

NORTHERN TERRITORY OF AUSTRALIA

BAIL ACT 1982

As in force at 1 April 2023

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ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 April 2023

BAIL ACT 1982

An Act to provide for the granting of bail to accused persons in or in connection with criminal proceedings

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Bail Act 1982*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

(1) In this Act:

ancillary provision, of a conduct agreement, see section 27A(2A).

appeal means an appeal made under:

- (a) Division 2 of Part VI of the *Local Court (Criminal Procedure) Act 1928*; or
- (b) section 144 of the *Youth Justice Act 2005*; or
- (c) section 10 of the *Parole Act 1971*; or
- (d) Division 2 of Part X of the Criminal Code; or
- (e) Part III of the *Supreme Court Act 1979*.

approved monitoring device:

- (a) in relation to a youth – see section 5(1) of the *Youth Justice Act 2005*; or
- (b) otherwise – see section 165 of the *Correctional Services Act 2014*.

approved police monitoring device means a police monitoring device approved under section 52B.

authorised member, in relation to a person in custody, means a police officer who may, under Part 3, grant bail to the person.

bail means authorisation under this Act:

- (a) to be at liberty instead of in custody; or
- (b) to be released from the obligation to comply with a non-custodial order.

bail condition means a condition imposed under section 27.

bail offence means an offence against section 37B(1) or (2).

bail undertaking means an undertaking given under section 25.

CEO (Youth Justice) means the Chief Executive Officer (as defined in section 19 of the *Public Sector Employment and Management Act 1993*) of the Agency responsible for youth justice.

child means a person under the age of 18 years.

Commonwealth sexual offence means an indictable offence against the law of the Commonwealth of which an element is:

- (a) sexual intercourse or sexual penetration; or
- (b) an indecent act or an act of a sexual nature; or
- (c) sexual slavery, sexual servitude or any other form of sexual exploitation; or
- (d) encouraging, or benefiting from, child sex tourism; or
- (e) production, communication, use, or any other act involving, pornographic material; or
- (f) an attempt to commit, an act of procuring, or any other act preparatory to the commission of, any of the above.

community youth justice officer, see section 5(1) of the *Youth Justice Act 2005*.

conduct agreement, see section 27(2)(a).

conviction includes a finding of guilt and, without limiting the foregoing part of this definition, includes the making of an order under:

- (a) section 4 of the *Criminal Law (Conditional Release of Offenders) Act 1971* (repealed); and
- (b) section 26(2)(b) of the *Child Welfare Act 1958* (repealed); and
- (c) section 75(2) of the *Justices Act 1928* (repealed).

court means:

- (a) the Supreme Court; or
- (b) the Local Court; or
- (c) the Youth Justice Court continued in existence by section 45 of the *Youth Justice Act 2005*; or
- (d) a Supreme Court Judge, Local Court Judge or justice of the peace not sitting as a court.

offence includes:

- (a) a failure to comply with a condition of a parole order made under section 5A of the *Parole Act 1971*; and
- (b) a failure to comply with a condition to which an order made under section 5(1)(a) of the *Criminal Law (Conditional Release of Offenders) Act 1971* is subject.

original offence means the offence mentioned in section 37B(1)(a) or (2)(a).

police monitoring device means an electronic device that can:

- (a) be worn by, or attached to, an accused person who has entered into a conduct agreement; and
- (b) monitor the accused person's location.

pornographic material means material of an indecent, sadistic, sadomasochistic or abusive character (including material related to child abuse).

prescribed offence, see section 3B.

probation and parole officer, see section 4 of the *Correctional Services Act 2014*.

serious breach of bail, see section 7B(1) and (2).

serious offence means an offence punishable by imprisonment for 5 or more years.

serious sexual offence, see section 3A.

serious violence offence means an offence against any of the following provisions of the Criminal Code that is punishable by imprisonment for 5 or more years:

- (a) Part V, Division 2;
- (b) Part VI, Divisions 3 to 6A;
- (c) section 211 or 212;
- (d) another provision prescribed by the Regulations.

Supreme Court includes a Supreme Court Judge.

Supreme Court Judge means:

- (a) a Judge of the Supreme Court; or
- (b) if the Rules of Court made under the *Supreme Court Act 1979* permit an Associate Judge to exercise the powers of the Supreme Court under this Act – an Associate Judge.

Territory sexual offence means an indictable offence of which an element is:

- (a) sexual intercourse or sexual penetration; or
- (b) a sexual relationship; or
- (c) sexual abuse; or
- (d) indecent touching or an indecent assault; or
- (e) any other indecent act directed against a person; or
- (f) the making, collection, exhibition or display of an indecent object or pornographic material; or
- (g) sexual servitude or any other form of sexual exploitation; or
- (h) an attempt to commit, an act of procuring, or any other act preparatory to the commission of, any of the above.

youth, see section 6 of the *Youth Justice Act 2005*.

Note for subsection (1)

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

- (2) A reference in this Act to an accused person, or a person accused of an offence, includes a reference to:
- (a) a person charged with, convicted of or found guilty of an offence; and
 - (b) a person in respect of whom an appeal is pending; and
 - (c) a person whose case has been remitted by the Supreme Court under section 177(2)(d) of the *Local Court (Criminal Procedure) Act 1928* to the Local Court for hearing or further hearing; and
 - (d) a person committed under section 6(2A) or (6), 15(4) or 25(4) of the *Criminal Law (Conditional Release of Offenders) Act 1971* or the *Sentencing Act 1995* to appear before, or be dealt with by, a court; and
 - (e) a person brought before the Local Court under section 5G(4) of the *Parole Act 1971*.
- (3) A reference in this Act to entering into a bail condition is a reference, if the condition is imposed under:
- (a) section 27(2)(a), (c) or (d) – to entering into the agreement or agreements; or
 - (b) section 27(2)(b) – to making and signing the acknowledgement; or
 - (c) section 27(2)(e) or (f) – to entering into the agreement or agreements and depositing the security; or
 - (d) section 27(2)(g) or (h) – to entering into the agreement or agreements and depositing the amount or amounts of money; or
 - (e) section 27(2)(j) – to depositing every passport, whether Australian or foreign, held by the accused person;

in accordance with the condition.

- (4) A reference, however expressed, in this Act (other than in section 24 or 24A) to the grant of bail includes a reference to the continuation of bail under section 32.

3A Serious sexual offences

- (1) In this Act, a serious sexual offence is a Territory sexual offence or a Commonwealth sexual offence for which a maximum penalty of imprisonment for 7 years or more is prescribed.
- (2) The following offences are also serious sexual offences (even though a lesser maximum penalty may be prescribed):
- (a) an offence, committed by an adult, consisting of an attempt to procure, or the act of procuring, a child under the age of 16 years to engage in sexual intercourse or an indecent act;
 - (b) an offence, committed by an adult, consisting of indecent assault on a child under the age of 16 years;
 - (c) an offence, committed by an adult in the presence of a child, consisting of the commission of an act of gross indecency in a public place.

3B Prescribed offence

For this Act, a *prescribed offence* is:

- (a) an offence prescribed by the Regulations; or
- (b) an offence against a law, or a repealed law, of the Territory or another jurisdiction (including a jurisdiction outside Australia) that substantially corresponds to an offence prescribed under paragraph (a).

4 Application of Act

- (1) Except if otherwise expressly provided, this Act applies to a person whether the person is an adult or youth.
- (2) Except where otherwise expressly provided by or under this Act, this Act applies in relation to the grant of bail to accused persons to the exclusion of any other law in force immediately before the commencement of this Act so far as any other such law makes provision for or with respect to bail for accused persons.

5 Savings and transitional

- (1) This Act does not affect bail granted, or a discharge upon a recognizance of bail entered into, under a law before the

commencement of this Act in relation to an accused person, and for the purposes of or for purposes connected with such bail or recognizance this Act shall be deemed not to have been enacted.

- (2) Nothing in subsection (1) prevents the making of a decision under this Act, or the exercise or performance of a power, authority, duty or function thereunder, in respect of an offence or other matter (or any proceedings in connection therewith) to or with which the bail or recognizance of bail referred to in that subsection relates or is connected.
- (3) The Regulations may make other provisions of a savings or transitional nature consequent upon the enactment of this Act in connection with any law, and those provisions may, but need not, operate by reference to any provision of this Act and shall have effect notwithstanding anything in subsection (1) or (2).

5A Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 5A

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 General provisions relating to bail

Division 1 Bail Generally

6 Grant of bail for certain periods

Bail may be granted in accordance with this Act to an accused person in respect of any one or more of the following periods and except in relation to paragraphs (f) and (g), so far as they relate to the offence of which the person is accused:

- (a) the period between the accused person being charged with the offence and the accused person's first appearance before a court in or in connection with proceedings for the offence;
- (b) the period between committal for trial or sentence and the accused person's appearance before the Supreme Court consequent upon the committal;

- (c) the period of any adjournment or adjournments, including:
 - (i) any adjournment or adjournments during the course of a trial; and
 - (ii) any adjournment or adjournments after the accused pleads, or is found, guilty but before he is sentenced; and
 - (iii) any period deemed under section 15 to be the period of an adjournment;
- (d) the period between the institution of an appeal and its determination;
- (e) the period between the determination of an appeal and:
 - (i) the accused person's appearance before a court to abide the result of the determination of the appeal; or
 - (ii) the accused person's appearance before a court to which the matter is remitted under section 177(2)(d) of the *Local Court (Criminal Procedure) 1928*;
- (f) the period between the making of an application in relation to the accused person, or the arrest of the accused person, under section 15 or 43 of the *Sentencing Act 1995* (who is referred to as an offender under those provisions) and the accused person's appearance before a court for the application or as a result of the arrest;
- (g) the period between the committal of the accused person under section 15(3B) or 43(4C) of the *Sentencing Act 1995* (who is referred to as an offender under those provisions) and the accused person's appearance before the Supreme Court for that committal;
- (h) any other period prescribed by regulation.

7 Rights following grant of bail

- (1) When:
 - (a) bail is granted to an accused person in respect of an offence;
 - (b) the accused person enters into the bail undertaking; and
 - (c) if a bail condition or bail conditions are imposed, it or they are entered into;

the accused person is, subject to this Act, entitled:

- (d) to be released from custody and to remain at liberty in respect of the offence; or
- (e) to be released from the obligation to comply with a non-custodial order in respect of the offence;

until the accused person is required to appear before a court in accordance with the bail undertaking.

- (2) Subsection (1) does not apply to an accused person while the accused person is also in custody or the subject of a non-custodial order for some other offence or reason in respect of which he is not entitled (whether under this Act or otherwise) to be at liberty or released.

