

## Version No. 112

## Bail Act 1977

### No. 9008 of 1977

Version incorporating amendments as at  
1 September 2014

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**Version No. 112**

**Bail Act 1977**

**No. 9008 of 1977**

Version incorporating amendments as at  
1 September 2014

An Act to make better Provision relating to Bail and to amend the **Children's Court Act 1973**, the **Coroners Act 1958**, the **Crimes Act 1958**, the **Crown Proceedings Act 1958**, the **Summary Offences Act 1966**, the **Magistrates (Summary Proceedings) Act 1975**, and the **Rape Offences (Proceedings) Act 1976**.

**BE IT ENACTED** by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

**PART 1—PRELIMINARY**

Pt 1 (Heading)  
inserted by  
No. 70/2010  
s. 3.

**1 Short title and commencement**

- (1) This Act may be cited as the **Bail Act 1977**.
- (2) The several provisions of this Act shall come into operation on a day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the Government Gazette.

**2 Repeals and savings**

- (1) The Acts mentioned in the Schedule to the extent thereby expressed to be repealed or amended are hereby repealed or amended accordingly.

- 
- (2) Except as in this Act expressly or by necessary implication provided—
- (a) all persons things and circumstances appointed existing or continuing under any such Acts immediately before the commencement of this Act, shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Acts had not been so repealed or amended;
  - (b) in particular and without affecting the generality of the foregoing paragraph, such repeal or amendment shall not disturb the continuity of status operation or effect of any application determination order warrant recognizance affidavit declaration certificate liability or right made effected issued granted given entered into fixed accrued incurred or acquired or existing or continuing by or under such Acts before the commencement of this Act.

### 3 Definitions

In this Act unless inconsistent with the context or subject-matter—

*Aboriginal person* means a person who—

- (a) is descended from an Aborigine or Torres Strait Islander; and
- (b) identifies as an Aborigine or Torres Strait Islander; and
- (c) is accepted as an Aborigine or Torres Strait Islander by an Aboriginal or Torres Strait Island community;

S. 3 def. of  
*Aboriginal  
person*  
inserted by  
No. 70/2010  
s. 4(1).

\* \* \* \* \*

S. 3 def. of *bail justice* inserted by No. 51/1989 s. 142(a), substituted by No. 35/2002 s. 25(1), amended by No. 70/2010 s. 4(2), repealed by No. 32/2014 s. 56.

*bail support service* means a service provided to assist an accused to comply with his or her bail undertaking (whether or not that type of service is also provided to persons other than an accused on bail) including, but not limited to—

S. 3 def. of *bail support service* inserted by No. 44/2013 s. 3.

- (a) bail support programs;
- (b) medical treatment;
- (c) counselling services or treatment services for substance abuse or other behaviour which may lead to commission of offences;
- (d) counselling, treatment, support or assistance services for one or more of the following—
  - (i) a mental illness;
  - (ii) an intellectual disability;
  - (iii) an acquired brain injury;
  - (iv) autism spectrum disorder;
  - (v) a neurological impairment, including, but not limited to, dementia;
- (e) services to help resolve homelessness;

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s. 3

S. 3 def. of  
*cocaine*  
inserted by  
No. 89/1986  
s. 4(a),  
repealed by  
No. 64/1998  
s. 4.

\* \* \* \* \*

S. 3 def. of  
*conduct  
condition*  
inserted by  
No. 44/2013  
s. 3.

*conduct condition* means a condition of bail  
imposed under section 5(2A);

S. 3 def. of  
*court*  
amended by  
Nos 19/1989  
s. 16(Sch.  
item 7.1),  
51/1989  
s. 142(b),  
37/2014  
s. 10(Sch.  
item 8.1(b)).

*court* means court or judge and, in any  
circumstances where a police officer or other  
person is empowered under the provisions of  
this Act to grant bail, includes that member  
or person;

S. 3 def. of  
*drug of  
dependence*  
inserted by  
No. 89/1986  
s. 4(b).

*drug of dependence* has the same meaning as in  
the **Drugs, Poisons and Controlled  
Substances Act 1981**;

S. 3 def. of  
*legal  
practitioner*  
inserted by  
No. 18/2005  
s. 18(Sch. 1  
item 9).

*legal practitioner* means an Australian legal  
practitioner within the meaning of the **Legal  
Profession Act 2004**;

