	(2) The regulations may make further provision for the return of bail money and bail security.	29 30
<b>[8]</b>	<b>Section 98 Regulations</b>	31
	Insert after section 98 (1):	32
	(1A) In particular, the regulations may make provision for the forms to be used for the purposes of this Act.	33 34

<b>Schedule 2</b>	<b>Amendment of other Acts</b>	1
<b>2.1</b>	<b>Child Protection (Offenders Registration) Act 2000 No 42</b>	2
[1]	<b>Section 3G Child protection registration orders made after grant of bail under Mental Health (Forensic Provisions) Act 1990</b>	3
	Omit section 3G (5). Insert instead:	4
	(5) A decision to make an order under this section is taken to be part of a bail decision for the purposes of the <i>Bail Act 2013</i> and can be varied in accordance with that Act.	5
[2]	<b>Section 3G (6) (c)</b>	6
	Omit the paragraph. Insert instead:	7
	(c) the bail decision is varied under the <i>Bail Act 2013</i> and, on that variation, the order is quashed or set aside.	8
<b>2.2</b>	<b>Children and Young Persons (Care and Protection) Act 1998 No 157</b>	9
[1]	<b>Section 3 Definitions</b>	10
	Omit “ <i>Bail Act 1978</i> ” from paragraph (c) of the definition of <i>Registrar</i> .	11
	Insert instead “ <i>Bail Act 2013</i> ”.	12
[2]	<b>Sections 109U and 109V</b>	13
	Omit the sections. Insert instead:	14
<b>109U</b>	<b>Bail decision may be made under Bail Act 2013</b>	15
(1)	The Children’s Court, a Children’s Magistrate or a Registrar may make a bail decision under the <i>Bail Act 2013</i> 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.	16
(2)	The <i>Bail Act 2013</i> applies in respect of the person as if:	17
	(a) the person were accused of an offence, and	18
	(b) the proceedings before the Children’s Court were proceedings for that offence.	19
(3)	For the purpose of applying the <i>Bail Act 2013</i> :	20
	(a) the Children’s Court or a Children’s Magistrate has the same functions as the Local Court under that Act, and	21
	(b) a Registrar has the same functions as an authorised justice under that Act, and	22
	(c) section 74 of the <i>Bail Act 2013</i> (Multiple release or detention applications to same court not permitted) does not apply.	23
(4)	A power to issue a warrant of commitment under this Part is subject to the provisions of the <i>Bail Act 2013</i> , as applied by this section.	24
(5)	Without limiting section 9, in taking any action or making any decision under the <i>Bail Act 2013</i> , 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.	25

<b>109V Powers of District Court and Children’s Court to hear fresh bail application</b>	1
(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 3 4
(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.	5 6
(3) A power to hear a bail application conferred by this section may be exercised only if the bail application is made by:	7 8
(a) the person who is the subject of the bail decision, or	9
(b) the Director-General (who is taken to be the prosecutor for the purposes of the bail application).	10 11
<b>Note.</b> Section 75 of the <i>Bail Act 2013</i> provides that a fresh bail application is to be dealt with as a new hearing.	12 13
(4) If bail is refused or revoked on an application under this section, the District Court or Children’s Court may:	14 15
(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	16 17 18
(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.	19 20 21 22
(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.	23 24 25
(6) A detention application or variation application under the <i>Bail Act 2013</i> 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.	26 27 28