Division 1A Presumption against bail

7A Presumption against bail for certain offences

- (1) This section applies to the following offences:
 - (a) murder;
 - (c) an offence against the *Misuse of Drugs Act 1990* punishable by a term of imprisonment for 7 years or more;
 - (d) an offence against the *Customs Act 1901* (Cth) in relation to narcotic goods punishable by a term of imprisonment for 10 years or more;
 - (da) an offence against Division 307 of the *Criminal Code* (Cth) punishable by a term of imprisonment for 10 years or more;
 - (db) an offence against section 36, 37, 38 or 55 of the *Serious Crime Control Act 2009*;
 - (dc) an offence against section 54, 103A, 242 or 243(1) of the *Criminal Code*;
 - (dd) an offence against section 181 of the *Criminal Code*, or section 120 of the *Domestic and Family Violence Act 2007*, if the person accused of the offence has, at any time before the date of that offence, been found guilty of any of the following offences (the **previous offence**):
 - (i) the offence of murder;

- (ii) an offence against section 181, 188A, 189A or 192 of the Criminal Code;
 - (iii) an offence against a law of a State or other Territory or another country that is similar to an offence mentioned in subparagraph (i) or (ii);
- (de) a serious offence (**offence A**) if the person accused of offence A is an adult charged with committing offence A while on bail for a serious offence (the **previous offence**);
- (df) a serious offence (**offence B**) if the person accused of offence B has, within the period of 10 years immediately preceding the date of the alleged commission of offence B, been found guilty of a serious violence offence (the **previous offence**);
- (dg) an offence where the accused person is the subject of an order made under section 40 of the *Sentencing Act 1995* (the **sentencing order**) which may be breached if the person is convicted of the offence, unless:
 - (i) the offence is a contravention of, or failure to comply with, an instrument of a legislative or administrative character; or
 - (ii) the authorised member or court is of the opinion that the offence is so minor that a court is unlikely to regard it as a breach of the suspended sentence;
- (dh) an offence against section 120 of the *Domestic and Family Violence Act 2007* (**offence C**), if the person accused of offence C has, within the period of 2 years immediately preceding the date of the alleged commission of offence C, been found guilty of a DVO contravention offence (the **previous offence**);
- (e) a serious violence offence involving the use or threatened use (whether by the accused person or another person) of a prohibited weapon or controlled weapon as defined in section 3 of the *Weapons Control Act 2001*;
- (f) a serious sexual offence.

- (2) Bail must not be granted to a person accused of an offence to which this section applies unless the person satisfies an authorised member or court that bail should be granted.

Note for subsection (2)

Section 24 requires the authorised member or court determining whether bail should be granted to take into consideration the matters in that section only.

- (2A) Despite subsection (1), subsection (2) does not apply to a person who is assessed to be suitable to participate in:

- (a) a program of rehabilitation prescribed by the Regulations; or
(b) a program declared by the Minister under section 85A(1) of the *Domestic and Family Violence Act 2007* to be a rehabilitation program.

- (2B) Despite subsection (1), subsection (2) does not apply to a youth, other than in relation to an offence referred to in subsection (1)(e).

- (3) The requirement for bail cannot be dispensed with for a person accused of an offence to which this section applies and section 9(2) does not apply with respect to any such offence.

- (4) In this section:

DVO contravention offence, see section 4 of the *Domestic and Family Violence Act 2007*.

previous offence includes an offence committed before the commencement of section 6 of the *Bail Amendment Act 2015*.

sentencing order includes an order made before the commencement of section 6 of the *Bail Amendment Act 2015*.

7B Presumption against bail for youth involved in serious breach of bail

- (1) A youth engages in a ***serious breach of bail*** if the youth, while on bail:

- (a) is charged with a prescribed offence; or
(b) subject to subsection (2), breaches a condition of bail contravening:
(i) a provision of a conduct agreement as mentioned in section 27A(1)(i) that imposes a curfew on the youth; or
(ii) a provision of a conduct agreement as mentioned in section 27A(1)(iaa), (iab) or (ia).

- (2) A breach of a condition of bail mentioned in subsection (1)(b) is not a **serious breach of bail** if the breach is trivial or technical or there are exceptional circumstances for it.
- (3) Bail must not be granted to a youth who has engaged in a serious breach of bail unless the youth enters into a conduct agreement containing:
 - (a) a provision mentioned in section 27A(1)(iab) or (ia); or
 - (b) a provision mentioned in section 27A(1)(f) that the youth agrees to reside at the supported bail accommodation prescribed by regulation.
- (4) A youth may be granted bail following a serious breach of bail if the youth enters into a conduct agreement containing a provision mentioned in section 27A(1)(f) that the youth agrees to reside at a specified premises, if neither provision mentioned in subsection (3) is appropriate because the youth resides at a remote location:
 - (a) where a provision mentioned in section 27A(1)(iab) or (ia) is not possible due to technology limitations; and
 - (b) that is in the opinion of the court an unreasonable distance from the supported bail accommodation prescribed under subsection (3)(b).
- (5) The requirement for bail cannot be dispensed with for a youth who engages in a serious breach of bail and section 9(2) does not apply with respect to a serious breach of bail.

Division 2 Presumption in favour of bail

8 Presumption in favour of bail for certain offences

- (1) This section applies to an offence except an offence to which section 7A applies.
- (2) A person accused of an offence to which this section applies is entitled to be granted bail in accordance with this Act unless:
 - (a) an authorised member or court is satisfied refusing bail is justified having considered the matters mentioned in section 24; or
 - (b) the person stands convicted of the offence; or
 - (c) the requirement for bail is dispensed with under section 9.

- (3) Subject to subsection (4), a person is entitled under this section to be granted bail in respect of an offence to which this section applies even if the accused person is in custody for some other offence or reason for which the accused person is not entitled to be granted bail.
- (4) A person is not entitled under this section to be granted bail in respect of an offence to which this section applies, if:
 - (a) the person is in custody serving a sentence of imprisonment in connection with some other offence; and
 - (b) the authorised member or court is satisfied that the person is likely to remain in custody in connection with that other offence for a longer period than that for which bail in connection with the first-mentioned offence would be granted.
- (5) This section does not apply if the person accused of the offence is a youth.

8A Presumption in favour of bail for youths

- (1) This section applies to an offence except a prescribed offence.
- (1A) This section does not apply to a youth who, during release on bail, engages in a serious breach of bail.
- (2) A youth accused of an offence to which this section applies is entitled to be granted bail in accordance with this Act unless:
 - (a) an authorised member or a court is satisfied refusing bail is justified having considered the matters mentioned in sections 24 and 24A; or
 - (b) the youth stands convicted of the offence; or
 - (c) the requirement for bail is dispensed with under section 9.
- (3) Subject to subsection (4), a youth is entitled under this section to be granted bail in respect of an offence to which this section applies even if the youth is in custody for some other offence or reason for which the youth is not entitled to be granted bail.
- (4) A youth is not entitled under this section to be granted bail in respect of an offence to which this section applies if:
 - (a) the youth is in custody in connection with some other offence; and

- (b) the authorised member or court is satisfied that the youth is likely to remain in custody in connection with that other offence for a longer period than that for which bail in connection with the first-mentioned offence would be granted.

Division 3 Dispensing with bail

9 Dispensing with bail

- (1) A court that may grant bail to an accused person may instead dispense with the requirement for bail.
- (2) Where, during an appearance by an accused person before a court, no specific order or direction is made by the court in respect of bail, the court is taken to have dispensed with the requirement for bail.

10 Effect of dispensing with bail

- (1) While the requirement for bail is or is taken to be dispensed with under this Act in respect of a person accused of an offence, the accused person is entitled:
 - (a) to be released from custody and to remain at liberty in respect of the offence; or
 - (b) to be released from the obligation to comply with a non-custodial order in respect of the offence;

until the accused person is required to appear before a court in respect of the offence.

- (2) Subsection (1) does not apply to an accused person while the accused person is also in custody or the subject of a non-custodial order for some other offence or reason in respect of which the accused person is not entitled (whether under this Act or otherwise) to be at liberty or released.

11 Decision to dispense with bail

For Part 6, where a court dispenses with, or is taken to have dispensed with, the requirement for bail, the court is taken to have made a decision to dispense with the requirement for bail.

Division 4 Miscellaneous provisions

12 Bail may be granted where no entitlement

An accused person not entitled under section 8 or 8A to be granted bail may nevertheless be granted bail.

13 Power to refuse bail

A power conferred by this Act to grant bail is, subject to this Act, taken to include a power to refuse bail, but the power to refuse bail may only be exercised in conformity with this Act.

14 Grant of bail when not in custody

- (1) An accused person may be granted or refused bail in accordance with this Act, even if the accused person is not in custody.
- (2) Nothing in this Act requires the grant of bail to an accused person who is not in custody.

15 Extension of meaning of adjournment in section 6

For section 6(c)(iii), the following periods are taken to be the period of an adjournment:

- (a) the period between the making of an order for a separate trial or for the postponement of a trial and the commencement of the separate or postponed trial;
- (b) the period between the appearance of an accused person before the Local Court in pursuance of a warrant issued under section 301(1) of the Criminal Code and the date fixed for trial;
- (ba) the period of adjournment under section 383(3) of the Criminal Code;
- (c) the period between the bringing up by a writ of habeas corpus of a person sentenced to imprisonment by the Local Court and the final decision of the case, where the Supreme Court postpones the final decision of the case.

Part 3 Police bail**16 Authority for police to grant bail**

- (2) A police officer may, as an alternative to bringing a person the officer has arrested before a court of competent jurisdiction as required by Part VII, Division 6 of the *Police Administration Act 1978* within the time in which under that Division the officer would be required to bring the person before the court:
 - (a) inform the person charged of the person's right to apply for bail; and

- (b) as far as practicable, ensure that the person charged is able to communicate with a legal practitioner or someone of the person's choosing in connection with an application for bail.
- (3) An authorised member must, as soon as practicable after a person becomes entitled to apply for bail, determine whether bail should be granted under this Act.
- (4) The police officer mentioned in subsection (2) may refrain from complying with subsection (2)(b) if the officer believes, on reasonable grounds, that it is necessary to do so in order to prevent:
 - (a) the escape of an accomplice of the accused person; or
 - (b) the loss, destruction or fabrication of evidence relating to an offence.
- (5) A police officer who holds the rank of Sergeant or higher rank or any other police officer who is for the time being in charge of a police station may grant bail under this Part.

17 Bail in respect of several offences

Where a person is charged with 2 or more offences at the same time:

- (a) an authorised member considering whether to grant bail to the person must decide, at the same time, whether to grant, or refuse to grant, bail to the person in respect of all the charges; and
- (b) an application may be made for bail in respect of all the charges, but not otherwise; and
- (c) any bail that is granted to the person must be granted in respect of all the charges and separate undertakings must not be required in respect of each charge.

18 Bail register

An authorised member must, upon granting bail to a person, enter either in a book kept for that purpose in the police station where bail is granted or cause to be stored on a computer maintained for that purpose elsewhere, the name, residence and occupation of the person and of a person who, pursuant to Part 5, Division 3 makes an acknowledgement or enters into an agreement in respect of the person granted bail, together with details of the conditions of bail and details of any money or securities given or deposited, and must arrange to lay any undertaking, acknowledgement or agreement

relating to the bail before a court before which the person is required to appear.

Part 4 Court bail

19 General provisions as to court bail

- (1) There is no limit on the number of applications in relation to bail that may be made to a court by a person accused of an offence.
- (2) All applications to a court in relation to bail must be dealt with as soon as reasonably practicable.
- (3) The Regulations may make provision for or with respect to the manner of making applications to courts in relation to bail.
- (4) Despite subsections (1) and (2), a court may refuse to entertain an application in relation to bail if it is satisfied that the application is frivolous or vexatious.