S. 3 def. of  
*heroin*  
inserted by  
No. 89/1986  
s. 4(b),  
repealed by  
No. 64/1998  
s. 4.

\* \* \* \* \*

S. 3 def. of  
*police officer*  
inserted by  
No. 37/2014  
s. 10(Sch.  
item 8.1(a)).

*police officer* has the same meaning as in the  
**Victoria Police Act 2013**;

*prison* includes remand centre or youth justice centre under the **Children, Youth and Families Act 2005** and any other place where persons may be detained in legal custody and *imprisonment* has a corresponding interpretation;

S. 3 def. of *prison* amended by Nos 10087 s. 3(1)(Sch. 1 item 4), 16/1987 s. 4(3)(Sch. 1 item 3), 56/1989 s. 286(Sch. 2 item 2.1), 48/2006 s. 42(Sch. item 4.1).

*undertaking* means undertaking in writing signed by an accused or an accused and his surety or sureties that the accused will attend upon an adjourned hearing or upon his trial or for sentence and surrender himself into custody.

S. 3 def. of *undertaking* amended by No. 68/2009 s. 97(Sch. items 11.1, 11.2).

### 3A Determination in relation to an Aboriginal person

S. 3A inserted by No. 70/2010 s. 5.

In making a determination under this Act in relation to an Aboriginal person, a court must take into account (in addition to any other requirements of this Act) any issues that arise due to the person's Aboriginality, including—

- (a) the person's cultural background, including the person's ties to extended family or place; and
- (b) any other relevant cultural issue or obligation.

#### Note

When considering bail for an Aboriginal person charged with a Commonwealth offence, a court must have regard to section 15AB(1)(b) of the Crimes Act 1914 of the Commonwealth.

s. 4

Pt 2 (Heading)  
inserted by  
No. 70/2010  
s. 6.

**PART 2—GRANTING OF BAIL AND ADMISSION TO BAIL**

**4 Accused held in custody entitled to bail**

(1) Any person accused of an offence and being held in custody in relation to that offence shall be granted bail—

S. 4(1)(a)  
amended by  
No. 51/1989  
s. 142(c).

- (a) if it is not practicable to bring him before a bail justice or the Magistrates' Court within 24 hours after he is taken into custody;
- (b) during any postponement of the hearing of a charge for the offence or whilst he is awaiting trial; or

S. 4(1)(c)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

- (c) where his case is adjourned by a court for inquiries or a report or whilst he is awaiting sentence except where the court is satisfied that it would not be desirable in the public interest to release the accused pending completion of the inquiries or receipt of the report or pending sentence.

(2) Notwithstanding the generality of the provisions of subsection (1) a court shall refuse bail—

S. 4(2)(a)  
substituted by  
No. 10084  
s. 18(1)(a).

- (a) in the case of a person charged with treason or murder except in accordance with section 13;

S. 4(2)(aa)  
inserted by  
No. 89/1986  
s. 4(c),  
amended by  
No. 48/1997  
s. 48(b).

- (aa) in the case of a person charged with—



- 
- (i) an offence under section 71, 71AA, 72 or 72A of the **Drugs, Poisons and Controlled Substances Act 1981** or an offence of conspiring to commit any of those offences under section 79(1) of that Act; or
- (ia) an offence of trafficking in relation to a commercial quantity of a drug of dependence under section 71 of the **Drugs, Poisons and Controlled Substances Act 1981** as in force immediately before the commencement of the **Drugs, Poisons and Controlled Substances (Amendment) Act 2001** or an offence of cultivating a narcotic plant under section 72 of that Act in circumstances where the offence is committed in relation to a quantity of a drug of dependence that is not less than the commercial quantity applicable to that narcotic plant or an offence of conspiring to commit either of those offences under section 79(1) of that Act; or
- (ii) an offence under section 231(1), 233A or 233B(1) of the Customs Act 1901 of the Commonwealth as in force immediately before the commencement of the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005 of the Commonwealth in circumstances where the offence is committed in relation to narcotic goods within the meaning of that Act in respect of a quantity that is not less than the commercial quantity (as defined in section 70(1) of the **Drugs, Poisons and Controlled**
- S. 4(2)(aa)(i) amended by No. 48/1997 s. 48(a)(i)(ii), substituted by No. 61/2001 s. 13(1).
- S. 4(2)(aa)(ia) inserted by No. 35/2002 s. 28(Sch. item 1.1).
- S. 4(2)(aa)(ii) substituted by No. 64/1998 s. 5, amended by No. 93/2005 s. 13(1)(a)(b).

s. 4

**Substances Act 1981**) applicable to the drug of dependence constituted by those narcotic goods; or

New s. 4(2)  
(aa)(iii)  
inserted by  
No. 93/2005  
s. 13(2).