(7) Nothing in this section limits the rights of a person held in custody under this Part to make a release application under the <i>Bail Act 2013</i> .	29 30
(8) In this section: <i>bail application</i> has the same meaning as in the <i>Bail Act 2013</i> .	31 32
<b>2.3 Children (Community Service Orders) Act 1987 No 56</b>	33
<b>Section 21A Revocation of children’s community service order</b>	34
Omit “ <i>Bail Act 1978</i> ” from section 21A (1) (b). Insert instead “ <i>Bail Act 2013</i> ”.	35
<b>2.4 Children (Criminal Proceedings) Act 1987 No 55</b>	36
<b>[1] Section 9 Expedition where child in custody</b>	37
Omit “released on bail under the <i>Bail Act 1978</i> ”.	38
Insert instead “released (with or without bail under the <i>Bail Act 2013</i> )”.	39
<b>[2] Sections 20 (2) (a), 27 (3), 29 (1A) (b), 50 and 50A (1) (a)</b>	40
Omit “ <i>Bail Act 1978</i> ” wherever occurring. Insert instead “ <i>Bail Act 2013</i> ”.	41



<b>[3] Section 30 Adjournments</b>	1
Omit “grant bail under the <i>Bail Act 1978</i> ”.	2
Insert instead “make a bail decision under the <i>Bail Act 2013</i> ”.	3
<b>[4] Section 33 Penalties</b>	4
Omit section 33 (1) (c2). Insert instead:	5
(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 <i>Bail Act 2013</i> ):	6
(i) for the purpose of assessing the person’s capacity and prospects for rehabilitation,	7
(ii) for the purpose of allowing the person to demonstrate that rehabilitation has taken place,	8
(iii) for any other purpose the Children’s Court considers appropriate in the circumstances,	9
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<b>[5] Section 48F Summary of operation of scheme</b>	16
Omit “the requirement for” from section 48F (1) (c).	17
<b>[6] Section 48I Granting of bail for suitability assessments and charging procedure</b>	18
Omit “section 36, 36A or 36B of the <i>Bail Act 1978</i> ” from section 48I (1).	19
Insert instead “the <i>Bail Act 2013</i> ”.	20
<b>[7] Section 48L Youth conduct orders</b>	21
Omit section 48L (7) (c). Insert instead:	22
(c) the Children’s Court is taken to have dispensed with bail for the offence under the <i>Bail Act 2013</i> .	23
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<b>2.5 Children (Detention Centres) Act 1987 No 57</b>	25
<b>[1] Section 3 Definitions</b>	26
Omit “ <i>Bail Act 1978</i> ” wherever occurring in the definition of <i>person on remand</i> in section 3 (1).	27
Insert instead “ <i>Bail Act 2013</i> ”.	28
	29
<b>[2] Section 28A Certain children may be remanded in correctional centres</b>	30
Omit “ <i>Bail Act 1978</i> ” from section 28A (2) (b). Insert instead “ <i>Bail Act 2013</i> ”.	31
<b>[3] Section 42A Admission to detention centre following arrest or apprehension for breach of bail</b>	32
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Omit section 42A (1). Insert instead:	34
(1) A child who is arrested or apprehended under the <i>Bail Act 2013</i> 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.	35
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<b>2.6 Community Protection Act 1994 No 77</b>	1
<b>Section 29 Bail Act 2013 does not apply</b>	2
Omit “ <i>Bail Act 1978</i> ”. Insert instead “ <i>Bail Act 2013</i> ”.	3
<b>2.7 Conveyancing Act 1919 No 6</b>	4
<b>[1] Section 186 Writs and orders under judgments or relating to legal proceedings</b>	5
Omit section 186 (4). Insert instead:	6
(4) In this section, <i>recognisance</i> includes a bail security agreement within the meaning of the <i>Bail Act 2013</i> .	7 8
<b>[2] Section 189 Judgments not to be a charge on land until writ or order registered</b>	9
Omit section 189 (3). Insert instead:	10
(3) In this section, <i>recognisance</i> includes a bail security agreement within the meaning of the <i>Bail Act 2013</i> .	11 12