20 Power of Local Court to grant bail

- (1) Subject to section 21, the Local Court may, at any time:
 - (a) grant bail to a person brought or appearing before the Local Court accused of an offence; or
 - (b) except as prescribed by the Regulations, grant bail to an appellant under Part VI, Division 2 of the *Local Court (Criminal Procedure) Act 1928*.
- (2) Subject to section 21, the Local Court may at any time grant bail by telephone to a person who is apprehended by a police officer in accordance with a warrant to apprehend the person and bring him or her before a court.
- (3) The jurisdiction conferred on the Local Court under this Act is part of the Court's criminal jurisdiction.

21 Limitations on power of Local Court

Subject to sections 31 and 38, bail may not be granted under section 20 by the Local Court to a person accused of an offence after that person has appeared before the Supreme Court following:

- (a) the person's committal for trial or sentence in connection with the offence; or

- (b) the person being brought up by a writ of habeas corpus in connection with the offence as mentioned in section 15(c).

22 Limitation on length of adjournments where bail refused

Where an accused person is refused bail by the Local Court constituted other than by a Local Court Judge in respect of an offence, an adjournment of the hearing by the Local Court must, except with the consent of the accused person, be for a period not exceeding 15 clear days.

23 Power of Supreme Court to grant bail

- (1) The Supreme Court may grant bail in accordance with this Act to a person accused of an offence, whether or not the accused person has appeared before the Supreme Court in connection with the offence.
- (2) If a person is arrested by a police officer under a warrant issued by the Supreme Court, a Supreme Court Judge may grant bail to the person by telephone or another form of electronic communication the Judge considers appropriate.

23A Limitation on power to grant bail

Despite anything in this Act, where an appeal is pending in the Court of Criminal Appeal against:

- (a) a conviction on indictment; or
- (b) a sentence passed on conviction on indictment;

bail must not be granted by the Court or any other court unless it is established that special or exceptional circumstances exist justifying the grant of bail.

Part 5 Provisions applying to both police and court bail

Division 1 Criteria to be considered in bail applications

24 Criteria to be considered in bail applications

- (1) Subject to section 24A, in making a determination as to the grant of bail to an accused person, an authorised member or a court must take into consideration so far as they can reasonably be ascertained the following matters only:
 - (a) the probability of whether or not the person will appear in court in respect of the offence for which bail is being considered, having regard only to:
 - (i) the person's background and community ties, as indicated by the history and details of the person's residence, employment and family situations and, if known, the person's prior criminal record; and
 - (ii) any previous failure to appear in court pursuant to a recognizance of bail entered into before the commencement of this section or pursuant to a bail undertaking; and
 - (iii) the circumstances of the offence (including its nature and seriousness), the strength of the evidence against the person and the severity of the penalty or probable penalty; and
 - (iv) any specific evidence indicating whether or not it is probable that the person will appear in court;
 - (b) the interests of the person, having regard only to:
 - (i) the period that the person may be obliged to spend in custody if bail is refused and the conditions under which the person would be held in custody; and
 - (ii) the needs of the person to be free to prepare for the person's appearance in court or to obtain legal advice or both; and
 - (iii) the needs of the person to be free for any lawful purpose not mentioned in subparagraph (ii); and

- (iiia) any needs of the person relating to:
 - (A) any cognitive impairment, as defined in section 6A(2) of the *Mental Health and Related Services Act 1998* of the person; or
 - (B) any mental impairment, as defined in section 43A of the Criminal Code of the person; and
- (iiib) whether or not the person is a youth; and
- (iiic) any needs relating to the person's cultural background, including any ties to extended family or place, or any other cultural obligation; and
- (iv) whether or not the person is, in the opinion of the authorised member or court, incapacitated by intoxication, injury or use of a drug or is otherwise in danger of physical injury or in need of physical protection;
- (c) the risk (if any) that the accused person would (if released on bail) interfere with evidence, witnesses or jurors;
- (d) the risk (if any) that the accused person would (if released on bail) commit an offence, a breach of the peace, or a breach of the conditions of bail;
- (e) the risk (if any) that would result from the accused person's release on bail to the safety or welfare of:
 - (i) the alleged victim of the offence; or
 - (ii) the close relatives of the alleged victim; or
 - (iii) if the alleged victim is a child – any person (other than a close relative) who has the care of the child; or
 - (iv) any other person whose safety or welfare could, in the circumstances of the case, be at risk if the accused person were to be released on bail.

Note for section 24(1)(b)(iiic)

When considering bail, an authorised member or court must have regard to section 15AB(1)(b) of the Crimes Act 1914 (Cth).

- (2) For this section, the authorised member or court may take into account any evidence or information which the authorised member or court considers credible or trustworthy in the circumstances, including hearsay evidence.

- (3) In assessing risks to others that could result from the release of an accused person on bail, the authorised member or court must have regard to risks of the following kinds:
- (a) a risk of violence or intimidation;
 - (b) a risk of property damage;
 - (c) a risk of harassment;
 - (d) any other risk to safety or welfare.
- (3A) In assessing the risks to others under subsection (3), the authorised member or court must consider the following:
- (a) the previous, current or proposed living arrangements for an alleged victim and for the accused person (assuming the accused person's release on bail);
 - (b) whether those arrangements include or would include their living in unreasonably close proximity to each other.
- (4) If the alleged victim of an offence is a child, or the alleged offence is a serious sexual offence or a serious violence offence, the safety and welfare of the alleged victim must be considered with particular care.
- (5) In regard to a child's safety and welfare, the following matters are to be considered:
- (a) the child's age;
 - (b) the age of the accused person;
 - (c) any familial relationship that may exist between the child and the accused person;
 - (d) the living arrangements for the child and for the accused person (assuming the accused person's release on bail);
 - (e) the desirability of preserving the child's living arrangements and family and community relationships;
 - (f) the emotional as well as the physical wellbeing of the child;
 - (g) any other relevant matter.
- (6) If an alleged victim expresses concern to the prosecutor that the release of the accused person on bail could lead to a risk to the alleged victim's safety or welfare, the prosecutor must, wherever practicable, inform the authorised member or court about that

concern and the reasons for it.

24A Criteria to be considered in bail applications for youths

- (1) This section applies in relation to a determination as to the grant of bail to an accused person who is a youth.
- (2) In addition to the criteria mentioned in section 24, an authorised member or a court must take into consideration, so far as they can reasonably be ascertained, the following matters:
 - (a) the need to consider all other options before remanding the youth in custody;
 - (b) the need to strengthen and preserve the relationship between the youth and the youth's family, a responsible adult in relation to the youth or the youth's carers;
 - (c) the desirability of allowing the living arrangements of the child to continue without interruption or disturbance;
 - (d) the desirability of allowing the education, training or employment of the youth to continue without interruption or disturbance;
 - (e) the need to minimise the stigma to the youth resulting from being remanded in custody;
 - (f) the likely sentence should the youth be found guilty of the offence;
 - (g) the youth's prior exposure to, experience of and reaction to trauma;
 - (h) the cognitive capacity, health and developmental needs of the youth;
 - (i) if the youth is an Aboriginal person – any issues that arise due to the youth's Aboriginality, including:
 - (i) the youth's cultural background, including the youth's ties to extended family or place; and
 - (ii) any other relevant cultural issue or obligation.
- (3) The authorised member or court must take into account any recommendation or information in relation to the youth provided by a bail support service that is prescribed by the Regulations.

- (4) The authorised member or the court must not refuse to grant bail to a youth on the sole ground that the youth does not have any, or any adequate, accommodation.

Division 2 Bail undertakings

25 Bail undertakings

- (1) A person must not be released on bail unless the person undertakes, in writing, to appear before such court, on such day and at such time and place as are specified in the undertaking.
- (2) A bail undertaking may be given in respect of more than one offence.
- (3) Despite subsection (1), a person who is to appear before the Supreme Court may be released on bail if the person undertakes in writing to appear before the Supreme Court at such date, time and place as are specified in the undertaking, or at such other date, time and place as are specified in a notice given to the person or the legal practitioner representing the person by the Director of Public Prosecutions or a person authorised by the Director of Public Prosecutions in writing in that behalf.
- (4) A bail undertaking may include an undertaking, if bail is continued, to appear at a time and place at which proceedings in respect of the offence may be continued, whether upon an adjournment or otherwise.
- (5) An accused person who is granted bail is under a duty to appear in person before a court in accordance with the bail undertaking.

26 Persons to whom bail undertaking may be given

A bail undertaking may be given to:

- (a) a court; or
- (b) an authorised member; or
- (c) a registrar of the Local Court; or
- (d) the sheriff or a deputy sheriff; or
- (e) the Commissioner of Correctional Services; or
- (f) the CEO (Youth Justice).

Division 3 **Bail conditions**

27 **Conditions of bail**

- (1) Bail may be granted unconditionally or subject to conditions imposed by instrument in writing.
- (2) One or more of the following conditions may be imposed on the grant of bail under this section:
 - (a) that the accused person enter into an agreement (a **conduct agreement**) to observe specified requirements as to the accused person's conduct while on bail, other than financial requirements (whether for the giving of security, the depositing of money, the forfeiture of money or otherwise);
 - (b) that one or more than one acceptable person, other than the accused person, acknowledge that the acceptable person is acquainted with the accused person and that the acceptable person regards the accused person as a responsible person who is likely to comply with the bail undertaking;
 - (c) that the accused person enter into an agreement, without security, to forfeit a specified amount of money if the accused person fails to comply with the bail undertaking;
 - (d) that one or more than one acceptable person, other than the accused person, enter into an agreement or agreements, without security, to forfeit a specified amount or specified amounts of money if the accused person fails to comply with the bail undertaking;
 - (e) that the accused person enter into an agreement, and deposit acceptable security, to forfeit a specified amount of money if the accused person fails to comply with the bail undertaking;
 - (f) that one or more than one acceptable person, other than the accused person, enter into an agreement or agreements, and deposit acceptable security, to forfeit a specified amount or specified amounts of money if the accused person fails to comply with the bail undertaking;
 - (g) that the accused person deposit with an authorised member or a court a specified amount of money in cash and enter into an agreement to forfeit the amount deposited if the accused person fails to comply with the bail undertaking;
 - (h) that one or more than one acceptable person, other than the accused person, deposit with an authorised member or a court a specified amount or specified amounts of money in cash and

enter into an agreement or agreements to forfeit the amount or amounts deposited if the accused person fails to comply with the bail undertaking;

- (j) where:
- (i) bail is granted by a court; and
 - (ii) the offence with respect to which the application is made is an offence punishable by a term of imprisonment for 2 years or more, or, by payment of a maximum penalty of, or of not more than an amount equal to, 85 penalty units;

that the accused person surrender every passport, whether Australian or foreign, held by the accused person.