- (iii) an offence under section 307.1, 307.2, 307.5, 307.6, 307.8 or 307.9 of the Criminal Code of the Commonwealth in circumstances where the offence is committed in relation to a substance in respect of a quantity that is not less than the commercial quantity (as defined in section 70(1) of the **Drugs, Poisons and Controlled Substances Act 1981**) applicable to the drug of dependence as defined in that Act constituted by that substance—

S. 4(2)(aa)  
(iii)–(v)  
repealed by  
No. 48/1997  
s. 48(b).

\* \* \* \* \*

unless the court is satisfied that exceptional circumstances exist which justify the grant of bail;

S. 4(2)(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1),  
repealed by  
No. 70/2010  
s. 7(1).

\* \* \* \* \*

S. 4(2)(c)  
repealed by  
No. 20/2004  
s. 10.

\* \* \* \* \*

(d) if the court is satisfied—

S. 4(2)(d)(i)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

- (i) that there is an unacceptable risk that the accused if released on bail would—  
  
fail to surrender himself into custody in answer to his bail;

commit an offence whilst on bail;  
endanger the safety or welfare of  
members of the public; or  
interfere with witnesses or otherwise  
obstruct the course of justice whether in  
relation to himself or any other person;

\* \* \* \* \*

S. 4(2)(d)(ii)  
amended by  
No. 10087  
s. 3(1)(Sch. 1  
item 4),  
repealed by  
No. 16/1987  
s. 12(Sch. 2  
item 3(a)).<sup>1</sup>

(iii) that it has not been practicable to obtain  
sufficient information for the purpose  
of deciding any question referred to in  
this subsection for want of time since  
the institution of the proceedings  
against him.

(2A) A court is not required to refuse bail in the case of  
an accused who is serving a sentence of  
imprisonment for some other cause but any bail  
granted must be subject to the condition that the  
person will not be released on bail before he or  
she is entitled to be released under a parole order  
made, or which may be made, in respect of him or  
her;

S. 4(2A)  
inserted by  
No. 57/1989  
s. 4(1)(a),  
amended by  
Nos 68/2009  
s. 97(Sch.  
item 11.1),  
70/2010  
s. 7(2).

(3) In assessing in relation to any event mentioned in  
subsection (2)(d)(i) whether the circumstances  
constitute an unacceptable risk the court shall  
have regard to all matters appearing to be relevant  
and in particular, without in any way limiting the  
generality of the foregoing, to such of the  
following considerations as appear to be relevant,  
that is to say—

(a) the nature and seriousness of the offence;

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s. 4

- 
- S. 4(3)(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).
- (b) the character, antecedents, associations,  
home environment and background of the  
accused;
- S. 4(3)(c)  
amended by  
Nos 84/1997  
s. 4(a),  
68/2009  
s. 97(Sch.  
item 11.1).
- (c) the history of any previous grants of bail to  
the accused;
- S. 4(3)(d)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).
- (d) the strength of the evidence against the  
accused;
- S. 4(3)(e)  
inserted by  
No. 84/1997  
s. 4(b),  
amended by  
No. 70/2010  
s. 7(3)(a).
- (e) the attitude, if expressed to the court, of the  
alleged victim of the offence to the grant of  
bail;
- S. 4(3)(f)  
inserted by  
No. 70/2010  
s. 7(3)(b).
- (f) any conditions that may be imposed to  
address the circumstances which may  
constitute an unacceptable risk.
- S. 4(4)  
amended by  
Nos 9158 s. 2,  
68/2009  
s. 97(Sch.  
item 11.1).
- (4) Where the accused is charged—
- (a) with an indictable offence that is alleged to  
have been committed while he was at large  
awaiting trial for another indictable offence;
- (b) with an offence against section 21A(1) of the  
**Crimes Act 1958** (stalking) and—
- S. 4(4)(b)  
repealed by  
No. 57/1989  
s. 4(1)(b),  
new s. 4(4)(b)  
inserted by  
No. 95/1994  
s. 7.
- (i) the accused has within the preceding  
10 years been convicted or found guilty  
of an offence against that section in  
relation to any person or an offence in
- S. 4(4)(b)(i)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).
-

the course of committing which he or she used or threatened to use violence against any person; or