<b>2.8 Coroners Act 2009 No 41</b>	13
<b>[1] Section 71 Arrest of witness under arrest warrant</b>	14
Omit “ <i>Bail Act 1978</i> ” from section 71 (3) (a). Insert instead “ <i>Bail Act 2013</i> ”.	15
<b>[2] Section 71 (4)–(8)</b>	16
Omit section 71 (4) and (5). Insert instead:	17
(4) A coroner or authorised justice may make a bail decision in respect of the person under the <i>Bail Act 2013</i> .	18 19
(5) The <i>Bail Act 2013</i> applies to the person as if:	20
(a) the person were accused of an offence, and	21
(b) the proceedings in which the person is required to be examined or produce a document or thing were proceedings for that offence.	22 23
(6) Bail may be granted for the period between:	24
(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	25 26 27
(b) the person’s being examined as a witness or producing the document or thing.	28 29
(7) For the purpose of applying the <i>Bail Act 2013</i> , a coroner has the same functions as the Local Court under that Act.	30 31
(8) In this section:	32
<i>authorised justice</i> has the same meaning as in the <i>Bail Act 2013</i> .	33
<b>2.9 Crimes (Administration of Sentences) Act 1999 No 93</b>	34
<b>[1] Section 106X Arrest warrants</b>	35
Omit “ <i>Bail Act 1978</i> ” from section 106X (3). Insert instead “ <i>Bail Act 2013</i> ”.	36

<b>[2] Section 249 Definitions</b>	1
Omit section 249 (2). Insert instead:	2
(2) For the removal of doubt, <i>person in custody</i> in subsection (1) includes a person in lawful custody:	3
(a) refused bail by a police officer with power to make a bail decision under the <i>Bail Act 2013</i> , or	4
(b) granted bail by a police officer with power to make a bail decision under the <i>Bail Act 2013</i> but not released, or	5
(c) arrested with or without warrant under section 77 of the <i>Bail Act 2013</i> for a failure or threatened failure to comply with a bail acknowledgment or a bail condition.	6
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<b>2.10 Crimes (Appeal and Review) Act 2001 No 120</b>	12
<b>[1] Section 63 Stay of execution of sentence pending determination of appeal</b>	13
Omit section 63 (2) (c). Insert instead:	14
(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 <i>Bail Act 2013</i> or bail is dispensed with under that Act.	15
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<b>[2] Sections 107 (6) and 117</b>	19
Omit “ <i>Bail Act 1978</i> ” wherever occurring. Insert instead “ <i>Bail Act 2013</i> ”.	20
<b>[3] Section 110 Bail</b>	21
Omit the section.	22
<b>2.11 Crimes (Domestic and Personal Violence) Act 2007 No 80</b>	23
<b>[1] Section 83 Application of Bail Act 2013</b>	24
Omit “ <i>Bail Act 1978</i> ” where firstly occurring. Insert instead “ <i>Bail Act 2013</i> ”.	25
<b>[2] Section 83 (b)</b>	26
Omit “to which section 8 of the <i>Bail Act 1978</i> applies”.	27
Insert instead “for which there is a right to release under Part 3 of the <i>Bail Act 2013</i> ”.	28
<b>[3] Section 85 Presumption against stay of order</b>	29
Omit section 85 (5). Insert instead:	30
(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 <i>Bail Act 2013</i> or bail is dispensed with under that Act. In the application of the <i>Bail Act 2013</i> 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.	31
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<b>2.12 Crimes (High Risk Offenders) Act 2006 No 7</b>	37
<b>Section 28 Bail Act 2013 does not apply</b>	38
Omit “ <i>Bail Act 1978</i> ”. Insert instead “ <i>Bail Act 2013</i> ”.	39

<b>2.13 Crimes (Sentencing Procedure) Act 1999 No 92</b>	1
<b>[1] Section 11 Deferral of sentencing for rehabilitation, participation in an intervention program or other purposes</b>	2 3