(3) The determination as to:

- (a) which person or persons, or class or description of persons, are acceptable persons for a condition referred to in subsection (2)(b), (d), (f) or (h) and the number of acceptable persons required for those purposes; or
- (b) the nature and sufficiency of security that is acceptable security for a condition referred to in subsection (2)(e) or (f);

must be made by:

- (c) the authorised member or the court imposing the condition; or
- (d) in the absence of a determination by the authorised member or the court referred to in paragraph (c) – the court or person to whom the bail undertaking is given.

(3A) Where a court imposes a bail condition under subsection (2)(j):

- (a) the passport or passports must be given to the Registrar or other appropriate officer of the court;
- (b) the Registrar or other appropriate officer of the court must cause the passport or passports to be kept in such custody as he or she thinks fit for such period, or on the occurrence of any contingency, as is specified by the court; and
- (c) the passport or passports must, in accordance with the terms specified under paragraph (b), be returned to the accused person unless the court orders otherwise.

- (3B) Where a court imposes a condition on the grant of bail under subsection (2)(j) and an Australian passport is surrendered in compliance with the condition, the Registrar or appropriate officer of the court must, as soon as is practicable, give to the Minister administering the *Australian Passports Act 2005* (Cth) a copy of the order.
- (4) The Regulations may require an acknowledgement under this section to contain such details, to be provided by the person making the acknowledgement, as are prescribed relating to the circumstances in which the person is acquainted with the accused person.
- (5) An agreement or acknowledgement under this section must be in writing.
- (6) A condition, agreement or acknowledgement under this section may be entered into or made in respect of more than one offence.

27A Conduct agreements

- (1) A conduct agreement may:
- (a) prohibit an accused person from associating, or being in company, with one or more specified persons; or
 - (b) require an accused person to keep away from one or more specified persons or from persons of a specified class; or
 - (c) prohibit an accused person from communicating in any way (directly or indirectly) with one or more specified persons, or with a person of a specified class; or
 - (d) prohibit an accused person from being within a particular locality or area; or
 - (e) prohibit an accused person from being outside a particular locality or area; or
 - (f) require an accused person to reside at a specified place; or
 - (g) require the accused person to report at specified intervals at a police station or other place; or
 - (h) prohibit an accused person from consuming alcohol or using a drug (other than a drug as prescribed for the person by a health practitioner); or

- (ha) require an accused person who is the subject of a prohibition mentioned in paragraph (h) to submit to testing by an authorised person to monitor compliance with the prohibition; or
- (i) prohibit an accused person from engaging in conduct of any other specified kind; or
- (iaa) for bail granted by an authorised member – require the accused person:
 - (i) to wear or have attached, and to not tamper with, destroy or otherwise interfere with, an approved police monitoring device; and
 - (ii) to comply with the reasonable directions of a police officer in the use of the device; or
- (iab) for bail granted by a court – require the accused person:
 - (i) to wear or have attached, and to not tamper with, destroy or otherwise interfere with, an approved police monitoring device; and
 - (ii) to comply with the reasonable directions of a police officer in the use of the device; or
- (ia) for bail granted by a court – require the accused person:
 - (i) to wear or have attached, and to not tamper with, destroy or otherwise interfere with, an approved monitoring device while on bail or the lesser period ordered by the court; and
 - (ii) to allow the placing or installation in, and retrieval from, a specified place of anything necessary for the effective operation of the monitoring device; or
- (ib) for bail granted by a court – require the accused person:
 - (i) to give a sample of the accused person's voice for use with an approved monitoring device; and
 - (ii) to comply with the reasonable directions of a probation and parole officer or community youth justice officer in the use of the device for the effective monitoring of the accused person's activities while on bail; or
- (j) contain a combination of 2 or more of the above.

(2) A conduct agreement operates (subject to its terms) throughout the period for which the accused person is on bail.

(2A) A provision of a conduct agreement that aims to ensure compliance by the accused person with another provision of the agreement is an **ancillary provision**.

Example for subsection (2A)

A provision as mentioned in subsection (1)(g), (ha), (iaa), (iab), (ia) or (ib).

(2B) The Regulations may make provision about a matter relating to an ancillary provision.

(3) A conduct agreement may be subject to exceptions and qualifications stated in the agreement.

Example

A conduct agreement might permit the accused person to leave a particular locality, contrary to a prohibition under subsection (1)(e), with a particular permission or in specified circumstances.

(4) Contravention of a provision of a conduct agreement is to be regarded as a breach of a condition of bail.

(5) A court may excuse a contravention of a conduct agreement if satisfied that the accused person had a reasonable excuse for the contravention.

(6) In this section:

authorised person means:

- (a) a police officer; and
- (b) any other person or class of persons prescribed by the Regulations.

health practitioner means a person registered under the *Health Practitioner Regulation National Law* to practise in a health profession (other than as a student).

27B Monitoring compliance with certain conduct agreements

(1AA) Subsection (1AB) applies if an accused person has entered into a conduct agreement containing a provision mentioned in section 27A(1)(iaa) or (iab).

(1AB) A police officer may:

- (a) place on, attach to or remove from the accused person an approved police monitoring device; and

- (b) give reasonable directions to the accused person regarding the use of the device.
- (1) Subsection (2) applies if:
 - (a) a conduct agreement is in force for an accused person other than a youth; and
 - (b) the agreement is subject to a provision as mentioned in section 27A(1)(ia) or (ib).
 - (2) While the provision is in force, Part 4.1 of the *Correctional Services Act 2014* applies in relation to the accused person as if a reference:
 - (a) to a person for whom a monitoring order is in force were a reference to the accused person; and
 - (b) to a monitoring order were a reference to the conduct agreement.

Note for subsection (2)

Accordingly, Part 4.1 of the Correctional Services Act 2014 as applied by subsection (2) provides powers for probation and parole officers for ensuring the accused person is complying with the conduct agreement.

- (3) Subsection (4) applies if:
 - (a) a conduct agreement is in force for an accused person who is a youth; and
 - (b) the agreement is subject to a provision as mentioned in section 27A(1)(ia) or (ib).
- (4) While the provision is in force, Part 6AA of the *Youth Justice Act 2005* applies in relation to the accused person as if a reference:
 - (a) to a youth who is subject to a monitoring order were a reference to the accused person; and
 - (b) to a monitoring order were a reference to the conduct agreement.

Note for subsection (4)

Accordingly, Part 6AA of the Youth Justice Act 2005 as applied by subsection (4) provides powers for community youth justice officers for ensuring the accused person is complying with the conduct agreement.

28 Imposition of bail conditions

- (1) An authorised member or a court must, in granting bail, impose conditions that appear necessary to minimise risks to the safety or welfare of others, or to the proper administration of justice, that may result from releasing the accused person on bail.
- (2) The conditions must be reasonably proportionate to the risks.
- (2A) Without limiting subsection (2) but subject to section 7B, if the accused person is a youth, an authorised member or the court must also take into consideration the following:
 - (a) the need to ensure the conditions of the grant of bail are no more onerous than are necessary and do not constitute unfair management of the youth;
 - (b) the age, health, maturity and circumstances of the youth, including the youth's home environment;
 - (c) the capacity of the youth to comply with the conditions.
- (3) In addition, an authorised member may impose a condition that the accused person enter into a conduct agreement containing a provision mentioned in section 27A(1)(iaa) only if:
 - (a) under the conduct agreement, the accused person will be required to reside at a specified place; and
 - (b) the authorised member is satisfied that the accused person is a suitable person for the provision.
- (3A) A court may impose a condition that the accused person enter into a conduct agreement containing a provision mentioned in:
 - (a) section 27A(1)(iab) – only if:
 - (i) immediately before the accused person appeared before the court, a conduct agreement containing a provision mentioned in section 27A(1)(iaa) was in force for the accused person; and
 - (ii) the court orders that an assessment report in relation to the accused person be prepared; or
 - (b) section 27A(1)(ia) or (ib) – only if satisfied, after considering an assessment report in relation to the accused person, that the accused person is a suitable person for the provision.

- (3B) Despite subsection (3A), a court may impose a condition that an accused person who is a youth enter into a conduct agreement containing a provision mentioned in section 27A(1)(iab) if the court orders the preparation of an assessment report in relation to the youth but the report has not been provided to the court.
- (4) To avoid doubt, a bail condition that the accused person enter into a conduct agreement containing an ancillary provision is not invalid only on the grounds the ancillary provision is not necessary to minimise risks to the safety or welfare of others or for the administration of justice.
- (5) In this section:

assessment report means a report assessing the suitability of an accused person to enter into a conduct agreement containing a provision mentioned in section 27A(1)(ia) or (ib), prepared by:

- (a) if the accused person is a youth – the CEO (Youth Justice); or
- (b) otherwise – the Commissioner of Correctional Services.

29 **Entry into agreement**

Except as prescribed by the Regulations, where an authorised member or a court imposes a bail condition under section 27 that requires:

- (a) the entering into of an agreement – the agreement may be entered into with; or
- (b) the making of an acknowledgment – the acknowledgement may be made to; or
- (c) the depositing of security or an amount of – the deposit may be made with;

the court or person to whom the bail undertaking is given.

30 **Provisions relating to money or security**

- (1) A receipt must be given for any money or security deposited pursuant to a bail condition.
- (2) Where a security or an amount of money is deposited with a person pursuant to section 29(c), otherwise than at a court, under an agreement entered into as a condition imposed on the grant of bail to an accused person, the person with whom the security or money is deposited must, as soon as practicable, cause it, together with the form of undertaking and agreement, to be lodged with the court

before which the accused person is required by the bail undertaking to appear.

- (3) Where a security or an amount of money is deposited under an agreement entered into as a condition imposed on the grant of bail to an accused person, and the accused person appears before the court in accordance with the bail undertaking, then an amount equal to the security or the amount of money must be returned to the person by whom it was deposited.

31 Discharge of liability of persons other than accused

- (1) Where a person other than the accused person has entered into an agreement under section 27(2)(d), (f) or (h), the person may, subject to subsection (5), at any time apply:

- (a) where the bail was granted by a court:

- (i) to the court which granted the bail; or
- (ii) to the court of appearance; or

- (b) where the bail was granted by an authorised member – to the court of appearance;

to discharge the applicant from liability under the agreement.

- (2) On an application being made under subsection (1), the court must, if the accused person is not then in custody or before the court:

- (a) issue a warrant to apprehend the accused person and bring the accused person before the court; or

- (b) issue a summons for the accused person's appearance before the court.

- (3) On the appearance of the accused person before the court, the court must, unless satisfied that it would be unjust to do so, direct that the applicant be discharged from liability under the agreement, and the applicant is, upon the direction being given, discharged accordingly.

- (4) If the court discharges the applicant from liability under the agreement, the court may impose further conditions on the grant of bail, and may by warrant commit the accused person into the custody of the Commissioner of Correctional Services or CEO (Youth Justice) until the accused person enters into the further conditions.

(5) A person may not make an application under this section if the accused person has failed to comply with his bail undertaking or an agreement entered into by the accused person pursuant to a bail condition.

(6) In this section:

court of appearance means the court before which the accused person is required to appear in accordance with the accused person's bail undertaking.

Division 4 Continuation of bail

32 Continuation of bail

(1) If a bail undertaking includes an undertaking to appear at a time and place at which proceedings in respect of the offence may be continued, whether upon an adjournment or otherwise, a court may, as it thinks fit, continue bail already granted in respect of the offence, whether or not the accused person then appears in person.