- (ii) the court is satisfied that the accused on a separate occasion used or threatened to use violence against the person whom he or she is alleged to have stalked, whether or not the accused has been convicted or found guilty of, or charged with, an offence in connection with that use or threatened use of violence; or
- (ba) with an offence against section 37, 37A, 123, 123A or 125A of the **Family Violence Protection Act 2008** of contravening a family violence intervention order or family violence safety notice (as the case requires) in the course of committing which the accused is alleged to have used or threatened to use violence and—
- (i) the accused has within the preceding 10 years been convicted or found guilty of an offence in the course of committing which he or she used or threatened to use violence against any person; or
- (ii) the court is satisfied that the accused on a separate occasion used or threatened to use violence against the person who is the subject of the order, whether or not the accused has been convicted or found guilty of, or charged with, an offence in connection with that use or threatened use of violence; or

S. 4(4)(b)(ii) amended by No. 68/2009 s. 97(Sch. item 11.1).

S. 4(4)(ba) inserted by No. 95/1994 s. 7, amended by Nos 52/2008 s. 233, 68/2009 s. 97(Sch. item 11.1), 83/2012 s. 31(1).

S. 4(4)(ba)(i) amended by No. 68/2009 s. 97(Sch. item 11.1).

S. 4(4)(ba)(ii) amended by No. 68/2009 s. 97(Sch. item 11.1).

s. 4

S. 4(4)(bb)  
inserted by  
No. 68/2008  
s. 63,  
amended by  
Nos 68/2009  
s. 97(Sch.  
item 11.1),  
53/2010  
s. 221(Sch.  
item 1).

(bb) with an offence against section 100 of the **Personal Safety Intervention Orders Act 2010** of contravening an order in the course of committing which the accused is alleged to have used or threatened to use violence and—

S. 4(4)(bb)(i)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

(i) the accused has within the preceding 10 years been convicted or found guilty of an offence in the course of committing which he or she used or threatened to use violence against any person; or

S. 4(4)(bb)(ii)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

(ii) the court is satisfied that the accused on a separate occasion used or threatened to use violence against the person who is the subject of the order, whether or not the accused has been convicted or found guilty of, or charged with, an offence in connection with that use or threatened use of violence; or

S. 4(4)(c)  
amended by  
Nos 9690  
s. 2(a),  
68/2009  
s. 97(Sch.  
item 11.1).

(c) with an offence of aggravated burglary under section 77 of the **Crimes Act 1958** or any other indictable offence in the course of committing which the accused or any person acting in concert with the accused is alleged to have used or threatened to use a firearm, offensive weapon, or explosive within the meaning of the said section 77; or

S. 4(4)(caa)  
inserted by  
No. 10/2003  
s. 10.

(caa) with an offence of arson causing death under section 197A of the **Crimes Act 1958**; or

- (ca) with an offence under section 71AB, 71AC or 72B of the **Drugs, Poisons and Controlled Substances Act 1981** or an offence of conspiring to commit any of those offences under section 79(1) of that Act; **S. 4(4)(ca)** inserted by No. 9690 s. 2(b), substituted by No. 10002 s. 8(3), amended by No. 89/1986 s. 4(d)(i)(ii), substituted by No. 61/2001 s. 13(2).
- (cab) subject to subsection (2)(aa), with an offence of trafficking in a drug of dependence under section 71 of the **Drugs, Poisons and Controlled Substances Act 1981** as in force immediately before the commencement of the **Drugs, Poisons and Controlled Substances (Amendment) Act 2001** or an offence of cultivating a narcotic plant under section 72 of that Act or an offence of conspiring to commit either of those offences under section 79(1) of that Act; **S. 4(4)(cab)** inserted by No. 35/2002 s. 28(Sch. item 1.2).
- (cb) subject to subsection (2)(aa), with an offence under section 231(1), 233A or 233B(1) of the Customs Act 1901 of the Commonwealth, as in force immediately before the commencement of the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005 of the Commonwealth, in relation to a commercial or trafficable quantity of narcotic goods within the meaning of that Act; or **S. 4(4)(cb)** inserted by No. 89/1986 s. 4(e), amended by No. 93/2005 s. 13(3).
- (cc) subject to subsection (2)(aa), with an offence under section 307.1, 307.2, 307.5, 307.6, 307.8 or 307.9 of the Criminal Code of the Commonwealth; or **S. 4(4)(cc)** inserted by No. 93/2005 s. 13(4).

