

# Bail Regulation 1999

[1999-451]



New South Wales

## Status Information

### Currency of version

Historical version for 22 July 2003 to 14 December 2003 (accessed 27 June 2024 at 1:24)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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File last modified 28 July 2003

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## Contents

<b>Part 1 Preliminary</b> .....	4
1 Name of Regulation .....	4
2 Commencement .....	4
3 Definitions .....	4
4 Notes .....	5
<b>Part 2 General provisions respecting bail</b> .....	5
5 Prescribed periods in respect of grant of bail: sec 6 .....	5
<b>Part 3 Police bail</b> .....	6
6 Information respecting entitlement to, or eligibility for, bail: sec 18 .....	6
7 Prescribed facilities: sec 21 .....	7
<b>Part 4 Court bail</b> .....	7
8 Manner of application in relation to bail: sec 22 .....	7
9 Prescribed places: sec 26 .....	8
<b>Part 5 Provisions applying to both police and court bail</b> .....	8
10 Notice of bail decisions in cases of alleged domestic violence offences .....	8
11 Notice of bail decisions in cases of alleged sexual assault and personal violence offences .....	9
12 Information about special bail conditions .....	10
13 Bail undertaking and notice of hearing: sec 34 .....	10
14 Acknowledgment as to acquaintance with accused person: sec 36 .....	11
15 Determination that person is an acceptable person: sec 36 .....	11
16 Verification of person's capacity as an acceptable person: sec 36 .....	11

17 Reasons for bail decisions: sec 38 .....	12
18 Acceptance of distant sureties: sec 39 .....	12
19 Money or security: sec 40 .....	12
20 Application by surety for discharge from liability in respect of bail undertaking: sec 42.....	13
21 Apprehension of accused person after application by surety for discharge from liability: sec 42....	13
21A Written notice prior to revocation of bail: sec 42B .....	13
<b>Part 6 Review of bail decisions</b> .....	<b>13</b>
22 Request to review bail decision .....	13
<b>Part 6A Bail agreements</b> .....	<b>14</b>
22A Appropriate State authorities: sec 53.....	14
22B Written notice concerning making of forfeiture order: sec 53B .....	15
22C Giving of notice to appropriate State authority: sec 53C.....	15
22D Giving of notice to appropriate State authority: sec 53E.....	15
22E Written notice concerning taking effect of forfeiture order: sec 53H .....	15
<b>Part 7 Miscellaneous</b> .....	<b>16</b>
23 (Repealed) .....	16
24 Notice required to be given on adjournment: sec 54 (4) .....	16
25 Notice required to be given to accused person regarding review of bail decision: sec 54 (5) .....	16
26 Notice by custodian of person in custody after grant of bail: sec 54A.....	16
27 Particulars of orders in bail decisions .....	16
28 Notification of bail undertaking or of compliance with bail conditions .....	17
29 Prescribed officers: sec 60 .....	17
30 Repeal and savings.....	18
<b>Schedule 1 Forms</b> .....	<b>18</b>

# Bail Regulation 1999



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Bail Regulation 1999*.

### 2 Commencement

This Regulation commences on 1 September 1999.

### 3 Definitions

(1) In this Regulation:

**apprehended domestic violence order** means an apprehended violence order in force under Part 15A of the *Crimes Act 1900*, where the protected person:

- (a) is or has been the spouse or de facto partner of the defendant, or
- (b) is living with or has lived ordinarily in the same household as the defendant (otherwise than merely as a tenant or boarder), or
- (c) is or has been a relative (within the meaning of section 4 (6) of the *Crimes Act 1900*) of the defendant, or
- (d) has or has had an intimate personal relationship with the defendant.

**bail agreement** means an agreement entered into in accordance with the conditions imposed on the granting of bail to an accused person.

**bail decision**, in respect of a domestic violence offence, includes the following:

- (a) a bail decision in respect of a complaint for an apprehended domestic violence order, if the defendant is (by section 562L of that Act) taken to be an accused person charged with an offence,
- (b) a bail decision in respect of an appeal against any such apprehended domestic violence order, if the defendant is (by section 562M of that Act) taken to be an accused person who is in custody.

**clerk of a court** includes the following:

- (a) the Registrar of the Supreme Court,
- (b) the Registrar of the Court of Criminal Appeal,
- (c) the Registrar of the District Court,
- (d) the Clerk of a Local Court,
- (e) the Registrar of a Children's Court.

**domestic violence offence** has the same meaning as in the [Crimes Act 1900](#).

**governor of a correctional centre** means the superintendent, governor, gaoler or other officer for the time being in charge of the correctional centre.

**the Act** means the [Bail Act 1978](#).

- (2) In this Regulation, a reference to a Form is a reference to a Form that is in or to the effect of the relevant Form as set out in Schedule 1.

#### 4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

## Part 2 General provisions respecting bail

### 5 Prescribed periods in respect of grant of bail: sec 6

- (1) For the purposes of section 6 (h) of the Act, the period between:
  - (a) the making of an application to the Supreme Court by the Attorney General under section 4 (1) of the [Supreme Court \(Summary Jurisdiction\) Act 1967](#) with respect to an accused person, and
  - (b) the accused person's being brought before a Judge of the Supreme Court as a consequence of the application,is a prescribed period.
- (2) For the purposes of section 6 (h) of the Act, the period between:
  - (a) the submission to the Court of Criminal Appeal for determination, under section 5AE of the [Criminal Appeal Act 1912](#), of a question of law arising at or in reference to proceedings before the Supreme Court in its summary jurisdiction with respect to an accused person, and
  - (b) the determination of the question by the Court of Criminal Appeal,

is a prescribed period.

(3) For the purpose of section 6 (h) of the Act, the period between:

(a) the proceedings for a back up offence or related offence charged with the offence being transferred under section 36 (1) (b) (ii) of the *Criminal Procedure Act 1986* from the Local Court to the court in which the person has been committed to trial, and

(b) the person's appearance before the court in which he or she has been committed to trial,

is a prescribed period.

(4) For the purpose of section 6 (h) of the Act, the period between:

(a) a trial court remitting to a Local Court a back up offence or a related offence under section 39 of the *Criminal Procedure Act 1986*, and

(b) the appearance of the person charged with the offence before the Local Court in relation to that offence,

is a prescribed period.

## **Part 3 Police bail**

### **6 Information respecting entitlement to, or eligibility for, bail: sec 18**

(1) For the purposes of section 18 (1) (a) of the Act, the information in writing to be given to an accused person is the information contained in the following Forms:

(a) Form 1, if the accused person is charged with an offence to which section 8 of the Act applies,

(b) Form 1A, if the accused person is charged with an offence to which section 8A of the Act applies,

(c) Form 2, if the accused person is charged with:

(i) an offence to which section 9 of the Act applies, or

(ii) an offence referred to in section 9 (1) (b)–(g) of the Act.

(2) For the purposes of section 18 (1) (a) of the Act, the prescribed form of acknowledgment is:

(a) if reasons for the bail decision are recorded, the acknowledgment set out in Form 7, or

(b) in any other case, the acknowledgment set out in Form 14 (which may be included

as part of the information set out in Form 1, Form 1A or Form 2).