(2) Where bail is continued, the bail undertaking and the bail conditions continue to apply, except to the extent that a condition or agreement thereunder otherwise provides or the court otherwise orders.

Part 6 Review of bail decisions

Division 1 Police bail

33 Review

(1) An authorised member must ensure that:

(a) the person charged is made aware of the determination of the member with respect to the granting of or the refusal to grant bail as soon as practicable after that determination is made; and

(b) the person charged is aware of the person's right to apply to the Local Court for a review of that determination in the circumstances mentioned in subsection (3); and

(c) as far as is practicable, the person charged is able to communicate with a legal practitioner or any other person in connection with an application to the Local Court under this section.

- (2) An authorised member may refrain from complying with subsection (1)(c) if the member believes on reasonable grounds that it is necessary to do so in order to prevent:
- (a) the escape of an accomplice of the person charged; or
 - (b) the loss, destruction or fabrication of evidence relating to an offence.
- (3) The person charged may apply to the Local Court for a review under this section of any of the following matters:
- (a) a decision by an authorised member to refuse to grant bail to the person;
 - (b) a failure of an authorised member to determine whether or not to grant bail to the person within 4 hours after the person was charged;
 - (c) a determination by an authorised member to grant bail to the person subject to conditions (other than a bail undertaking) with which:
 - (i) the person is unable or unwilling to comply; or
 - (ii) the person is unable or unwilling to arrange for another person to comply.
- (4) Where the person charged indicates to a police officer that the person wishes to make an application under subsection (3), the member must, as soon as practicable after the person gives that indication, bring or arrange for the person to be brought before the Local Court or must arrange for the person to make an application to the Local Court by telephone, telex, radio or similar facility.

Note for subsection (4)

Section 49E(8) of the Evidence Act 1939 provides that a requirement that a person be before a court is taken to be satisfied if the person is before the court by way of a communication link in accordance with Part 5, Division 2 of that Act.

- (5) If a person who may make an application under subsection (3) for a matter has not done so, the Local Court may, at the initiative of the Local Court, review that matter.
- (6) In reviewing a matter under subsection (3) or (5), the Local Court must:
- (a) for a matter mentioned in subsection (3)(a) or (c):
 - (i) review the decision or determination; and

- (ii) confirm or vary the decision or determination (including varying or imposing conditions of bail for the person); or
 - (b) for a matter mentioned in subsection (3)(b) – determine whether or not to grant bail to the person (including imposing conditions of bail if bail is to be granted).
- (7) The Local Court:
- (a) must give the person, his or her legal representative and the authorised member reasonable opportunity to make submissions for subsection (6); and
 - (b) may make any order for exercising the power of the Local Court under this section.

Division 2 Court bail

34 Review by Court of bail decision made by Court

- (1) The Local Court constituted by a Local Court Judge may review a decision in relation to bail made by the Local Court constituted by:
- (a) the same Judge; or
 - (b) a different Judge, if the Local Court as originally constituted cannot conveniently be reconvened; or
 - (c) one or more justices of the peace.
- (2) The Local Court constituted by one or more justices of the peace may review a decision in relation to bail made by the Court constituted by:
- (a) the same justice of the peace or justices of the peace; or
 - (b) a different justice of the peace or different justices of the peace, if the Local Court as originally constituted cannot conveniently be reconvened.
- (3) For this section, the Local Court constituted by a particular person or persons **cannot conveniently be reconvened** to deal with a review if the person or any one of the persons is:
- (a) by reason of illness, absence or other cause, not available to deal with the proceedings when the request for review is made; and
 - (b) not likely to be available within 24 hours after the request is made.

35 Review by Supreme Court

- (1) Subject to this Act, the Supreme Court may review a decision of the Local Court or of the Supreme Court (however constituted) in relation to bail.
- (2) The power to review a decision pursuant to this section may be exercised whether or not power to do so under section 34 has been, or has been sought to be, exercised.

36 Provisions relating to review of bail decisions

- (1) The power under section 34 or 35 to review a bail decision:
 - (a) may only be exercised at the request of the accused person, the informant or complainant, being a police officer, or the Director of Public Prosecutions; and
 - (b) includes the power to affirm or vary the decision or to substitute another decision.
- (2) A decision as varied or substituted under subsection (1) must be in conformity with this Act.
- (3) The review of a decision is by way of rehearing, and evidence or information in addition to, or in substitution for, the evidence or information given or obtained on the making of the decision may be given or obtained on the review.
- (4) Where, on a review under this Division of a decision, bail for an accused person is revoked, the Local Court may by warrant commit the person into the custody of the Commissioner of Correctional Services or CEO (Youth Justice).
- (5) Where, on a review under this Division of a decision:
 - (a) bail is granted unconditionally and no bail undertaking has been given by the accused person; or
 - (b) a bail condition is imposed;the Local Court may by warrant commit the person into the custody of the Commissioner of Correctional Services or CEO (Youth Justice) until the person gives the undertaking or enters into the condition, as the case may be.
- (6) A court may refuse to entertain a request to review, under this Division, a decision if the court is satisfied that the request is frivolous or vexatious.

- (7) The Regulations may make provisions for or in relation to:
- (a) the manner of making a request to review under this Division a decision in relation to bail; and
 - (b) the giving or sending to persons of notices relating to the proposed exercise of the power to review under this Division a decision in relation to bail; and
 - (c) the circumstances in which such a power may be exercised in the absence of the accused person or the accused person's representative as if the accused person or representative were present.

36A Immediate review and stay of decision to grant bail

- (1) This section applies if:
- (a) the Local Court decides to release an accused person on bail; and
 - (b) a police officer or legal practitioner appearing for the Crown immediately informs the Local Court that a request for review of the decision is to be made to the Supreme Court under this section.
- (2) The decision of the Local Court is stayed.
- (3) The accused person must not be released while the stay of the decision has effect under this section.
- (4) The stay of the decision has effect until the earliest of the following:
- (a) the Supreme Court affirms or varies the decision or substitutes another decision for the decision of the Local Court;
 - (b) a police officer or legal practitioner appearing for the Crown files in the Supreme Court a notice that the Crown does not desire to proceed with the review;
 - (c) 4 pm on the day that is 3 business days after the day the decision was made.
- (5) The Supreme Court may extend the time referred to in subsection (4)(c) if the Supreme Court thinks that it is appropriate to do so in the circumstances.
- (6) The Supreme Court may exercise its power under subsection (5) more than once.

- (7) The request for the review of the decision must be dealt with as expeditiously as possible.
- (8) The review is by way of rehearing.
- (9) Evidence or information in addition to, or in substitution for, the evidence or information given or obtained on the making of the decision may be given or obtained on the review.
- (10) A decision as varied or substituted under subsection (4)(a) must conform with this Act.
- (11) If the person is released because of subsection (4)(b) or (c), the conditions of bail are those that would have applied had the decision not been stayed.
- (12) In this section:

business day means a day other than a Saturday, Sunday or public holiday.

37 Right of accused to apply for bail

Subject to section 36A, this Part does not limit the right of an accused person in custody to apply for bail, and the accused person may so apply for bail even if that the power to review a decision already made in relation to the grant of bail to the accused person has not been, or has not been sought to be, exercised under this Part.

Part 7 Non-compliance with undertaking or conditions

37B Offence to breach bail

- (1) A person commits a bail offence if:
 - (a) the person is granted bail for an offence; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in a breach of the person's bail undertaking for the original offence and the person is reckless in relation to the result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) A person commits a bail offence if:
- (a) the person is granted bail for an offence; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in a breach of a condition of the grant of bail for the original offence and the person is reckless in relation to the result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (3) Strict liability applies to subsections (1)(a) and (2)(a).
- (4) A youth is not liable to be charged for an offence against subsection (2).
- (5) It is a defence to a prosecution for a bail offence if the defendant has a reasonable excuse.
- (6) A penalty imposed for the bail offence must not exceed the maximum penalty that may be imposed for the original offence.

37C Hearing procedures for bail offence – general

- (1) This section applies to proceedings for a charge of a bail offence.
- (2) The proceedings may be commenced at any time.
- (3) The charge must be heard and determined by:
- (a) if the court to which the offender's bail undertaking to appear for the original offence is the Supreme Court or Court of Criminal Appeal – the Supreme Court; or
 - (b) otherwise – the court to which the offender's bail undertaking to appear is given for the original offence.

37D Hearing procedures for bail offence – Supreme Court

- (1) This section applies if, under section 37C(3), the Supreme Court is to hear and determine a charge of a bail offence.
- (2) Despite another law of the Territory, the Court must hear and determine the charge in a summary way.
- (3) Subject to subsections (4) to (7), the proceedings must be commenced and conducted (with the necessary changes and changes prescribed by rules of court) as if the offence were a summary offence.

- (4) The proceedings must be commenced by the complainant for the original offence or any police officer.
- (5) The proceedings must be conducted by the Director of Public Prosecutions.
- (6) A fee is not payable for a matter or thing required or permitted to be done for the proceedings.
- (7) In addition, the Supreme Court must not order a party to the proceedings to pay another party's costs of or relating to the proceedings.
- (8) Section 51 of the *Supreme Court Act 1979* applies to the Supreme Court's determination on the charge.

38 Arrest for absconding or breach of condition

- (1) If a police officer believes on reasonable grounds that a person who has been released on bail has, while on bail, failed to comply with, or is, while on bail, about to fail to comply with, the person's bail undertaking or an agreement entered into by the person pursuant to a bail condition:
 - (a) a police officer may arrest the person without warrant and take the person as soon as practicable before a court; or
 - (b) a Local Court Judge or justice of the peace may:
 - (i) issue a warrant to apprehend the person and bring the person before a court; or
 - (ii) issue a summons for the person's appearance before a court.
- (2) The court before which the person is brought or appears may:
 - (a) release the person on the person's original bail; or
 - (b) revoke the person's original bail and otherwise deal with the person according to law.
- (2A) However, the court must revoke bail if:
 - (a) both of the following circumstances apply:
 - (i) the person was charged with a serious violence offence or an offence against which section 7A applies and released on bail despite a presumption against bail;

- (ii) the court finds that the person has breached a bail undertaking or a condition of bail; or
 - (b) the person, for whom a conduct agreement is in force and the agreement contains a provision as mentioned in section 27A(1)(ia), breaches a condition of bail by contravening that provision of the conduct agreement.
- (2B) Despite subsection (2A)(b), the court is not required to revoke bail for a person mentioned in subsection (2A)(b) if the person is a youth.
- (3) If the court revokes the person's original bail, the court or any other court before which the person is brought or appears:
 - (a) may grant bail to the person in accordance with this Act; or
 - (b) may, despite anything in this Act, refuse to grant bail to the person and by warrant commit the person into the custody of the Commissioner of Correctional Services or CEO (Youth Justice).
- (4) Nothing in this section limits the rights of an accused person in custody to apply for bail.
- (5) Subsections (2) to (3) do not apply to a youth who, during release on bail, engages in a serious breach of bail.