(d) with an offence against this Act—

the court shall refuse bail unless the accused shows cause why his detention in custody is not justified and in any such case where the court grants bail the court—

(i) if constituted by a judge or magistrate, shall include in the order a statement of reasons for making the order; or

(ii) in any other case, shall, as prescribed by regulations, record and transmit a statement of reasons for making the order.

(5) In granting bail a court may impose conditions in accordance with section 5.

S. 4(4)(d)(i) amended by Nos 16/1986 s. 30, 19/1989 s. 16(Sch. item 7.2), 51/1989 s. 142(d).

## 5 Conditions of bail

(1) A court considering the release of an accused on bail must impose a condition that the accused will surrender into custody at the time and place of the hearing or trial and then will not depart without leave of the court and, if leave is given, will return at the time specified by the court and again surrender into custody.

(2) A court considering the release of an accused on bail must consider the conditions for release in the following order—

(a) release of the accused on his or her own undertaking without any other condition;

(b) release of the accused on his or her own undertaking with conditions about the conduct of the accused;

S. 5 amended by Nos 10087 s. 3(1)(Sch. 1 item 4), 16/1987 s. 12(Sch. 2 item 3(b))<sup>2</sup>, 23/1994 s. 118(Sch. 1 item 4.1(a)(b)), 97/2005 s. 182(Sch. 4 item 4), 68/2009 s. 97(Sch. items 11.1, 11.3, 11.4), 13/2010 s. 51(Sch. item 7), substituted by No. 70/2010 s. 8.



(c) release of the accused with a surety of stated value or a deposit of money of stated amount, with or without conditions about the conduct of the accused.

(2A) Without limiting subsection (2), a court may impose all or any of the following conditions about the conduct of an accused—

S. 5(2A)  
inserted by  
No. 44/2013  
s. 4.

- (a) reporting to a police station;
- (b) residing at a particular address;
- (c) subject to subsection (2B), a curfew imposing times at which the accused must be at his or her place of residence;
- (d) that the accused is not to contact specified persons or classes of person;

**Example**

Witnesses, alleged victims or co-accused.

- (e) surrender of the accused's passport;
- (f) geographical exclusion zones, being places or areas the accused must not visit or may only visit at specified times;

**Example**

Not attending a gaming venue, a venue that sells alcohol or a point of international departure.

- (g) attendance and participation in a bail support service;
- (h) that the accused not drive a motor vehicle or carry passengers when driving a motor vehicle;
- (i) that the accused not consume alcohol or use a drug of dependence within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981** without lawful authorisation under that Act;

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S. 5(2B)  
inserted by  
No. 44/2013  
s. 4.

- (j) that the accused comply with any existing intervention orders;
  - (k) any other condition that the court considers appropriate to impose in relation to the conduct of the accused.
- (2B) If a court imposes a curfew on an accused as a conduct condition, the period of curfew imposed must not exceed 12 hours within a 24 hour period.
- (3) A court considering the release of an accused on bail may only impose a condition in order to reduce the likelihood that the accused may—
- (a) fail to attend in accordance with his or her bail and surrender into custody at the time and place of the hearing or trial; or
  - (b) commit an offence while on bail; or
  - (c) endanger the safety or welfare of members of the public; or
  - (d) interfere with witnesses or otherwise obstruct the course of justice in any matter before the court.
- (4) If a court imposes one or more conditions, each condition and the number of conditions—
- (a) must be no more onerous than is required to achieve the purposes of subsection (3); and
  - (b) must be reasonable, having regard to the nature of the alleged offence and the circumstances of the accused.
- (5) If a court is considering imposing a condition that requires a deposit of money of stated amount, the court must have regard to the means of the accused in determining—
- (a) whether to impose the condition; and
  - (b) the amount of money to be deposited.

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- (6) If a court is satisfied under subsection (5) that the accused does not have sufficient means to satisfy a condition requiring a deposit of money of stated amount, the court must consider whether any other condition would achieve the purposes of subsection (3).
  - (7) If a court is considering imposing a condition that requires a surety of stated value, the court must have regard to the means of a proposed surety in determining—
    - (a) whether to impose the condition; and
    - (b) the value of the surety.
  - (8) If a court is satisfied under subsection (7) that the accused is unable to provide a surety with sufficient means, the court must consider whether any other condition would achieve the purposes of subsection (3).