**7 Prescribed facilities: sec 21**

- (1) For the purposes of section 21 of the Act, the prescribed facilities are as follows:
  - (a) facilities for an accused person to wash, shower or bathe and (if appropriate) to shave,
  - (b) facilities for an accused person to change clothing.
- (2) Nothing in this clause requires a police officer to provide clothing for an accused person unless the clothing is brought to the police station at which the person is in custody, whether by a member of the accused person's family or by some other person.

**Part 4 Court bail**

**8 Manner of application in relation to bail: sec 22**

- (1) An accused person may apply to a court in relation to bail under section 22 of the Act in the following manner:
  - (a) orally, if the person is at that time appearing before the court, or
  - (b) if the person is not appearing before the court—in writing:
    - (i) as set out in Part 1 of Form 3, if the person is applying for the grant of bail, or
    - (ii) as set out in Part 2 of Form 3, if the person is applying for review of a bail decision, or
    - (iii) as set out in Part 3 of Form 3, if the person is applying for the alteration of bail conditions.
- (2) An application in relation to bail may be signed by the accused person or, on the accused person's behalf, by his or her lawyer, spouse (lawful or de facto), parent or guardian.
- (3) A court may grant bail, review a bail decision or alter bail conditions even if the accused person has not complied with the provisions of subclause (1) or (2).
- (4) An accused person may, in one application, apply to a court for or in relation to bail in respect of more than one alleged offence.
- (5) If the accused person is in custody at a correctional centre, the governor of the correctional centre must forward the application, without undue delay, to the clerk of the court to which the application is made.

## **9 Prescribed places: sec 26**

For the purposes of section 26 (2) of the Act, the following are prescribed places:

Cobham Juvenile Justice Centre, Werrington  
Emu Plains Correctional Centre  
Industrial Training Centre  
John Morony Correctional Centre  
Long Bay Hospital  
Malabar Special Programs Centre  
Metropolitan Remand and Reception Centre  
Minda Juvenile Justice Centre, Lidcombe  
Mulawa Correctional Centre  
Parklea Correctional Centre  
Parklea Young Offenders Work Release Centre  
Parramatta Correctional Centre  
Reiby Juvenile Justice Centre, Airds  
Silverwater Correctional Centre  
Special Purpose Centre  
Yasmar Juvenile Justice Centre, Haberfield

## **Part 5 Provisions applying to both police and court bail**

### **10 Notice of bail decisions in cases of alleged domestic violence offences**

- (1) This clause applies to the following offences:
  - (a) a domestic violence offence,
  - (b) an offence of failing to comply with a restriction or prohibition specified in an apprehended domestic violence order.
- (2) The authorised officer or court granting or refusing bail in respect of an offence to which this clause applies must immediately give notice of the bail decision to the informant, except if the informant is a police officer.



- (3) The notice may be given personally or by post.
- (4) The notice must contain the information relating to the review of bail decisions set out in Form 4.
- (5) Any notice given of a decision to grant bail must specify the conditions imposed under section 36 of the Act on the granting of bail.
- (6) In this clause:

**informant** includes complainant in the case of an apprehended domestic violence order under Part 15A of the *Crimes Act 1900*.

#### **11 Notice of bail decisions in cases of alleged sexual assault and personal violence offences**

- (1) As soon as practicable after a bail decision is made in respect of a sexual assault offence or personal violence offence, the informant for that offence (being a police officer) must take appropriate steps to ensure that notice of the bail decision is given to the alleged victim of the offence or (if it is alleged that the victim died as a result of the offence) to a close relative of the alleged victim of the offence.
- (2) The notice may be given personally or by post.
- (3) Nothing in this clause affects the duty of an authorised officer or court to notify a bail decision to an informant under clause 10.
- (4) In this clause:

**personal violence offence** means:

- (a) an offence under, or mentioned in, section 19, 24, 27, 28, 29, 30, 33, 33A, 35, 39, 41, 44, 46, 47, 48, 49, 58, 59 or 61 of the *Crimes Act 1900* but, in the case of an offence under section 61 of that Act (Common assault prosecuted by indictment) or an offence of attempting to commit an offence under that section, only if the accused person has a domestic relationship with the alleged victim of the offence, or
- (b) an offence of attempting to commit an offence referred to in paragraph (a), or
- (c) an offence under section 562AB of the *Crimes Act 1900* of stalking or intimidating another person, or
- (d) an offence under section 562I of the *Crimes Act 1900* of contravening a prohibition or restriction specified in an apprehended domestic violence order.

**sexual assault offence** means:

- (a) an offence under, or mentioned in, section 61I, 61J, 61K, 61L, 61M, 61N, 61O, 65A,

66, 66A, 66C, 66F (except subsection (4)), 73, 78A, 78H, 78K, 78N, 78Q, 79 or 80A of the *Crimes Act 1900*, or

- (b) an offence under, or mentioned in, section 61B, 61C, 61D or 61E of the *Crimes Act 1900* committed or alleged to have been committed before 17 March 1991 (the date of the repeal of those sections by the *Crimes (Amendment) Act 1989*), or
- (c) an offence under, or mentioned in, section 66B, 66D, 74, 78I or 78L of the *Crimes Act 1900*, to the extent that it is an offence of assaulting a person with intent to commit an offence, or
- (d) an offence of attempting to commit an offence referred to in paragraph (a), (b) or (c).

**victim**, in relation to an offence under section 562I of the *Crimes Act 1900* of contravening a prohibition or restriction specified in an apprehended domestic violence order, means the person for whose protection the order was made.

- (5) For the purposes of this clause, a person has a domestic relationship with another person if the person:
  - (a) is or has been the spouse or de facto partner of the other person, or
  - (b) is living with or has lived ordinarily in the same household as the other person (otherwise than merely as a tenant or boarder), or
  - (c) is or has been a relative (within the meaning of section 4 (6) of the *Crimes Act 1900*) of the other person, or
  - (d) has or has had an intimate personal relationship with the other person.

## **12 Information about special bail conditions**

- (1) As soon as practicable after any bail condition is imposed on an accused person under section 37 (1) (b) of the Act for the purpose of the protection and welfare of any specially affected person, the informant for the offence (being a police officer) must take appropriate steps to ensure that notice of the imposition of the bail condition is given to the specially affected person.
- (2) The notice may be given personally or by post.

## **13 Bail undertaking and notice of hearing: sec 34**

- (1) Notice of the court in which a person has undertaken to appear, and of the time, date and place of that appearance:
  - (a) may be included in a copy of the undertaking made by the person or a notice setting out the terms of the undertaking, and

(b) if it is so included, must be in Form 5 and must be given personally to the accused person immediately after the accused person has given the undertaking.

(2) A notice of the court in which a person has undertaken to appear, and of the time, date and place of that appearance:

(a) may be given personally or by post, or

(b) may be given or sent in such other manner as the court before which the person is to appear may determine.