Omit “, and granting bail to the offender in accordance with the <i>Bail Act 1978</i> ” from section 11 (1).	4 5
<b>[2] Section 11 (1A)</b>	6
Insert after section 11 (1):	7
(1A) Proceedings must not be adjourned under this section unless bail for the offence is or has been granted or dispensed with under the <i>Bail Act 2013</i> .	8 9
<b>[3] Section 11 (2A), note</b>	10
Omit the note.	11
<b>[4] Section 80 Referral of offender for assessment</b>	12
Omit “ <i>Bail Act 1978</i> ” from section 80 (2) (b). Insert instead “ <i>Bail Act 2013</i> ”.	13
<b>2.14 Criminal Appeal Act 1912 No 16</b>	14
<b>Sections 8A (2), 24, 25A (5) and 29</b>	15
Omit “ <i>Bail Act 1978</i> ” wherever occurring. Insert instead “ <i>Bail Act 2013</i> ”.	16
<b>2.15 Criminal Procedure Act 1986 No 209</b>	17
<b>[1] Sections 3 (1) (definition of “bail”), 21 (5) (c), 58 (2), 109 (note), 125 (2) (f), 317 and 352 (1)</b>	18 19
Omit “ <i>Bail Act 1978</i> ” wherever occurring. Insert instead “ <i>Bail Act 2013</i> ”.	20
<b>[2] Section 61 Discharge of accused person if prosecutor not present for taking of evidence</b>	21 22
Omit section 61 (3) and the note. Insert instead:	23
(3) Subsection (2) does not apply if the accused person is refused bail and section 41 of the <i>Bail Act 2013</i> (which provides for a maximum adjournment period) applies.	24 25 26
<b>[3] Section 110</b>	27
Omit the section. Insert instead:	28
<b>110 Bail acknowledgment to be notified</b>	29
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:	30 31 32
(a) the bail acknowledgment, and	33
(b) any cash or other thing deposited in compliance with a bail condition.	34

<b>[4] Section 230</b>	1
Omit the section. Insert instead:	2
<b>230 Application of Bail Act 2013</b>	3
(1) A court may make a bail decision under the <i>Bail Act 2013</i> in respect of a person brought before the court after having been arrested under a warrant referred to in section 229.	4 5 6
(2) The <i>Bail Act 2013</i> applies to the person as if:	7
(a) the person were accused of an offence, and	8
(b) the proceedings in which the person is required to be examined or produce a document or thing were proceedings for that offence.	9 10
(3) Bail may be granted for the period between:	11
(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	12 13 14
(b) the person's being examined as a witness or producing the document or thing.	15 16
<b>[5] Section 231 Action that may be taken if witness refuses to give evidence</b>	17
Omit "the requirement for" from section 231 (5).	18
<b>[6] Section 241 Power to commit person to correctional centre subject to Bail Act 2013</b>	19
Omit " <i>Bail Act 1978</i> " wherever occurring. Insert instead " <i>Bail Act 2013</i> ".	20
<b>[7] Section 241, note</b>	21
Omit "by a Magistrate". Insert instead "by a court".	22
<b>[8] Section 247 Notices to be given to prosecutor</b>	23
Omit "is given or sent (as referred to in section 34 of the <i>Bail Act 1978</i> )" from section 247 (2).	24 25
Insert instead "of a requirement to appear is given or sent (as referred to in section 33 of the <i>Bail Act 2013</i> )".	26 27
<b>[9] Section 308</b>	28
Omit the section. Insert instead:	29
<b>308 Bail decision may be made in respect of witness who fails to attend trial</b>	30
(1) An authorised officer may make a bail decision in respect of a person who is bound by a bail acknowledgment under the <i>Bail Act 2013</i> , or is served with a subpoena, to attend as a witness in any court at a trial if the person:	31 32 33
(a) fails to appear when called in open court, either at such trial, or on the day appointed for such trial, and	34 35