**Note**

Sections 12 and 21 of the Charter of Human Rights and Responsibilities set out a right of freedom of movement and a right to liberty and security of the person.

Sections 23 and 25 of the Charter of Human Rights and Responsibilities set out the rights of children in the criminal process and the rights of an adult in criminal proceedings.

Section 7(2) of the Charter of Human Rights and Responsibilities sets out how a human right may be limited after taking into account all relevant factors, including any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

s. 5A

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## 5A Power to return accused to youth justice centre

S. 5A  
(Heading)  
amended by  
Nos 48/2006  
s. 42(Sch.  
item 4.2),  
68/2009  
s. 97(Sch.  
item 11.5).

S. 5A  
inserted by  
No. 21/2005  
s. 60.

S. 5A(1)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.6).

S. 5A(1)(a)  
amended by  
Nos 48/2006  
s. 42(Sch.  
item 4.3),  
68/2009  
s. 97(Sch.  
item 11.6).

S. 5A(1)(c)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.6).

S. 5A(1)(d)(i)  
amended by  
Nos 68/2009  
s. 97(Sch.  
item 11.6),  
70/2010 s. 9.

(1) Despite anything in this Act, if—

- (a) the accused in a criminal proceeding in the Supreme Court or the County Court is a person undergoing a sentence of detention in a youth justice centre; and
- (b) the Supreme Court or the County Court, as the case may be, adjourns the proceeding—  
the Supreme Court or the County Court may, instead of remanding the accused in custody—
- (c) direct that the accused be returned to the custody of the Secretary to the Department of Human Services until the end of the sentence of detention or the resumption of the hearing, whichever is the sooner; and
- (d) either—
  - (i) grant the accused bail on a condition that bail is not to be entered until the end of the sentence of detention; or

(ii) refuse bail and direct that the accused be brought before the Supreme Court or the County Court, as the case may be, at a later date for it to consider the granting of bail.

S. 5A(1)(d)(ii)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.6).

(2) In this section, *the end of the sentence of detention* means the time when the accused is released from custody, whether on parole or otherwise.

S. 5A(2)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.6).

**Note**

See also section 333 of the **Criminal Procedure Act 2009**.

Note to s. 5A  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.7).

**6 Person bailed to surrender himself into custody**

An accused who is granted bail is under a duty to attend in accordance with his bail and surrender himself into custody.

S. 6  
amended by  
No. 68/2009  
s. 97(Sch.  
items 11.1,  
11.8).

**7 Opposing bail**

(1) Where the informant or prosecutor or any person appearing on behalf of the Crown intends to oppose the grant of bail to any person he shall so state to the court and the court may, before or at any time during the course of the application for bail, make an order directing that the evidence taken, the information given, and the representations made and the reasons (if any) given or to be given by the court shall not be published by any means—

(a) if a committal proceeding is held—before the accused in respect of whom the application is made is discharged; or

S. 7(1)(a)  
amended by  
No. 68/2009  
s. 97(Sch.  
items 11.1,  
11.9).

(b) if the accused in respect of whom the application is made is tried or committed for trial—before the trial is ended.

S. 7(1)(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

s. 8

S. 7(2)  
amended by  
No. 9554  
s. 2(2)(Sch. 2  
item 18).

- (2) Any person who fails without lawful excuse, the proof of which lies upon him, to comply with an order made under subsection (1) shall be guilty of an offence against this Act.

Penalty: 15 penalty units or imprisonment for three months.

S. 8  
amended by  
No. 69/2009  
s. 54(Sch. Pt 1  
item 4) (ILA  
s. 39B(1)).

## 8 Application for bail

- (1) In any proceedings with respect to bail—
- (a) the court may, subject to paragraph (b), make such inquiries on oath or otherwise of and concerning the accused as the court considers desirable;
  - (b) the accused shall not be examined or cross-examined by the court or any other person as to the offence with which he is charged and no inquiry shall be made of him as to that offence;
  - (c) the informant or prosecutor or any person appearing on behalf of the Crown may, in addition to any other relevant evidence, submit evidence, whether by affidavit or otherwise—
    - (i) to prove that the accused has previously been convicted of a criminal offence;
    - (ii) to prove that the accused has been charged with and is awaiting trial on another criminal offence;
    - (iii) to prove that the accused has previously failed to surrender himself into custody in answer to bail; or
    - (iv) to show the circumstances of the alleged offence, particularly as they relate to the probability of conviction of the accused;

S. 8(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

(d) the court may take into consideration any relevant matters agreed upon by the informant or prosecutor and the accused or his or her legal practitioner; and

S. 8(d)  
amended by  
No. 35/1996  
s. 453(Sch. 1  
item 8.1).

(e) the court may receive and take into account any evidence which it considers credible or trustworthy in the circumstances.