#### **14 Acknowledgment as to acquaintance with accused person: sec 36**

(1) For the purposes of section 36 (4) of the Act, an acknowledgment under section 36 (2)

(b) must contain the following details:

(a) the period during which the person making the acknowledgment has been acquainted with the accused person,

(b) the nature of that person's acquaintance with the accused person.

(2) An acknowledgment under section 36 (2) (b) of the Act may be in Form 6.

#### **15 Determination that person is an acceptable person: sec 36**

(1) An authorised officer or court may refuse to make a determination that a person is an acceptable person for the purposes of a condition referred to in section 36 (2) (b), (d), (f) or (h) of the Act until the officer or court, on such evidence as appears to the officer or court to be sufficient, is satisfied as to the person's identity and residential address.

(2) Nothing in this clause limits the powers of an authorised officer or court in relation to the making of a determination as to whether a person is an acceptable person as referred to in section 36 of the Act.

#### **16 Verification of person's capacity as an acceptable person: sec 36**

(1) This clause applies to a person who claims:

(a) to be an acceptable person referred to in a determination under section 36 (3) of the Act, or

(b) to belong to a class or description of acceptable persons referred to in such a determination.

(2) Such a person must not be permitted to make an acknowledgment, enter into an agreement or deposit a security or amount of money unless the authorised officer or court before whom the person attends is satisfied:

(a) that such a determination has been made, and

(b) that the person:

- (i) is an acceptable person referred to in that determination, or
- (ii) belongs to a class or description of acceptable persons referred to in that determination.

**17 Reasons for bail decisions: sec 38**

- (1) The reasons for a bail decision by an authorised officer must be endorsed by the authorised officer on a form in Form 7.
- (2) The authorised officer must immediately send that form, or a copy of the form, to the court before which the accused person is to appear.
- (3) The reasons for a bail decision by a court must be endorsed by the court on a form in Form 8.
- (4) If a bail decision is made in response to a bail application relating to more than one alleged offence, the reasons for the bail decision may be recorded on one form.

**18 Acceptance of distant sureties: sec 39**

- (1) This clause applies to any person who, because of distance or for any other reason, is unable readily to attend before the authorised officer or court to whom a bail undertaking is given for the purpose of entering into an agreement, making an acknowledgment or depositing security or an amount of money, as referred to in section 39 of the Act.
- (2) For the purposes of section 39 of the Act, such a person:
  - (a) may enter into such an agreement with, or
  - (b) may make such an acknowledgment to, or
  - (c) may deposit such a security or amount of money with,  
any other authorised officer or court.

**19 Money or security: sec 40**

- (1) This clause applies to any security or amount of money that is deposited with an authorised officer or justice (elsewhere than at a court) under a bail agreement.
- (2) For the purposes of section 40 of the Act, the authorised officer or justice must, as soon as practicable, lodge the security or money, together with the relevant undertaking and agreement, with the clerk of a court.

**20 Application by surety for discharge from liability in respect of bail undertaking: sec 42**

An application under section 42 (1) of the Act for discharge of liability under a bail agreement may be in Form 9.

**21 Apprehension of accused person after application by surety for discharge from liability: sec 42**

For the purposes of section 42 (2) (a) of the Act, a warrant for the apprehension of an accused person as a consequence of an application under section 42 (1) of the Act may be in Form 10.

**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.

**Part 6 Review of bail decisions**

**22 Request to review bail decision**

- (1) A request for a review under Part 6 of the Act of a bail decision:
  - (a) if made by or on behalf of an accused person, may be made in Part 2 of Form 3, or
  - (b) if made by the informant or the Attorney General, may be made in Form 11.
- (2) A court may determine a request to review a bail decision even if the request does not

comply with this clause.

- (3) On receipt of a request to review a bail decision, a court must give notice of the time and place of hearing to the applicant.
- (4) If an accused person does not appear at the hearing, the court, on proof of notice having been given to the person, may proceed to hear and determine the request.
- (5) A court may dispense with the giving of notice:
  - (a) if it is satisfied that the accused person is evading service or cannot be contacted, or
  - (b) if, in its opinion, the interests of justice so demand.
- (6) The Supreme Court must give notice to an applicant for review of a bail decision of its decision, under section 22A of the Act, to refuse to entertain the application.

## **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.

**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.

## **Part 7 Miscellaneous**

### **23 (Repealed)**

### **24 Notice required to be given on adjournment: sec 54 (4)**

For the purposes of section 54 (4) of the Act, notice of the time and place to which proceedings have been adjourned may be in Form 12.

### **25 Notice required to be given to accused person regarding review of bail decision: sec 54 (5)**

For the purposes of section 54 (5) of the Act, the prescribed information required to be given to an accused person is the information contained in Form 4.

### **26 Notice by custodian of person in custody after grant of bail: sec 54A**

A notice for the purposes of section 54A of the Act may be in Form 13.

### **27 Particulars of orders in bail decisions**

- (1) If an accused person is, as a consequence of a bail decision, committed to a correctional centre by warrant, the court, Judge, magistrate, justice or other person issuing the warrant must cause the required particulars to be endorsed on the form of warrant.
- (2) If an accused person is, as a consequence of a bail decision, committed to a correctional centre otherwise than by warrant, the court must cause the required particulars to be notified to the governor of the correctional centre to which the accused person is committed.
- (3) If an accused person is held in custody as a consequence of a bail decision and, as a consequence of a further bail decision, bail is granted, refused or dispensed with in respect of the offence concerned, the court must cause the required particulars to be notified to the governor of the correctional centre at which the accused person is in



custody.

- (4) The required particulars are particulars of any order in the bail decision respecting:
- (a) the grant, refusal or dispensation of bail in respect of the offence concerned, and
  - (b) any conditions imposed under section 36 of the Act on the grant of bail, and
  - (c) any determination as to:
    - (i) the person or persons, or the class or description of persons, acceptable for the purposes of a condition of bail as referred to in section 36 (2) (b), (d), (f) and (h) of the Act, and the number of acceptable persons required for those purposes, and
    - (ii) the nature and sufficiency of security that is acceptable security for the purposes of a condition of bail as referred to in section 36 (2) (e) and (f) of the Act.

## **28 Notification of bail undertaking or of compliance with bail conditions**

- (1) This clause applies:
- (a) if an accused person is in custody as a consequence of a bail decision, and
  - (b) if the person subsequently gives a bail undertaking, and
  - (c) if all bail conditions are complied with such that the person may be released from custody in respect of the offence.
- (2) The authorised officer or court before whom or which the bail undertaking is given and bail conditions entered into must immediately notify the governor of the correctional centre at which the accused person is detained of the person's giving of the bail undertaking and of the person's compliance with the bail conditions.

## **29 Prescribed officers: sec 60**

For the purposes of section 60 (3) (a) and (b) of the Act, the following are prescribed officers:

- (a) a Judge,
- (b) a Magistrate,
- (c) a justice,
- (d) a clerk of a court,
- (e) an authorised officer.

### **30 Repeal and savings**

- (1) The *Bail Regulation 1994* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Bail Regulation 1994* had effect under that Regulation is taken to have effect under this Regulation.
- (3) Any Form contained in the *Bail Regulation 1994* that corresponds to a Form in this Regulation may continue to be used as if it were a Form in this Regulation. This subclause ceases to have effect on 31 December 1999.