(b) is arrested under a warrant issued by the court.	36
(2) The <i>Bail Act 2013</i> applies to the person (not being an accused person) as if:	37
(a) the person were accused of an offence, and	38
(b) the proceedings in which the person is required to be examined or produce a document or thing were proceedings for that offence.	39 40

(3)	For the purpose of applying the <i>Bail Act 2013</i> , an authorised officer has the same functions as an authorised justice under that Act.	1 2
<b>[10]</b>	<b>Section 312 Persons arrested under bench warrants</b>	3
	Omit “(within the meaning of the <i>Bail Act 1978</i> )” from section 312 (1).	4
<b>[11]</b>	<b>Section 312 (2)–(2C)</b>	5
	Omit section 312 (2). Insert instead:	6
(2)	A Magistrate, authorised officer or authorised justice may make a bail decision in respect of the person under the <i>Bail Act 2013</i> .	7 8
(2A)	The <i>Bail Act 2013</i> applies to the person (not being an accused person) as if:	9
(a)	the person were accused of an offence, and	10
(b)	the proceedings before the court out of which the bench warrant was issued were proceedings for that offence.	11 12
(2B)	Bail may be granted for the period between:	13
(a)	the person’s being brought before the Magistrate, authorised officer or authorised justice, and	14 15
(b)	the person’s appearance before the court out of which the bench warrant was issued.	16 17
(2C)	For the purpose of applying the <i>Bail Act 2013</i> , an authorised officer has the same functions as an authorised justice under that Act.	18 19
<b>[12]</b>	<b>Section 312 (3)</b>	20
	Insert in alphabetical order:	21
	<i>authorised justice</i> has the same meaning as in the <i>Bail Act 2013</i> .	22
<b>[13]</b>	<b>Chapter 7, Part 4, note</b>	23
	Omit paragraph (a) of the note. Insert instead:	24
(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,	25 26 27
<b>[14]</b>	<b>Section 350 Court may adjourn proceedings to allow accused person to be assessed for or to participate in intervention program</b>	28 29
	Omit “, and granting bail to the person in accordance with the <i>Bail Act 1978</i> ,” from section 350 (1).	30 31
<b>[15]</b>	<b>Section 350 (1), note</b>	32
	Omit the note.	33
<b>[16]</b>	<b>Section 350 (1A)</b>	34
	Insert after section 350 (1):	35
(1A)	Proceedings must not be adjourned under this section unless bail for the offence is or has been granted or dispensed with under the <i>Bail Act 2013</i> .	36 37

<b>[17] Schedule 1 Indictable offences triable summarily</b>	1
Omit item 17 of Table 1. Insert instead:	2
<b>17 Bail Act 2013</b>	3
An offence under section 86 of the <i>Bail Act 2013</i> .	4
<b>2.16 Drug Court Act 1998 No 150</b>	5
<b>[1] Section 14 Arrest warrants</b>	6
Omit “ <i>Bail Act 1978</i> ” from section 14 (3). Insert instead “ <i>Bail Act 2013</i> ”.	7
<b>[2] Section 24 Jurisdiction of Drug Court</b>	8
Omit “the <i>Bail Act 1978</i> ” from section 24 (2) (b).	9
Insert instead “by the Local Court under the <i>Bail Act 2013</i> ”.	10
<b>2.17 Drug Misuse and Trafficking Act 1985 No 226</b>	11
<b>Section 36N Exemption from criminal liability for users of licensed injecting centre</b>	12
Omit “ <i>Bail Act 1978</i> ” from section 36N (3) (b). Insert instead “ <i>Bail Act 2013</i> ”.	13
<b>2.18 Evidence Act 1995 No 25</b>	14
<b>[1] Section 4 Courts and proceedings to which Act applies</b>	15
Insert “, subject to Division 4 of Part 3 of the <i>Bail Act 2013</i> ” after “bail” in section 4 (1) (a).	16
<b>[2] Section 194 Witnesses failing to attend proceedings</b>	17
Omit section 194 (4). Insert instead:	18
(4) In this section, <i>recognisance</i> includes a bail acknowledgment within the meaning of the <i>Bail Act 2013</i> .	19