38AA Serious breach of bail by youth

- (1) If the person brought before the court under section 38(1) is a youth and the court finds that the youth has engaged in a serious breach of bail, the court must, despite anything to the contrary in this Act:
 - (a) revoke the youth's original bail; and
 - (b) not grant bail to the youth; and
 - (c) by warrant commit the youth into the custody of the CEO (Youth Justice).
- (2) Subsection (1) also applies in respect of a youth brought before the court under section 27 of the *Youth Justice Act 2005* following arrest of the youth under section 123 of the *Police Administration Act 1978*.
- (3) Despite subsections (1) and (2), the court may, if satisfied that exceptional circumstances exist to justify bail, release the youth on the youth's original bail.

38A Certain costs recoverable by Territory

If an accused person destroys or damages an approved monitoring device or approved police monitoring device:

- (a) the accused person is liable to pay the costs of restoring or replacing the device; and
- (b) the costs may be recovered from the accused person as a debt payable to the Territory.

39 Failure to appear

Where a person fails to appear before a court in accordance with the person's bail undertaking, the court may issue a warrant to apprehend the person and bring the person before the court.

40 Enforcement of bail undertakings etc.

(1) Where:

- (a) an accused person fails to comply with the person's bail undertaking or a bail condition; and
- (b) the person or another person has entered into an agreement pursuant to a bail condition to forfeit an amount of money;

the court before which the accused person was required to appear in accordance with the bail undertaking may order that the amount referred to in paragraph (b) be forfeited and paid to the Territory.

- (2) If security or an amount of money has been deposited under an agreement entered into as a condition of the grant of bail to an accused person, a court may, when making an order under subsection (1), make a further order that the security or amount of money so deposited be applied in or towards payment of the amount ordered to be forfeited.
- (2A) If a court makes an order under subsection (1), the court may, on application by the person in relation to whom the order is made or of its own motion:
 - (a) reduce the amount of the forfeiture; or
 - (b) confirm, rescind or suspend its order.
- (3) A court must endorse or cause to be endorsed on the bail undertaking of an accused person particulars of every order made under subsection (1) or (2).

- (4) Subject to subsection (5), Part 8 of the *Fines and Penalties (Recovery) Act 2001* applies to a bail undertaking that is ordered by a court to be forfeited and payment is to be enforced under that Act.
- (5) If a court orders forfeiture of a bail undertaking, the court may order that if the forfeited amount is not paid within 28 days the accused person is to be imprisoned until his or her liability to pay the forfeited amount is discharged.
- (6) If a court makes an order under subsection (5) and the forfeited amount is not paid within 28 days, the court may issue a warrant of commitment in respect of the accused person specifying the period of imprisonment calculated on the basis of the amount forfeited as follows:
 - (a) the period is to be one day for each amount (or part of the amount) that is prescribed for section 88 of the *Fines and Penalties (Recovery) Act 2001* that comprises the amount forfeited;
 - (b) the period is not to be less than one day;
 - (c) the period is not to exceed 3 months.
- (7) If the accused person serves the total period of imprisonment under a warrant under subsection (6), the forfeiture is taken to be satisfied.
- (8) If the accused person serves part of the period of imprisonment under a warrant under subsection (6), the forfeiture is taken to be partially satisfied by the amount calculated at the rate prescribed for the purposes of section 88 of the *Fines and Penalties (Recovery) Act 2001* for each day actually served.
- (9) Unless otherwise ordered by the court, any period of imprisonment that the accused person has to serve as a result of an order under subsection (5) is to be served:
 - (a) cumulatively on any incomplete sentence or sentences of imprisonment imposed on the person for the default of a payment of a fine or sum of money; and
 - (b) concurrently with any incomplete sentence or sentences of imprisonment imposed on the person other than for the default of a payment of a fine or sum of money, whether the other sentence was or the other sentences were imposed before or at the same time as that term.

41 Suspension or mitigation of forfeiture

- (1) A court may, when making an order under section 40(1), determine that the liability of all or any of the persons liable upon or in respect of an agreement mentioned in section 40(1)(b) must be remitted, suspended or reduced.
- (2) Where an order has been made under section 40(1), the court may, at any time, order:
 - (a) that the order for forfeiture and payment to the Territory made under section 40(1) be cancelled or suspended; or
 - (b) that the liability of all or any of the persons liable upon or in respect of the agreement mentioned in section 40(1)(b) must be remitted, suspended or reduced, or both.
- (3) The court, in making an order under subsection (2), may:
 - (a) impose such terms and conditions as it thinks fit; and
 - (b) make any order consequential on or incidental to such an order.
- (4) An order made under this section does not affect the validity of anything done to enforce the order under section 40(1) before making the first-mentioned order.

Part 8 Miscellaneous matters**42 Notices**

- (1) The court or person to whom a bail undertaking is given by an accused person must immediately give or cause to be given to the accused person:
 - (a) a copy of the undertaking or a notice setting out the terms of the undertaking; and
 - (b) a copy of the bail conditions, if any, imposed or a notice setting out the terms of such conditions.
- (2) The court or person to or with whom a person other than the accused person makes an acknowledgement, agreement or deposit of security or money pursuant to a bail condition must immediately 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.

(3) Where a bail condition is imposed or varied on a review under Part 6 of a decision in relation to bail, the court carrying out that review must give or cause to be given to:

- (a) the accused person; and
- (b) to any other person who makes an acknowledgement or enters into an agreement pursuant to the condition;

a copy of the condition or a notice setting out the terms of the condition.

(4) A court may, in any of the circumstances mentioned in subsections (1) to (3), give or cause to be given to a person not referred to in those subsections, but whom it considers may be interested in or affected by a bail condition as imposed or varied, a copy of that bail condition or a notice setting out the terms of that bail condition.

43 Writ of habeas corpus

Except where expressly provided by this Act, nothing in this Act affects the powers of the Supreme Court in connection with writs of habeas corpus.

44 Misleading information in acknowledgements

(1) A person commits an offence if the person:

- (a) makes an acknowledgement under section 27(2)(b); and
- (b) knows that the acknowledgement contains misleading information.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(a).

(3) In this section:

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

45 Indemnification of acceptable person

(1) This section applies if:

- (a) a person (***person A***) and another person (***person B***) enter into an agreement; and

- (b) the agreement is that person A will indemnify person B against any forfeiture that person B may incur as a result of entering into an agreement under section 27 as an acceptable person.
- (2) If subsection (1) applies, person A and person B each commit an offence.
- Maximum penalty: 300 penalty units or imprisonment for 3 years.
- (3) This section also applies if:
- (a) a person (**person C**) engages in conduct; and
- (b) the conduct results in the indemnification of another person (**person D**) against any forfeiture that person D incurs as a result of entering into an agreement under section 27 as an acceptable person.
- (4) If subsection (3) applies, person C and person D each commit an offence.
- Maximum penalty: 300 penalty units or imprisonment for 3 years.
- (5) Strict liability applies:
- (a) to subsection (1)(b) in relation to person B; or
- (b) to subsection (3)(b) in relation to person D.
- (6) In this section:
- indemnify** includes compensate in a way that is not monetary.

46 Civil standard of proof for certain purposes

Where an authorised member or a court, in making a decision in relation to bail (other than a decision in proceedings for an offence committed in connection with bail) is to be or may be satisfied as to any matter, it is sufficient if the authorised member or the court is satisfied on the balance of probabilities.

47 Evidence

- (1) In any proceedings:
- (a) a document purporting to be or to be a copy of a bail undertaking given by an accused person, and to be certified by an appropriate officer to be or to be a copy of the undertaking, is admissible in evidence and is evidence of the

giving of the undertaking by the accused person and of its terms; and

- (b) a document purporting to be or to be a copy of the instrument by which a bail condition was imposed in relation to an accused person, and to be certified by an appropriate officer to be or to be a copy of the instrument, is admissible in evidence and is evidence of the imposing of the condition and of its terms; and
- (c) a certificate purporting to be signed by an appropriate officer certifying that a specified bail condition:
 - (i) has not been altered or varied under this Act; or
 - (ii) has been altered or varied under this Act in a specified manner and has not otherwise been altered or varied under this Act;

is admissible in evidence and is evidence of the matters so certified; and

- (d) a document purporting to be or to be a copy of an acknowledgement under section 27(2)(b), and to be certified by an appropriate officer to be or to be a copy of the acknowledgement, is admissible in evidence and is evidence of the making of the acknowledgement and of its terms.

(2) For subsection (1), an appropriate officer is:

- (a) in the case of police bail – an authorised member; and
- (b) in the case of court bail – an officer of the court having custody of the bail undertaking given by the accused.

(3) In any proceedings:

- (a) a certificate purporting to be signed by the Director of Public Prosecutions or a person authorised by the Director in writing in that behalf certifying that a notice referred to in section 25(3) was given or sent to the accused person, or the legal practitioner representing the accused person, in a specified manner on a specified day is admissible in evidence and shall be prima facie evidence of the matters so certified; and
- (b) a certificate purporting to be signed by a Supreme Court Judge, Local Court Judge, justice of the peace, registrar of the Local Court, sheriff or deputy sheriff and stating that a specified person did not appear before a specified court, at a

specified place, on a specified day at a specified time is admissible in evidence and is evidence of the matters so certified.

- (4) In any document:
- (a) the words "authorised member" or "authorized member" after a signature is evidence that the person whose signature it purports to be is in fact an authorised member within the meaning of this Act; and
 - (b) the words "appropriate officer" after a signature is evidence that the person whose signature it purports to be is in fact an appropriate officer as referred to in this section; and
 - (c) the words "authorised by the Director of Public Prosecutions" or "authorized by the Director of Public Prosecutions" after a signature is evidence that the person whose signature it purports to be has in fact been authorised by the Director of Public Prosecutions as referred to in section 25(3) and this section;

in connection with the matter to which the document relates.

48 Surety to have no right of arrest

A person who as an acceptable person enters into an agreement under section 27 does not, because of entering into that agreement, have the right to arrest the accused person.

49 Abolition of common law right to grant bail

All powers or duties that would, but for this Act, exist apart from statute to grant bail to an accused person in or in connection with criminal proceedings are abolished.

50 Contempt

- (1) Nothing in this Act affects a power or duty that a court, tribunal or person has to grant bail, or to grant relief in the nature of bail, in connection with a contempt or alleged contempt.
- (2) Subsection (1) does not apply to a contempt or alleged contempt that constitutes an offence proceedings for which may be commenced by way of information or complaint.
- (3) A power or duty to which subsection (1) applies is additional to a power or duty that a court, tribunal or person may have under this Act in relation to any contempt or alleged contempt.

51 Provisions as to warrants or summonses

Subject to the Regulations, the provisions of the *Local Court (Criminal Procedure) Act 1928* apply, with the necessary adaptations, to and in relation to a warrant or summons issued or to be issued under this Act in the same way as they apply to and in relation to a warrant or summons of a corresponding kind issued or to be issued under that Act.

52 Contravention of Act by authorised member

- (1) Where an authorised member contravenes a provision of this Act that is applicable to the member, the contravention is not punishable as an offence (whether under this Act or otherwise) unless a penalty is expressly provided by this Act in respect of the contravention.
- (2) This section does not prevent a contravention of a provision of this Act by a police officer from:
 - (a) being dealt with under the *Police Administration Act 1978*; or
 - (b) constituting grounds for civil proceedings.