## **Schedule 1 Forms**

### **Form 1 Information about bail in respect of minor offences**

(Clause 6 (1) (a))

#### **1 Entitlement to bail**

Section 8 of the *Bail Act 1978* applies to all offences not punishable by a sentence of imprisonment (except in default of payment of a fine). It also applies to certain other minor offences. Under section 8 you are entitled to be granted bail by an authorised officer at any time before your first appearance in a court in respect of the alleged offence UNLESS:

- (a) you are, in the opinion of the authorised officer, incapacitated by intoxication, injury or use of a drug or are otherwise in danger of physical injury or in need of physical protection, or
- (b) you are in custody serving a sentence of imprisonment and the authorised officer is satisfied you are likely to remain in custody for a longer period than the period for which bail would be granted.

#### **2 Grant of bail**

Bail may be granted either:

- (a) unconditionally, or
- (b) subject to such condition or conditions imposed on the grant of bail as, in the opinion of the authorised officer, is or are reasonably and readily able to be entered into.

#### **3 Bail conditions**

- (1) One or more of the following conditions ONLY may be imposed on a grant of bail:
  - (a) that you enter into an agreement to observe specified requirements (other than financial requirements) as to your conduct while at liberty on bail,
  - (b) that one or more acceptable persons acknowledge that they are acquainted with you and regard you as a responsible person who is likely to comply with your bail undertaking,
  - (c) that you enter into an agreement, without security, to forfeit a specified amount of money if you fail to comply with your bail undertaking,
  - (d) that one or more acceptable persons enter into an agreement or agreements, without security, to forfeit a specified amount or amounts of money if you fail to comply with your bail undertaking,
  - (e) that you enter into an agreement, and deposit acceptable security, to forfeit a specified amount of money if you fail to comply with your bail undertaking,
  - (f) that one or more acceptable persons enter into an agreement or agreements, and deposit acceptable security, to forfeit a specified amount or amounts of money if you fail to comply with your bail undertaking,

- (g) that you deposit with the authorised officer or court a specified amount of money in cash and enter into an agreement to forfeit the amount deposited if you fail to comply with your bail undertaking,
- (h) that one or more acceptable persons deposit with the authorised officer or court a specified amount or amounts of money in cash and enter into an agreement or agreements to forfeit the amount or amounts deposited if you fail to comply with your bail undertaking.

(2) You may request that the authorised officer grant bail to you subject to any one or more of the above conditions.

#### **4 Rights if bail refused**

If you are refused bail or not released on bail, you are entitled to be brought as soon as practicable before a court.

#### **5 Entitlement to release**

- (1) If you are granted bail you must be released from custody as soon as possible after you have given an undertaking to appear at a court.
- (2) You are entitled to be released in respect of the offence for which you are now in custody after you have:
  - (a) given an undertaking in writing to appear in person before a court in accordance with the undertaking, and
  - (b) complied with the conditions (if any) imposed for your being released from custody.

#### **6 Who is authorised to grant bail?**

A police officer is authorised to grant bail if the officer:

- (a) is of or above the rank of sergeant and is present at the police station, or
- (b) is for the time being in charge of the police station.

### **Form 1A Information about bail in respect of offences for which there is a presumption against bail**

(Clause 6 (1) (b))

#### **1 No presumption in favour of bail**

Section 8A of the *Bail Act 1978* applies to offences involving the cultivation of a commercial quantity of a prohibited plant or the manufacture, supply or importation of a commercial quantity of a prohibited drug. Under that section, you are not entitled to be granted bail in respect of the alleged offence unless you satisfy the authorised officer or court that bail should not be refused.

#### **2 Bail conditions**

- (1) If you are granted bail, one or more of the following conditions ONLY may be imposed on a grant of bail:
  - (a) that you enter into an agreement to observe specified requirements (other than financial requirements) as to your conduct while at liberty on bail,
  - (b) that one or more acceptable persons acknowledge that they are acquainted with you and regard you as a responsible person who is likely to comply with your bail undertaking,
  - (c) that you enter into an agreement, without security, to forfeit a specified amount of money if you fail to comply with your bail undertaking,
  - (d) that one or more acceptable persons enter into an agreement or agreements, without security, to forfeit a specified amount or amounts of money if you fail to comply with your bail undertaking,
  - (e) that you enter into an agreement, and deposit acceptable security, to forfeit a specified amount of money if you

fail to comply with your bail undertaking,

- (f) that one or more acceptable persons enter into an agreement or agreements, and deposit acceptable security, to forfeit a specified amount or amounts of money if you fail to comply with your bail undertaking,
- (g) that you deposit with the authorised officer or court a specified amount of money in cash and enter into an agreement to forfeit the amount deposited if you fail to comply with your bail undertaking,
- (h) that one or more acceptable persons deposit with the authorised officer or court a specified amount of money in cash and enter into an agreement or agreements to forfeit the amount or amounts deposited if you fail to comply with your bail undertaking.

(2) You may request the authorised officer to grant bail to you subject to any one or more of the above conditions.

### **3 Rights if bail refused**

If you are refused bail or not released on bail, you are entitled to be brought as soon as practicable before a court.

### **4 Entitlement to release if granted bail**

If and when you are granted bail, you are entitled to be released in respect of the offence for which you are now in custody after you have:

- (a) given an undertaking in writing to appear in person before a court in accordance with the undertaking, and
- (b) complied with the conditions (if any) imposed for your being released from custody.

### **5 Who is authorised to grant bail?**

A police officer is authorised to grant bail if the officer:

- (a) is of or above the rank of sergeant and is present at the police station, or
- (b) is for the time being in charge of the police station.

## **Form 2 Information as to entitlement to bail**

(Clause 6 (1) (c))

### **1 Entitlement to bail**

Under section 9 of the *Bail Act 1978* you are entitled to be granted bail by an authorised officer at any time before your first appearance in a court in respect of the alleged offence UNLESS:

- (a) you are in custody serving a sentence of imprisonment and the authorised officer is satisfied that you are likely for that reason to remain in custody for a longer period than the period for which bail would be granted, or
- (b) you are charged with one of the following offences (but if you have been charged with one or more of these offences you may nevertheless be granted bail under section 13 of the *Bail Act 1978*):
  - (i) an offence to which section 8 (1) or 8A (1) of the *Bail Act 1978* applies,
  - (ii) an offence under section 51 of the *Bail Act 1978* (failing to appear in accordance with a bail undertaking),
  - (iii) murder or manslaughter,
  - (iv) an offence under section 26 (conspiring to commit murder), 27 (acts done to the person with intent to murder), 28 (acts done to property with intent to murder), 29 (certain other attempts to murder) or 30 (attempts to murder by other means) of the *Crimes Act 1900*,
  - (v) an offence under section 31 (documents containing threats) or 33 (wounding etc with intent to do bodily harm or resist arrest) of the *Crimes Act 1900*,