	20
<b>2.19 Fines Act 1996 No 99</b>	21
<b>[1] Section 111</b>	22
Omit the section. Insert instead:	23
<b>111 Definitions</b>	24
In this Part:	25
<i>appeal</i> means:	26
(a) an application to the Local Court to have a forfeiture order set aside duly made under Part 3 of Schedule 2 to the <i>Bail Act 2013</i> , or	27
	28
(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 <i>Bail Act 2013</i> .	29
	30
	31
	32
<i>forfeited bail money</i> means unpaid bail money the subject of a forfeiture order under Schedule 2 to the <i>Bail Act 2013</i> .	33
	34
<i>forfeited bail security</i> means bail security given in relation to bail money the subject of a forfeiture order under Schedule 2 to the <i>Bail Act 2013</i> .	35
	36

<b>[2] Section 112 Enforcement of forfeited bail money</b>	1
Omit “an application or appeal duly made under section 53K or 53N of the <i>Bail Act 1978</i> ” from section 112 (2) (b1).	2 3
Insert instead “an appeal”.	4
<b>[3] Section 112A Enforcement of forfeited bail security</b>	5
Omit “an application or appeal duly made under section 53K or 53N of the <i>Bail Act 1978</i> ” from section 112A (2) (a).	6 7
Insert instead “an appeal”.	8
<b>2.20 Government Information (Public Access) Act 2009 No 52</b>	9
<b>Schedule 1 Information for which there is conclusive presumption of overriding public interest against disclosure</b>	10 11
Omit the matter relating to the <i>Bail Act 1978</i> from clause 1 (1). Insert instead:	12
<i>Bail Act 2013</i> —section 89 (Restrictions on publication of association conditions)	13 14
<b>2.21 Intoxicated Persons (Sobering Up Centres Trial) Act 2013 No 15</b>	15
<b>Section 27 Relationship with other laws</b>	16
Insert at the end of the section:	17
(2) The <i>Bail Act 2013</i> 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.	18 19 20
<b>2.22 Law Enforcement (Powers and Responsibilities) Act 2002 No 103</b>	21
<b>[1] Part 8, note</b>	22
Omit “section 50 of the <i>Bail Act 1978</i> , to arrest a person who breaches bail undertakings or agreements”.	23 24
Insert instead “the <i>Bail Act 2013</i> , to arrest a person who fails to comply with a bail acknowledgment or a bail condition”.	25 26
<b>[2] Sections 104 (4) (b), 113 (2) (e) and 114 (5)</b>	27
Omit “ <i>Bail Act 1978</i> ” wherever occurring. Insert instead “ <i>Bail Act 2013</i> ”.	28
<b>[3] Section 104 (6)</b>	29
Omit “undertaking” wherever occurring. Insert instead “acknowledgment”.	30
<b>[4] Schedule 1 Acts not affected by this Act</b>	31
Omit “ <i>Bail Act 1978</i> No 161”. Insert instead “ <i>Bail Act 2013</i> No 26”.	32



<b>2.23 Local Court Act 2007 No 93</b>	1
<b>[1] Section 65 Arrest of respondent during proceedings</b>	2
Insert after section 65 (1):	3
(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 <i>Bail Act 2013</i> .	4 5 6
(1B) The <i>Bail Act 2013</i> applies to the respondent as if:	7
(a) the respondent were accused of an offence, and	8
(b) the proceedings at which the respondent is required to appear were proceedings for that offence.	9 10
(1C) Bail may be granted for the period between:	11
(a) the respondent's being brought before the Magistrate, registrar or authorised officer, and	12 13
(b) the respondent's appearance before the Court in the proceedings at which he or she is required to appear.	14 15
<b>[2] Section 65 (4)</b>	16
Insert after section 65 (3):	17
(4) For the purpose of applying the <i>Bail Act 2013</i> , an authorised officer has the same functions as an authorised justice under that Act.	18 19
<b>2.24 Local Government Act 1993 No 30</b>	20
<b>[1] Section 680 Demanding name of offender</b>	21