52A Representative of mentally impaired or unfit person may enter into bail undertaking on behalf of person

- (1) In this section:

accused person means an accused person who:

 - (a) has been declared to be liable to supervision under Part IIA, Division 2 or 4 of the Criminal Code; or
 - (b) is or is likely to be the subject of an investigation or a special hearing under that Part.
- (2) A person representing an accused person may:
 - (a) exercise an independent discretion and act as he or she reasonably believes to be in the accused person's best interests in relation to the grant of bail to the accused person under this Act; and
 - (b) enter into the bail undertaking and any bail conditions imposed in respect of the accused person on behalf of the accused person.
- (3) When the representative of an accused person mentioned in subsection (1) enters into the bail undertaking and any bail

conditions on behalf of the accused person, the representative must give an undertaking to the court that he or she will be responsible for ensuring that the accused person complies with the bail undertaking and the bail conditions.

52B Approval of police monitoring device

The Commissioner of Police may approve a police monitoring device for use to monitor the compliance of accused persons with conduct agreements.

53 Regulations

- (1) The Administrator may make regulations under this Act.
- (2) The Regulations may provide for any of the following:
 - (a) facilities to be provided to enable the making of communications referred to in section 16(2)(b);
 - (b) the procedures to be followed where an application is made, under section 33(4), to the Local Court, by telephone, telex, radio or similar facility;
 - (c) the release of accused persons from any place of custody consequent upon the grant of bail or upon the requirement for bail being dispensed with;
 - (d) warrants and summonses issued under this Act;
 - (e) the fees to be demanded and taken in relation to any matter connected with this Act;
 - (f) the forms to be used for this Act.

Part 9 Transitional matters

Division 1 Bail Amendment (Repeat Offenders) Act 2005

54 Application of sections 7A, 8 and 36A to pre-commencement offences

Sections 7A and 8 as amended by the *Bail Amendment (Repeat Offenders) Act 2005*, and section 36A, apply in relation to the granting of bail to accused persons for offences committed before the commencement of that Act.

Division 2 Bail Amendment Act 2015

55 Definitions

In this Division:

amending Act means the *Bail Amendment Act 2015*.

commencement means the commencement of the amending Act.

56 Application of amendments to sections 7A, 8 and 24

- (1) Sections 7A, 8 and 24, as amended by the amending Act, apply in relation to the granting of bail to an accused person for an offence only if the charge for the offence was filed after the commencement.
- (2) Sections 7A, 8 and 24, as in force before the commencement, continue to apply in relation to the granting of bail to an accused person for an offence if the charge for the offence was filed on or before the commencement.

57 Application of amendment to section 38

- (1) Section 38, as amended by the amending Act, applies in relation to the revocation of bail that was granted to a person for an offence only if the charge for the offence was filed after the commencement.
- (2) Section 38, as in force before the commencement, continues to apply in relation to the revocation of bail that was granted to a person for an offence if the charge for the offence was filed on or before the commencement.

58 Offence provisions – before and after commencement

- (1) This section applies subject to sections 56 and 57.
- (2) The offence provisions, as amended by the amending Act, apply only in relation to offences alleged to have been committed after the commencement.
- (3) The offence provisions, as in force before the commencement, continue to apply in relation to offences alleged to have been committed on or before the commencement.
- (4) For this section, if any of the conduct constituting an offence occurred on or before the commencement, the offence is taken to have been committed on or before the commencement.

(5) In this section:

offence provisions means the provisions of this Act that create or relate to offences (including in relation to criminal responsibility, defences and penalties).

Division 3 Bail Amendment Act (No. 2) 2015

59 Definitions

In this Division:

amending Act means the *Bail Amendment Act (No. 2) 2015*.

commencement means the commencement of the amending Act.

60 Application of section 27A

- (1) Section 27A, as amended by the amending Act, applies in relation to a conduct agreement entered into after the commencement by an accused person as a condition of the person's bail, even if the alleged offence to which the bail relates was committed before the commencement.
- (2) Section 27A, as in force immediately before the commencement, continues to apply in relation to a conduct agreement entered into before the commencement.

61 Application of section 38

- (1) Section 38, as amended by the amending Act, applies only in relation to a breach of a condition by an accused person of the person's bail that occurs after the commencement.
- (2) Section 38, as in force immediately before the commencement, continues to apply in relation to a breach of a condition by an accused person of the person's bail that occurs before the commencement.

Division 4 Bail Amendment Act 2017

62 Definitions

In this Division:

amending Act means the *Bail Amendment Act 2017*.

commencement means the commencement of the amending Act.

63 Application of section 27A

- (1) Section 27A, as amended by the amending Act, applies in relation to a conduct agreement entered into after the commencement by an accused person as a condition of the person's bail, even if the alleged offence to which the bail relates was committed before the commencement.
- (2) Section 27A, as in force immediately before the commencement, continues to apply in relation to a conduct agreement entered into before the commencement.

Division 5 Youth Justice and Related Legislation Amendment Act 2019

64 Definitions

In this Division:

amending Act means the *Youth Justice and Related Legislation Amendment Act 2019*.

commencement means the commencement of Part 2 the amending Act.

65 Application of amendments to sections 7A, 8, 28 and 38

Sections 7A, 8, 28 and 38, as amended by the amending Act, apply in relation to the granting of bail to an accused person for an offence if, before the commencement, the accused person had not been sentenced by the Court in relation to the offence.

66 Application of sections 8A and 24A

Sections 8A and 24A apply in relation to the granting of bail to an accused person for an offence if, before the commencement, the accused person had not been sentenced by the Court in relation to the offence.

67 Application of amendments to section 37B

- (1) Section 37B, as inserted by the amending Act, applies in relation to a bail offence committed before the commencement of the amending Act if, before the commencement, the accused person had not been sentenced by the Court in relation to the bail offence.
- (2) For this section, if any of the conduct constituting a bail offence occurred before the commencement, the bail offence is taken to have been committed before the commencement.

Division 6 Youth Justice Legislation Amendment Act 2021

68 Definition

In this Division:

amending Act means the *Youth Justice Legislation Amendment Act 2021*.

69 Application of amendments relating to serious breach of bail

The amendments to this Act by sections 7, 8, 10 and 11 of the amending Act do not apply if the conduct agreement to which the youth was subject at the time of engaging in a serious breach of bail was entered into before the commencement of those sections.

70 Application of amendment to prescribed offences

- (1) The regulation made under section 3B applies as in force after its replacement by section 34 of the amending Act only in respect of an application for bail in relation to an offence that is allegedly committed after the commencement.
- (2) For subsection (1), if any of the alleged conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.
- (3) In this section:

commencement means the commencement of section 34 of the amending Act.

Note for section 70

For an offence allegedly committed before the commencement of section 34 of the amending Act, the regulation under section 3B applies as in force before the commencement.

Division 7 Bail Amendment Act 2023

71 Application of amendments to section 7A

- (1) The amendments to section 7A by the *Bail Amendment Act 2023* do not apply in relation to an offence alleged to have been committed before the commencement of section 4 of that Act.
- (2) For subsection (1), if any of the conduct constituting an alleged offence occurred before the commencement, the alleged offence is taken to have been committed before the commencement.

ENDNOTES
1**KEY**

Key to abbreviations

| | |
|------------------------------|-------------------------------------|
| amd = amended | od = order |
| app = appendix | om = omitted |
| bl = by-law | pt = Part |
| ch = Chapter | r = regulation/rule |
| cl = clause | rem = remainder |
| div = Division | renum = renumbered |
| exp = expires/expired | rep = repealed |
| f = forms | s = section |
| Gaz = Gazette | sch = Schedule |
| hdg = heading | sdiv = Subdivision |
| ins = inserted | SL = Subordinate Legislation |
| lt = long title | sub = substituted |
| nc = not commenced | |

2**LIST OF LEGISLATION*****Bail Act 1982 (Act No. 57, 1982)***

| | |
|-------------|-----------------------------------------------|
| Assent date | 8 October 1982 |
| Commenced | 29 June 1983 (<i>Gaz S19</i> , 29 June 1983) |

Statute Law Revision Act 1983 (Act No. 58, 1983)

| | |
|-------------|------------------|
| Assent date | 28 November 1983 |
| Commenced | 28 November 1983 |

Bail (Criminal Code) Amendment Act 1983 (Act No. 59, 1983)

| | |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Assent date | 28 November 1983 |
| Commenced | 1 January 1984 (s 2, s 2 <i>Criminal Code Act 1983</i> (Act No. 47, 1983), <i>Gaz G46</i> , 18 November 1983, p 11 and <i>Gaz G8</i> , 26 February 1986, p 5) |

Statute Law Revision Act 1984 (Act No. 28, 1984)

| | |
|-------------|--------------|
| Assent date | 20 July 1984 |
| Commenced | 20 July 1984 |

Bail Amendment Act 1988 (Act No. 11, 1988)

| | |
|-------------|---------------|
| Assent date | 30 March 1988 |
| Commenced | 30 March 1988 |

Bail Amendment Act 1989 (Act No. 8, 1989)

| | |
|-------------|----------------------------------------------------------------------------------------------------------------------|
| Assent date | 28 March 1989 |
| Commenced | 30 October 1989 (s 2, s 2 <i>Justices Amendment Act 1989</i> (Act No. 7, 1989) and <i>Gaz S61</i> , 27 October 1989) |

Director of Public Prosecutions (Consequential Amendments) Act 1990 (Act No. 29, 1990)

| | |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Assent date | 11 June 1990 |
| Commenced | 21 January 1991 (s 2, s 2 <i>Director of Public Prosecutions Act 1990</i> (Act No. 35, 1990) and <i>Gaz G2</i> , 16 January 1991, p 9) |

Statute Law Revision Act 1990 (Act No. 33, 1990)

Assent date 11 June 1990
 Commenced 11 June 1990

Bail Amendment Act 1993 (Act No. 74, 1993)

Assent date 23 November 1993
 Commenced 1 January 1994 (*Gaz* G51, 22 December 1993, p 3)

Bail Amendment Act 1994 (Act No. 10, 1994)

Assent date 22 March 1994
 Commenced 5 April 1994 (*Gaz* S24, 31 March 1994)

Statute Law Revision Act 1994 (Act No. 50, 1994)

Assent date 20 September 1994
 Commenced 20 September 1994

Statute Law Revision Act 1995 (Act No. 14, 1995)

Assent date 23 June 1995
 Commenced 23 June 1995

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date 19 April 1996
 Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

Bail Amendment Act 1996 (Act No. 32, 1996)

Assent date 5 September 1996
 Commenced 1 November 1996 (*Gaz* G41, 9 October 1996, p 4)

Bail Amendment Act 1998 (Act No. 9, 1998)

Assent date 25 March 1998
 Commenced 22 April 1998 (s 2, s 2 *Justices Amendment Act 1998* (Act No. 6, 1998) and *Gaz* G15, 22 April 1998, p 3)

Statute Law Revision Act (No. 2) 1998 (Act No. No. 92, 1998)