- (vi) an offence under section 61J (aggravated sexual assault), 61K (assault with intent to have sexual intercourse), 66A (sexual intercourse with child under 10), 66B (attempting, or assaulting with intent, to have sexual intercourse with child under 10), 78H (homosexual intercourse with male under 10) of the *Crimes Act 1900*,
  - (vii) an offence under section 90A (kidnapping) of the *Crimes Act 1900*,
  - (viii) an offence under section 95 (robbery with striking), 96 (robbery with wounding), 97 (robbery while armed or in company) or 98 (robbery with wounding while armed or in company) of the *Crimes Act 1900*,
  - (ix) an offence under section 23 (1) (cultivation, supply or possession of prohibited plant), 24 (1) (manufacture or production of prohibited drug) or 25 (1) (supply of prohibited drug) of the *Drug Misuse and Trafficking Act 1985* (but only if the plant or drug concerned is alleged to be of a quantity that is at least twice the indictable quantity applicable under that Act),
  - (x) an offence under section 26 (conspiring to commit offence referred to in (viii) above), section 27 (aiding etc commission of offence referred to in (viii) above) or section 28 (conspiring to commit or aiding etc commission of offence under a law in force outside New South Wales corresponding to section 23 (1), 24 (1) or 25 (1)) of the *Drug Misuse and Trafficking Act 1985* (but only if the plant or drug concerned is alleged to be of a quantity that is at least twice the indictable quantity applicable under that Act),
  - (xi) an offence under section 25A (supplying prohibited drugs on an ongoing basis) of the *Drug Misuse and Trafficking Act 1985*, an offence under section 26 of that Act (conspiring to commit an offence under section 25A), an offence under section 27 of the Act (aiding, abetting, counselling, procuring, soliciting or inciting the commission of an offence under section 25A) or an offence under section 28 of that Act (conspiring to commit, or aiding, abetting, counselling or procuring the commission of, an offence under a law in force outside New South Wales corresponding to section 25A of the *Drug Misuse and Trafficking Act 1985*),
  - (xii) an offence relating to narcotic goods under section 231 (1) (assembly of persons for importing, smuggling etc), 233A (allowing use of ship or aircraft for smuggling) or 233B (offences relating to importation) of the *Customs Act 1901* of the Commonwealth (but only if the narcotic goods concerned are alleged to be of a nature and quantity required for an offence referred to in (ix) or (x) above),
  - (xiii) an offence referred to in section 9A (1) of the *Bail Act 1978* (a domestic violence offence or an offence of contravening an apprehended domestic violence order by an act involving violence or that would constitute an offence against section 562AB of the *Crimes Act 1900*), or
- (c) the authorised officer is satisfied that he or she is, after consideration of the matters referred to in section 32 of the *Bail Act 1978*, justified in refusing bail.

## 2 Matters to be considered in bail application under section 32 of the *Bail Act 1978*

Section 32 of the *Bail Act 1978* provides that the following matters only may be taken into account in considering bail:

- (a) the probability of whether or not you will appear in court in respect of the offence for which bail is being considered, having regard only to:
  - (i) your background and community ties, as indicated by the history and details of your residence, employment and family situations and your prior criminal record (if known), and
  - (ii) any previous failure by you to appear in court pursuant to a bail undertaking or pursuant to a recognizance of bail entered into before 17 March 1980, and
  - (iii) the circumstances of the offence (including its nature and seriousness), the strength of the evidence against you and the severity of the penalty or probable penalty, and
  - (iv) any specific evidence indicating whether or not it is probable that you will appear in court, and
- (b) your interests, having regard only to:
  - (i) the period that you may be obliged to spend in custody if bail is refused and the conditions under which you would be held in custody, and
  - (ii) your needs to be free to prepare for your appearance in court or to obtain legal advice or both, and

- (iii) your needs to be free for any other lawful purpose, and
  - (iv) whether or not you are, in the opinion of the authorised officer or court, incapacitated by intoxication, injury or use of a drug or are otherwise in danger of physical injury or in need of physical protection, and
- (c) the protection of:
- (i) any person against whom it is alleged that the offence concerned was committed, and
  - (ii) the close relatives of any such person, and
  - (iii) any other person the authorised officer or court considers to be in need of protection because of the circumstances of the case, and
- (d) the protection and welfare of the community, having regard only to:
- (i) the nature and seriousness of the offence, in particular whether the offence is of a sexual or violent nature, and
  - (ii) whether or not you have failed, or have been arrested for an anticipated failure, to observe a reasonable bail condition previously imposed in respect of the offence, and
  - (iii) the likelihood of you interfering with evidence, witnesses or jurors, and
  - (iv) the likelihood that you will or will not commit an offence while at liberty on bail (which is a factor to which the authorised officer may only have regard if the authorised officer is satisfied that you are likely to commit it and that the likelihood that you will commit it, together with the likely consequences, outweighs your general right to be at liberty), and
  - (v) if the offence for which bail is being considered is a serious offence, whether, at the time that you are alleged to have committed the offence, you had been granted bail, or released on parole, in connection with any other serious offence.

### **3 Granting of bail**

Bail may be granted either:

- (a) unconditionally, or
- (b) subject to a condition or conditions.

### **4 Bail conditions**

- (1) One or more of the following conditions ONLY may be imposed on a grant of bail:
- (a) that you enter into an agreement to observe specified requirements (other than financial requirements) as to your conduct while at liberty on bail,
  - (b) that one or more acceptable persons acknowledge that they are acquainted with you and regard you as a responsible person who is likely to comply with your bail undertaking,
  - (c) that you enter into an agreement, without security, to forfeit a specified amount of money if you fail to comply with your bail undertaking,
  - (d) that one or more acceptable persons enter into an agreement or agreements, without security, to forfeit a specified amount or amounts of money if you fail to comply with your bail undertaking,
  - (e) that you enter into an agreement, and deposit acceptable security, to forfeit a specified amount of money if you fail to comply with your bail undertaking,
  - (f) that one or more acceptable persons enter into an agreement or agreements, and deposit acceptable security, to forfeit a specified amount or amounts of money if you fail to comply with your bail undertaking,
  - (g) that you deposit with the authorised officer or court a specified amount of money in cash and enter into an agreement to forfeit the amount deposited if you fail to comply with your bail undertaking,

(h) that one or more acceptable persons deposit with the authorised officer or court a specified amount of money in cash and enter into an agreement or agreements to forfeit the amount or amounts deposited if you fail to comply with your bail undertaking.

(2) You may request the authorised officer to grant bail to you subject to any one or more of the above conditions.

## 5 Rights if bail refused

If you are refused bail or not released on bail, you are entitled to be brought as soon as practicable before a court.

## 6 Entitlement to release

If and when you are granted bail, you are entitled to be released in respect of the offence for which you are now in custody after you have:

- (a) given an undertaking in writing to appear in person before a court in accordance with the undertaking, and
- (b) complied with the conditions (if any) imposed for your being released from custody.

## 7 Who is authorised to grant bail?

A police officer is authorised to grant bail if the officer:

- (a) is of or above the rank of sergeant and is present at the police station, or
- (b) is for the time being in charge of the police station.