Omit "within the meaning of the <i>Criminal Procedure Act 1986</i> " from section 680 (3).	22
<b>[2] Section 680 (4) and (4A)</b>	23
Omit section 680 (4). Insert instead:	24
(4) A Magistrate or authorised officer before whom a person is taken under subsection (3) may make a bail decision under the <i>Bail Act 2013</i> in respect of the person.	25 26 27
(4A) If the person has not been charged with an offence, the <i>Bail Act 2013</i> applies to the person as if the person were accused of an offence.	28 29
<b>[3] Section 680 (6) and (7)</b>	30
Insert after section 680 (5):	31
(6) For the purpose of applying the <i>Bail Act 2013</i> , an authorised officer has the same functions as an authorised justice under that Act.	32 33
(7) In this section:	34
<i>authorised officer</i> means an authorised officer under the <i>Criminal Procedure Act 1986</i> .	35 36
<b>2.25 Mental Health (Forensic Provisions) Act 1990 No 10</b>	37
<b>Sections 10 (3) (b), 14 (b) (ii), 17 (2), 31 (1), 32 (2) (b) and 33 (1) and (1D) and Schedule 1, clause 20</b>	38 39
Omit " <i>Bail Act 1978</i> " wherever occurring. Insert instead " <i>Bail Act 2013</i> ".	40

<b>2.26 NSW Trustee and Guardian Act 2009 No 49</b>	1
<b>Section 68 Security may be required in respect of estate management</b>	2
Omit “Part 7A of the <i>Bail Act 1978</i> ” from section 68 (5).	3
Insert instead “Schedule 2 to the <i>Bail Act 2013</i> ”.	4
<b>2.27 Protection of the Environment Operations Act 1997 No 156</b>	5
<b>[1] Section 204 Power of authorised officers to demand name and address</b>	6
Omit “authorised officer within the meaning of the <i>Criminal Procedure Act 1986</i> ” from section 204 (3).	7
Insert instead “court officer”.	8
<b>[2] Section 204 (4)–(4B)</b>	10
Omit section 204 (4). Insert instead:	11
(4) <b>Bail</b>	12
A Magistrate or court officer before whom a person is taken under subsection (3) may make a bail decision under the <i>Bail Act 2013</i> in respect of the person.	13
(4A) If the person has not been charged with an offence, the <i>Bail Act 2013</i> applies as if the person were accused of an offence.	14
(4B) For the purpose of applying the <i>Bail Act 2013</i> , a court officer has the same functions as an authorised justice under that Act.	15
<b>[3] Section 204 (6)</b>	20
Insert after section 204 (5):	21
(6) In this section:	22
<i>court officer</i> means an authorised officer under the <i>Criminal Procedure Act 1986</i> .	23
	24
<b>2.28 Supreme Court Act 1970 No 52</b>	25
<b>Section 69C Stay of execution of conviction, order or sentence pending review</b>	26
Omit “enters into a bail undertaking in accordance with the <i>Bail Act 1978</i> ” from section 69C (3).	27
Insert instead “is entitled to be released on bail under the <i>Bail Act 2013</i> ”.	28
	29
<b>2.29 Water Management Act 2000 No 92</b>	30
<b>[1] Section 338D Power of authorised officers to demand name and address</b>	31
Omit “authorised officer within the meaning of the <i>Criminal Procedure Act 1986</i> ” from section 338D (3).	32
Insert instead “court officer”.	33
	34

<b>[2] Section 338D (4)–(7)</b>	1
Omit section 338D (4). Insert instead:	2
(4) A Magistrate or court officer before whom a person is taken under subsection (3) may make a bail decision under the <i>Bail Act 2013</i> in respect of the person.	3 4 5
(5) If the person has not been charged with an offence, the <i>Bail Act 2013</i> applies as if the person were accused of an offence.	6 7
(6) For the purpose of applying the <i>Bail Act 2013</i> , a court officer has the same functions as an authorised justice under that Act.	8 9
(7) In this section:	10
<i>court officer</i> means an authorised officer under the <i>Criminal Procedure Act 1986</i> .	11 12