Assent date 11 December 1998
 Commenced 11 December 1998

Bail Amendment Act 1999 (Act No. 19, 1999)

Assent date 5 May 1999
 Commenced 5 May 1999

Statute Law Revision Act 1999 (Act No. 27, 1999)

Assent date 18 June 1999
 Commenced 18 June 1999

Sentencing of Juveniles (Miscellaneous Provisions) Act 2000 (Act No. 17, 2000)

Assent date 30 May 2000
 Commenced 1 June 2000 (s 2, s 2 *Justices Amendment Act 1998* (Act No. 6, 1998) and *Gaz* G15, 22 April 1998, p 3)

Statute Law Revision Act 2000 (Act No. 19, 2000)

Assent date 6 June 2000
 Commenced 12 July 2000 (*Gaz* G27, 12 July 2000, p 2)

Statute Law Revision Act 2001 (Act No. 3, 2001)

Assent date 22 March 2001
 Commenced 22 March 2001

Bail Amendment Act 2001 (Act No. 29, 2001)

Assent date 19 July 2001
 Commenced 19 July 2001

Fines and Penalties (Recovery) (Consequential Amendments) Act 2001 (Act No. 60, 2001)

Assent date 11 December 2001
 Commenced 1 January 2002 (s 2, s 2 *Fines and Penalties (Recovery) Act 2001* (Act No. 59, 2001) and Gaz G50, 19 December 2001, p 3)

Bail Amendment Act 2002 (Act No. 12, 2002)

Assent date 7 June 2002
 Commenced 15 June 2002 (s 2 and s 2 *Criminal Code Amendment (Mental Impairment and Unfitness to be Tried) Act 2002* (Act No. 11, 2002))

Youth Justice (Consequential Amendments) Act 2005 (Act No. 33, 2005)

Assent date 22 September 2005
 Commenced 1 August 2006 (s 2, s 2 *Youth Justice Act 2005* (Act No. 32, 2005 and Gaz G30, 26 July 2006, p 3)

Bail Amendment (Repeat Offenders) Act 2005 (Act No. 34, 2005)

Assent date 22 September 2005
 Commenced 22 September 2005

Statute Law Revision Act 2005 (Act No. 44, 2005)

Assent date 14 December 2005
 Commenced 14 December 2005

Justice Legislation Amendment (Group Criminal Activities) Act 2006 (Act No. 36, 2006)

Assent date 3 November 2006
 Commenced 20 December 2006 (Gaz G51, 20 December 2006, p 2)

Statute Law Revision Act 2007 (Act No. 4, 2007)

Assent date 8 March 2007
 Commenced 8 March 2007

Bail Amendment Act 2007 (Act No. 23, 2007)

Assent date 29 October 2007
 Commenced 1 January 2008 (Gaz G51, 19 December 2007, p 4)

Domestic and Family Violence Act 2007 (Act No. 34, 2007)

Assent date 12 December 2007
 Commenced 1 July 2008 (Gaz G25, 25 June 2008, p 4)

Justice Legislation Amendment Act 2008 (Act No. 2, 2008)

Assent date 11 March 2008
 Commenced 2 April 2008 (Gaz G13, 2 April 2008, p 6)

Serious Violent Offenders (Presumption Against Bail) Amendment Act 2008 (Act No. 31, 2008)

Assent date 21 November 2008
 Commenced 10 December 2008 (*Gaz S63*, 10 December 2008)

Serious Crime Control Act 2009 (Act No. 32, 2009)

Assent date 11 November 2009
 Commenced 1 December 2011 (*Gaz S69*, 1 December 2011)

Justice Legislation Amendment (Penalties) Act 2010 (Act No. 12, 2010)

Assent date 20 May 2010
 Commenced 1 July 2010 (*Gaz G24*, 16 June 2010, p 2)

Bail Amendment Act 2011 (Act No. 8, 2011)

Assent date 18 April 2011
 Commenced 16 May 2011 (*Gaz S19*, 4 May 2011)

Justice (Corrections) and Other Legislation Amendment Act 2011 (Act No. 24, 2011)

Assent date 31 August 2011
 Commenced ss 3, 9 to 11, 15 to 17, 19, 20, 24, 33, 42, schs 1 and 2, sch 4, pt 1 and sch 5: 31 August 2011 (s 2); rem: 27 February 2012 (*Gaz S9*, 21 February 2012)

Justice and Other Legislation Amendment Act 2011 (Act No. 25, 2011)

Assent date 31 August 2011
 Commenced 21 September 2011 (*Gaz G38*, 21 September 2011, p 5)

Statute Law Revision Act 2011 (Act No. 30, 2011)

Assent date 31 August 2011
 Commenced 21 September 2011 (*Gaz G38*, 21 September 2011, p 5)

Criminal Justice Legislation Amendment Act 2011 (Act No. 32, 2011)

Assent date 15 November 2011
 Commenced 15 February 2012 (*Gaz G7*, 15 February 2012, p 6)

Justice and Other Legislation Amendment Act 2012 (Act No. 2, 2012)

Assent date 21 March 2012
 Commenced pts 2, 3 and 5 to 7: 1 August 2012; rem: 1 September 2012 (*Gaz G29*, 18 July 2012, p 7)

Bail Amendment Act 2013 (Act No. 2, 2013)

Assent date 14 March 2013
 Commenced 5 February 2014 (*Gaz G5*, 5 February 2014, p 2)

Criminal Code Amendment (Assaults on Workers) Act 2013 (Act No. 3, 2013)

Assent date 14 March 2013
 Commenced 1 May 2013 (*Gaz S16*, 22 April 2013)

Correctional Services (Related and Consequential Amendments) Act 2014 (Act No. 27, 2014)

Assent date 4 September 2014
 Commenced 9 September 2014 (*Gaz S80*, 9 September 2014, p 2)

Bail Amendment Act 2015 (Act No. 2, 2015)

Assent date 25 March 2015
 Commenced 15 April 2015 (*Gaz G15*, 15 April 2015, p 6)

Bail Amendment Act (No. 2) 2015 (Act No. 33, 2015)

Assent date 10 December 2015
Commenced 20 January 2016 (*Gaz G3*, 20 January 2016, p 2)

Local Court (Repeals and Related Amendments) Act 2016 (Act No. 9, 2016)

Assent date 6 April 2016
Commenced 1 May 2016 (*Gaz S34*, 29 April 2016)

Statute Law Revision Act 2017 (Act No. 4, 2017)

Assent date 10 March 2017
Commenced 12 April 2017 (*Gaz G15*, 12 April 2017, p 3)

Bail Amendment Act 2017 (Act No. 5, 2017)

Assent date 17 March 2017
Commenced 20 March 2017 (*Gaz S11*, 20 March 2017)

Parole Amendment Act 2017 (Act No. 17, 2017)

Assent date 30 August 2017
Commenced 13 September 2017 (*Gaz G37*, 13 September 2017, p 6)

Supreme Court Amendment (Associate Judges) Act 2017 (Act No. 18, 2017)

Assent date 5 September 2017
Commenced 22 November 2017 (*Gaz S84*, 21 November 2017, p 1)

Youth Justice Legislation Amendment Act 2017 (Act No. 19, 2017)

Assent date 30 October 2017
Commenced 5 January 2018 (*Gaz G51*, 20 December 2017, p 4)

Youth Justice and Related Legislation Amendment Act 2019 (Act No. 32, 2019)

Assent date 9 October 2019
Commenced 2 March 2020 (*Gaz G5*, 5 February 2020, p 2)

Evidence and Other Legislation Amendment Act 2020 (Act No. 3, 2020)

Assent date 9 March 2020
Commenced 29 July 2020 (*Gaz G28*, 15 July 2020, p 1)

Justice Legislation Amendment (Domestic and Family Violence) Act 2020 (Act No. 18, 2020)

Assent date 1 July 2020
Commenced 29 July 2020 (*Gaz G29*, 22 July 2020, p 1)

Youth Justice Legislation Amendment Act 2021 (Act No. 9, 2021)

Assent date 14 May 2021
Commenced 15 May 2021 (s 2)

Bail Amendment Act 2023 (Act No. 5, 2023)

Assent date 31 March 2023
Commenced 1 April 2023 (s 2)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 3, 6, 7A, 16, 20, 24, 27B, 37D, 40, 51 and 52.

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| pt I hdg | amd No. 24, 2011, s 10; No. 30, 2011, s 3 |
| s 3 | amd No. 33, 1990, s 9; No. 74, 1993, s 4; No. 10, 1994, s 4; No. 17, 1996, s 6; No. 9, 1998, s 4; No. 92, 1998, s 4; No. 19, 2000, s 3; No. 34, 2005, s 3; No. 33, 2005, s 5; No. 36, 2006, s 9; No. 23, 2007, s 4; No. 2, 2008, s 4; No.8, 2011, s 4; No. 24, 2011, s 10; No. 25, 2011, s 4; No. 30, 2011, s 3; No. 24, 2011, s 4; No. 2, 2013, s 4; No. 27, 2014, s 57; No. 2, 2015, s 4; No. 33, 2015, s 4; No. 9, 2016, s 46; No. 5, 2017, s 4; No. 17, 2017, s 15; No. 19, 2017, s 17; No. 32, 2019, s 4; No. 9, 2021, s 4 |
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| s 3B | ins No. 32, 2019, s 5 |
| s 4 | amd No. 17, 2000, s 6; No. 30, 2011, s 3; No. 19, 2017, s 18; No. 32, 2019, s 6 |
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| | amd No. 9, 2021, s 5 |
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| | amd No. 32, 1996, s 3; No. 34, 2005, s 4; No. 44, 2005, s 24; No. 23, 2007, s 6; No. 31, 2008, s 4; No. 25, 2011, s 21; No. 30, 2011, s 3; No. 32, 2009, s 88; No. 2, 2015, s 7; No. 32, 2019, s 7; No. 18, 2020, s 4; No. 9, 2021, s 6; No. 5, 2023, s 4 |
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| s 8 | amd No. 10, 1994, s 6; No. 14, 1995, s 12; No. 17, 1996, s 6; No. 34, 2005, s 5; No. 34, 2007, s 146; No. 30, 2011, s 3; No. 32, 2011, s 4; No. 3, 2013, s 6; No. 2, 2015, s 8; No. 32, 2019, s 8 |
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| s 14 | amd No. 30, 2011, s 3; No. 4, 2017, s 34 |
| s 15 | amd No. 58, 1983, s 3; No. 59, 1983, s 5; No. 3, 2001, s 2; No. 30, 2011, s 3; No. 27, 2014, s 57; No. 9, 2016, s 49 |
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| | amd No. 14, 1995, s 12; No. 30, 2011, s 3 |
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| s 25 | amd No. 29, 1990, s 7; No. 30, 2011, s 3 |
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| s 27 | amd No. 74, 1993, s 5; No. 9, 1998, s 8; No. 36, 2006, s 10; No. 4, 2007, s 7; No. 23, 2007, s 8; No. 12, 2010, s 3; No. 30, 2011, s 3; No. 24, 2011, s 5 |
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| s 71 | ins No. 5, 2023, s 5 |