## Form 3 Applications in relation to bail

(Clause 8 (1) (b))

### Part 1 Application for grant of bail

I, .....,  
(name)  
of .....,  
(address)  
being in custody at .....  
(place)  
charged with .....  
(offence)  
apply to the .....  
(name of court)  
at .....  
(place)  
for bail to be granted.  
I am next to appear before .....  
(name of court)  
at .....  
(place)  
on .....

(date)

Signature:.....

Date:.....

**Part 2 Application for review of bail determination**

I, .....,

(name)

of .....,

(address)

being in custody at .....

(place)

charged with .....

(offence)

apply to the .....

(name of court)

at .....

(place)

I apply for a review of my bail determination.

I was last refused bail by .....

(name of court)

at .....

(place)

on .....

(date)

I am next to appear before .....

(name of court)

at .....

(place)

on .....

(date)

Signature:.....

Date:.....

**Special facts and circumstances**

If you are making this application to the Supreme Court, and you have made earlier application to the Supreme Court in respect of the same charge, state below any special facts or circumstances that have arisen since your last application was heard: .....

.....  
.....  
.....

**Part 3 Application for alteration of bail conditions**



I, .....,  
(name)  
of .....,  
(address)  
being in custody at .....  
(place)  
charged with .....  
(offence)  
apply to the .....  
(name of court)  
at .....  
(place)

I apply for a review of my existing bail conditions.  
I was last granted bail conditionally by .....  
(name of court)  
at .....  
(place)  
on .....  
(date)

I am next to appear before .....  
(name of court)  
at .....  
(place)  
on .....  
(date)

Signature:.....  
Date:.....

**Additional information**

If you have been granted bail but remain in custody because you cannot meet one or more of your bail conditions, state below which one(s): .....  
.....  
.....  
.....

If you are making this application to the Supreme Court, and you have made earlier application to the Supreme Court in respect of the same charge, state below any special facts or circumstances that have arisen since your last application was heard: .....  
.....  
.....  
.....

**Form 4 Notice about the review of a bail decision**

## 1 Right of review

- (1) Part 6 of the *Bail Act 1978* provides that a bail decision may be reviewed.
- (2) A **bail decision** includes a refusal to grant bail, a granting of bail conditionally or unconditionally and a dispensing with bail.
- (3) A review may be had only at the request of:
  - (a) the accused person, or
  - (b) the informant (being a police officer), or
  - (c) the informant or complainant (whether or not a police officer) in the case of bail granted in respect of a domestic violence offence or a complaint for an apprehended violence order under Part 15A of the *Crimes Act 1900*, or
  - (d) the Attorney General or the Director of Public Prosecutions.

## 2 Which court can consider a request for review of a bail decision?

- (1) A request for review may be made to the appropriate court as set out below:

<b>If a bail decision was made by</b>	<b>it may be reviewed by</b>
an authorised officer	a Magistrate or the Supreme Court
a Justice	the Justice or a Magistrate or the Supreme Court
a Magistrate	a Magistrate or the Supreme Court
the District Court	the District Court or the Supreme Court
the Industrial Court	the Industrial Court or the Supreme Court
the Land and Environment Court	the Land and Environment Court or the Supreme Court
the Court of Criminal Appeal	the Court of Criminal Appeal
	the Supreme Court, or:
	the Land and Environment Court, the Industrial Court, the District Court or a Magistrate, but only if:
	(a) you are appearing before the Land and Environment Court, the Industrial Court, the District Court or a Magistrate in criminal proceedings, and
the Supreme Court	(b) the Land and Environment Court, the Industrial Court, the District Court or Magistrate is satisfied that special facts or special circumstances exist.

## 3 What can a court do when it reviews a bail decision?

A court, in reviewing a bail decision, may confirm or vary that decision or substitute another decision.

## 4 Form of request for review

A request for review of a bail decision must be in writing in or to the effect of Part 2 of Form 3 in Schedule 1 to the *Bail Regulation 1999*, a copy of which may be obtained from a court office or a correctional centre.

**5 Special right in case of inability to meet bail conditions**

If you have been granted bail but remain in custody because you cannot meet one or more of your bail conditions, you may apply for a bail condition review. The application must be made to the court that granted the conditional bail (or, if the bail was granted by an authorised officer or a justice, to a Magistrate). The application must be in writing in or to the effect of Part 3 of Form 3 in Schedule 1 to the *Bail Regulation 1999*, a copy of which may be obtained from a court office or a correctional centre.

**6 You can apply for review even if the court has not been notified that you are in custody**

The governor of the correctional centre or officer-in-charge of the lock-up or police station at which you are in custody is required to notify the appropriate court that you are in custody because the bail conditions have not been met but, even if this notice has not been sent, you can still apply for a review of your bail conditions.

**7 Special right to review of reporting conditions**

If you have been granted bail on the condition you report to a police station while on bail, or that you reside at a specified address while on bail, you may apply for a variation of that condition. You may apply for the police station to which you report or the times at or days on which you report to be varied. The application must be made to a justice employed in the Attorney-General's Department.

**8 Second or subsequent applications to the Supreme Court**

If you are applying to the Supreme Court about your bail, and if this is not your first application in respect of that bail, you must show that there are special facts or special circumstances that justify the making of this application, otherwise the Court may refuse to entertain your application.

**Form 5 Bail undertaking**

(Clause 13)

Name of accused: .....  
Address of accused: .....  
Offence(s): .....  
.....  
Name of surety (sureties) (if any) .....  
.....  
and .....  
Address of surety (sureties) (if any) .....  
.....  
.....  
.....

**Undertakings**

I undertake to appear in respect of the above offence or offences at the  
.....  
(court)  
at .....  
(place)  
on ....., at 10 am and before such court on such  
(date)  
day and at such time and place as is from time to time specified in a notice to be given or sent to me.  
I also undertake that, if bail is continued, I will appear at any time and place to which the proceedings in respect of the offence or offences may be continued, whether on an adjournment or otherwise.

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.

**Bail conditions**

\*I understand that the grant of bail is subject to the following condition(s) (*authorised officer or court to cross out whichever conditions are not applicable*):

- (a) that I enter into an agreement to observe specified requirements as to my conduct while at liberty on bail as set out in this Form,
- (b) that one (or ..... ) acceptable person(s) acknowledge that he or she is (they are) acquainted with me and regard(s) me as a responsible person who is likely to comply with my bail undertaking,
- (c) that I enter into an agreement, without security, to forfeit an amount of money, as specified in this form, if I fail to comply with my bail undertaking,
- (d) that one (or ..... ) acceptable person(s) enter into an agreement or agreements, without security, to forfeit an amount or amounts of money, as specified in this form, if I fail to comply with my bail undertaking,
- (e) that I enter into an agreement, and deposit acceptable security, to forfeit an amount of money, as specified in this form, if I fail to comply with my bail undertaking,
- (f) that one (or ..... ) acceptable person(s) enter into an agreement or agreements, and deposit acceptable security, to forfeit an amount or amounts of money, as specified in this form, if I fail to comply with my bail undertaking,
- (g) that I deposit an amount of money in cash, as specified in this form, and enter into an agreement to forfeit the amount if I fail to comply with my bail undertaking,
- (h) that one (or ..... ) acceptable person(s) deposit an amount or amounts of money in cash, as specified in this form, and enter into an agreement or agreements, to forfeit the amount(s) if I fail to comply with my bail undertaking.

**Agreement to observe requirements as to conduct**

\*I agree to observe as a condition of my bail the following requirements as to my conduct while at liberty on bail:

.....  
.....  
.....

**Agreement of accused**

\*I agree to forfeit the sum of \$..... in money in the event of my failure to appear in accordance with my undertaking.

**Agreement of surety or sureties**

\*I/We .....  
and .....  
agree to forfeit the sum of \$..... (each) in money in the event of the failure of the accused to appear in accordance with his or her undertaking.

**Particulars of cash deposited**

\*\$..... deposited by the accused/surety/each surety  
(Receipt No: .....)

**Particulars of security given**

\*\$..... security deposited by the accused/surety/each surety

(Receipt No: .....)

**Certificate**

\*I certify that the accompanying document is a copy of the notice given to the accused for the purposes of section 34 (1) of the *Bail Act 1978* and that I gave the notice to the accused person by delivering it to the person personally.

Signature:.....

Office held by signatory (cross out whichever is not applicable):

Justice of the Peace and Prescribed Officer.

Authorised Officer and Prescribed Officer.

Date:.....

Signature of accused person:.....

Signature of surety:.....

\* Cross out whichever is not applicable.

**Notes—**

A copy of the undertaking is to be given to the accused person and to a surety or person who has made an acknowledgment under section 36 (2) (b) of the *Bail Act 1978*. Section 51 of the *Bail Act 1978* provides that a person who fails without reasonable excuse (proof of which lies on him or her) to appear before a court in accordance with a bail undertaking is guilty of an offence. A person convicted of such an offence is liable to the same penalties as are by law provided for the offence in respect of which he or she failed to appear but no sentence of imprisonment may exceed 3 years and no fine may exceed \$3,300. A sentence so imposed may be directed to be served cumulatively on any other sentence of imprisonment then imposed or then being served. If an amount of bail money, not exceeding \$300, deposited pursuant to a bail agreement, is forfeited by reason of non-compliance with a bail undertaking entered into for the appearance of a person, the person by whom the amount was deposited may, within 21 days from the date of forfeiture, lodge with the court of summary jurisdiction at or nearest the place at which the bail money was forfeited an application in or to the effect of the form prescribed under the *Forfeited Recognizances Act and Bail 1954* for the discharge of the forfeited bail money. If the accused person changes his or her address, the person must give notice in writing of his or her new address to the clerk of the court at which he or she is to appear.

**Form 6 Acknowledgment by acceptable person**

(Clause 14)

Name of accused: .....

Address: .....

**Acknowledgment**

I, .....,

(name)

of .....,

(address)

.....

(occupation)

acknowledge that I have been acquainted with the accused person named above for ..... years.

I regard him/her as a responsible person who is likely to comply with his/her bail undertaking.

The nature of my acquaintance with the accused person is .....

.....

(eg, employer, business partner, mother, father, spouse, friend)

Before making this acknowledgment I have been warned that it is an offence under section 56 of the *Bail Act 1978*

wilfully to make an acknowledgment under section 36 (2) (b) of that Act knowing it to be untrue in a material particular.

Signature:.....

**Statement of authorised officer/Justice of the Peace**

This acknowledgment was made before me at .....

(place)

on .....,

(date)

and I did, before the acknowledgment was made, warn the person making the acknowledgment that it is an offence under section 56 of the *Bail Act 1978* wilfully to make an acknowledgment under section 36 (2) (b) of that Act knowing it to be untrue in a material particular.

Signature of Authorised Officer/Justice of the Peace:.....

**Note—**

Section 54 (2) of the *Bail Act 1978* provides that an authorised officer or court to whom or with whom a person, other than the accused person, makes an acknowledgment under a bail condition must forthwith give or cause to be given to that other person a copy of the condition or a notice setting out the terms of the condition.

**Form 7 Reasons for bail decision by authorised officer**

(Clauses 6 (2) (a) and 17 (1))

Name of accused: .....

Offence(s): .....

.....

(If space is insufficient attach list)

**Request for bail**

The accused has:

\* (1) made no request for bail, or

\* (2) requested that he or she be granted bail unconditionally, or

\* (3) requested that he or she be granted bail subject to the following conditions as specified in section 36 (2) of the Act:

.....  
.....  
.....  
.....

**Determination**

I have determined that:

\* (1) bail be granted unconditionally, or

\* (2) bail be refused, or

\* (3) bail be granted subject to one or more of the following conditions (*cross out whichever conditions are not applicable*):

(a) that the accused person enter into an agreement to observe requirements as to his or her conduct while at liberty on bail, namely:

- to report to the officer in charge of Police at *(name of police station)* at the following times or frequency:  
.....  
.....
- to reside at .....
- not to approach, contact, molest or harass *(specify name of person)* or incite any other person to do so
- *(other requirements)*  
.....  
.....  
.....  
.....

- (b) that one (or ..... ) acceptable person(s) acknowledge in writing that he or she is (they are) acquainted with the accused person and he or she (they) regard(s) the accused person as a responsible person who is likely to comply with his or her bail undertaking,
- (c) that the accused person enter into an agreement, without security, to forfeit an amount of money, namely \$....., if the or she fails to comply with his or her undertaking,
- (d) that one (or ..... ) acceptable person(s) enter into an agreement or agreements, without security, to forfeit an amount or amounts of money, namely \$..... (each), if the accused person fails to comply with his or her bail undertaking,
- (e) that the accused person enter into an agreement and deposit security, to forfeit an amount of money, namely \$..... if he or she fails to comply with his or her bail undertaking,
- (f) that one (or ..... ) acceptable person(s) enter into an agreement and deposit security, to forfeit an amount or amounts of money, namely \$..... (each), if the accused person fails to comply with his or her bail undertaking,
- (g) that the accused person deposit the sum of \$..... in cash, and enter into an agreement to forfeit the amount if he or she fails to comply with his or her bail undertaking,
- (h) that one (or ..... ) acceptable person(s) deposit the sum(s) of \$..... (each) in cash, and enter into an agreement or agreements to forfeit the amount(s) if the accused person fails to comply with his or her bail undertaking.

**Reasons for determination**

The reason (s) for my decision is/are (or is/are attached):  
.....  
.....

**Acknowledgment that information was given to accused**

I, .....  
*(name)*  
of .....  
*(police station)*

acknowledge that I gave the accused person (named above) information about bail in the manner of Form 1, Form 1A or Form 2.

*Signature of authorised officer:*.....  
*Place at which form signed:*.....

Date:.....

\* *Cross out whichever is not applicable.*

**Note—**

This form should be completed in duplicate in all cases where bail is granted conditionally or refused. The original should be forwarded to the court at which the accused is to appear and a copy should be retained.

**Form 8 Reasons for bail decision by court**

(Clause 17 (3))

Name of accused: .....

Offence(s): .....

.....

**Determination**

It is determined (in respect of each offence) that:

\* (1) bail be granted unconditionally, or

\* (2) bail be refused, or

\* (3) bail be granted subject to one or more of the following conditions (*cross out whichever conditions are not applicable*):

(a) that the accused person enter into an agreement to observe requirements as to his or her conduct while at liberty on bail, namely:

- to report to the officer in charge of Police at (*name of police station*) at the following times or frequency:

.....  
.....

- to reside at .....

- not to approach, contact, molest or harass (*specify name of person*) or incite any other person to do so

- (*other requirements*)

.....  
.....  
.....  
.....

(b) that one (or ..... ) acceptable person(s) acknowledge in writing that he or she is (they are) acquainted with the accused person and he or she (they) regard(s) the accused person as a responsible person who is likely to comply with his or her bail undertaking,

(c) that the accused person enter into an agreement without security to forfeit an amount of money, namely \$..... if the accused person fails to comply with his or her bail undertaking,

(d) that one (or ..... ) acceptable person(s) enter into an agreement or agreements, without security, to forfeit an amount or amounts of money, namely \$..... (each) if the accused person fails to comply with his or her bail undertaking,

(e) that the accused person enter into an agreement and deposit security, to forfeit an amount of money, namely \$..... if the accused person fails to comply with his or her bail undertaking,

(f) that one (or ..... ) acceptable person(s) enter into an agreement and deposit security, to forfeit an amount or amounts of money, namely \$..... (each) if the accused person fails to comply with his or her bail



undertaking,

(g) that the accused person deposit the sum of \$..... in cash and enter into an agreement to forfeit such amount if the accused person fails to comply with his or her bail undertaking,

(h) that one (or ..... ) acceptable person(s) deposit the sum(s) of \$..... (each) in cash and enter into an agreement or agreements to forfeit such amount(s) if the accused person fails to comply with his or her bail undertaking.

**Particulars of any determination made under section 36 (3) of the Act are:**

.....  
.....  
.....  
.....

**Reasons for determination**

The reason(s) for the decision is/are (or is/are attached):

.....  
.....  
.....  
.....

Name of court: .....

Date: .....

Place: .....

\* *Cross out whichever is not applicable.*

**Form 9 Application by surety for discharge from liability in respect of a bail undertaking**

(Clause 20)

Name of accused: .....

Address: .....

Offence(s): .....

.....

Name of surety: .....

Address: .....

Telephone no: .....

Application is made under section 42 of the *Bail Act 1978* to the

.....

*(name of court)*

at .....

*(place)*

being the Court:

\*(1) which granted bail, or

\*(2) before which the accused person is required to appear in accordance with his or her bail undertaking,

for the surety named above to be discharged from his or her liability in respect of an agreement entered into as a condition of bail on

.....

(date)

at .....

(time)

on the following grounds:

.....  
.....  
.....  
.....

The accused has undertaken to appear before the

.....

(name of court)

at .....

(place)

on .....

(date)

at .....

(time)

Signature of Surety:.....

Date:.....

\* Cross out whichever is not applicable.

A warrant of arrest/summons has this day been issued by me (returnable on .....

(insert date)

Justice of the Peace:.....

Date:.....

**Form 10 Warrant of arrest where a surety applies to be discharged from liability in respect of a bail undertaking**

(Clause 21)

TO ALL POLICE IN THE STATE OF NEW SOUTH WALES:

WHEREAS on .....

(date)

.....

(name of accused person)

(called "the accused person" in this warrant) and

.....

(name of surety)

(called "the surety") entered into a bail undertaking for the accused person to appear before the

.....

(name of court)

at .....

(place)

on .....

*(date)*

in relation to the offence(s) of .....

.....

AND WHEREAS the surety has made application to the .....

.....

*(name of court)*

at .....

*(place)*

to be discharged from his or her liability under the bail undertaking.

YOU ARE COMMANDED to arrest the accused person and bring him or her before the

.....

*(name of court)*

at .....

*(place)*

or before such other court as may then be sitting to be further dealt with according to law.

This warrant was issued by me at .....

*(place)*

*Justice of the Peace:* .....

*Date:* .....

**Note—**

This warrant should not be executed after the date on which the accused person has undertaken to appear without reference first being made to the court.

Address of accused: .....

Address of surety: .....

**Form 11 Request for review of bail determination or for alteration of bail conditions**

(Clause 22 (1) (b))

(This Form is for use where the request for review is made by the informant or the Attorney General)

**Details of accused**

Name of accused: .....

Date of birth of accused: .....

Offence(s): .....

.....

**Details of request**

Request is made under Part 6 of the *Bail Act 1978* to the .....

.....

*(name of court)*

at ..... for a

*(place)*

\*(1) review of a bail determination made by

.....

*(name of court or authorised officer)*

at .....

\*(2) alteration of conditions of bail set by

.....

*(name of court or authorised officer)*

at .....

### **Details of earlier bail decision**

Bail was on .....

*(date)*

\*(1) refused

\*(2) dispensed with

\*(3) granted

\*(4) granted with the following conditions:

.....

.....

.....

### **Details of whereabouts of accused**

The accused person:

\*(1) is in custody at ..... correctional centre

\*(2) has been released and resides at .....

.....

.....

Applicant: .....

Date: .....

\* *Cross out whichever is not applicable.*

### **Form 12 Notice of continuance of bail**

(Clause 24)

Name of accused: .....

Address of accused: .....

Date of undertaking: .....

TAKE NOTICE that the proceedings in respect of which you gave a bail undertaking have been adjourned:

\*to the .....

*(name of court)*

at .....

*(place)*

on ..... at 10 am.

*(date)*

OR

\*to such time and place as will be notified to you in a notice to be given or sent to you.

\*The conditions of the bail have been varied in the following manner:

.....  
.....  
.....  
.....

**Certificate**

\*I certify that this document is a copy of the notice given to the accused for the purposes of section 34 (1) of the *Bail Act 1978* and that I gave the notice to the accused person by delivering it to the person personally.

Prescribed Officer : .....

Date: .....

\* *Cross out whichever is not applicable.*

**Form 13 Notice by custodian concerning person in custody after grant of bail**

(Clause 26)

TO: The Registrar,

.....Court

*(name of court)*

at .....

*(location of court)*

TAKE NOTICE that .....

*(name)*

of .....

*(address)*

who was granted bail by the Court on .....

*(date)*

remains in my custody, stating that he/she cannot comply with the following condition(s) of bail, namely:

.....  
.....

for the following reason(s): .....

.....  
.....  
.....

*Signature:*.....

*Office of signatory:*

Superintendent, .....

*(name of correctional centre)*

OR

\*Officer in charge, .....

*(name of police station or lock-up)*

\* *Cross out whichever is not applicable.*

**Form 14 Acknowledgment that information was given to accused person**

(Clause 6 (2) (b))

I, .....

*(name)*

of .....

*(police station)*

acknowledge that I gave .....

*(accused person)*

charged with .....

*(offence)*

information about bail as set out in Form 1, Form 1A or Form 2.

*Signature of authorised officer:*.....

*Place at which form signed:*.....

*Date:*.....