(2) Nothing in subsection (1)(a) prevents the application of Part 3.10 of the **Evidence Act 2008**.

S. 8(2)  
inserted by  
No. 69/2009  
s. 54(Sch. Pt 1  
item 4).

## 9 Surety for bail

(1) Every surety to an undertaking of bail shall be a person who has attained the age of eighteen years who is not under any disability in law and is worth not less than the amount of the bail in real or personal property or both.

S. 9(1)  
amended by  
No. 9075  
s. 5(2).

(2) Where an accused is required to provide a surety or sureties regard may be had in considering the suitability of a proposed surety to the following in addition to any other relevant matters—

S. 9(2)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

(a) the surety's financial resources;

(b) his character and any previous convictions;  
and

(c) his proximity (whether in point of kinship place of residence or otherwise) to the person for whom he is to be surety.

(2A) If an objection to a proposed surety is raised, the suitability of the proposed surety is to be determined by a magistrate or judge.

S. 9(2A)  
inserted by  
No. 70/2010  
s. 10(1).

s. 9

S. 9(3)  
substituted by  
No. 9158  
s. 3(a),  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

(3) Before admitting an accused to bail with a surety or sureties the court or other person authorized by section 27 shall—

(a) be satisfied of the sufficiency of the means of the surety or sureties and for this purpose may require the surety or sureties (as the case may be) to—

(i) lodge in cash the amount of the bail; or

(ii) lodge a document that is evidence of the ownership and the value of property or any other asset to the amount of the bail; and

**Note**

Examples of documents that may be required are a copy of a certificate of title for the property or a search of the title of the land, a current rate notice that includes a valuation of the property, an independent valuation of the property or a bank statement of a mortgage account in relation to the property.

S. 9(3)(a)(ii)  
amended by  
Nos 51/1989  
s. 142(e),  
11/2001  
s. 3(Sch.  
item 5),  
substituted by  
No. 70/2010  
s. 10(2).

(b) require the surety or sureties to make before it or him (as the case may be) an affidavit of justification for bail; and

S. 9(3)(b)  
amended by  
No. 84/1997  
s. 5(1),  
substituted by  
No. 70/2010  
s. 10(3).

(c) require the surety or sureties to sign the undertaking of bail.

S. 9(3)(c)  
inserted by  
No. 70/2010  
s. 10(3).

(3A) For the purposes of this section—

(a) a surety may appear before a court within the meaning of section 3(1) of the **Evidence (Miscellaneous Provisions) Act 1958** by audio visual link or audio link in accordance with Part IIA of that Act; or

S. 9(3A)  
inserted by  
No. 84/1997  
s. 5(2),  
amended by  
No. 69/2009  
s. 54(Sch. Pt 2  
item 6),  
substituted by  
No. 70/2010  
s. 10(4).



- (b) a surety may give information to any other person authorised by section 27 by audio visual link or audio link within the meaning of section 42C of that Act.
- (3B) If an audio visual link or an audio link is used as provided in subsection (3A)—
- (a) the undertaking of bail may be constituted by—
- (i) the undertaking signed by the accused; and
- (ii) a copy of the undertaking signed by the accused which is transmitted to the surety by any means and signed by the surety; and
- (iii) a copy of the document referred to in subparagraph (ii) which is transmitted back to the court or other person authorised by section 27 who is admitting the accused to bail;
- (b) the affidavit of justification for bail may be constituted by—
- (i) the affidavit of the surety sworn before any person authorised by Part IV of the **Evidence (Miscellaneous Provisions) Act 1958** to take affidavits; and
- (ii) a copy of that sworn affidavit which is transmitted to the court or other person authorised by section 27 who is admitting the accused to bail.
- (3C) The court or other person authorised by section 27 may act on a copy of a document which is transmitted in accordance with subsection (3B).

S. 9(3B)  
inserted by  
No. 84/1997  
s. 5(2),  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1),  
substituted by  
No. 70/2010  
s. 10(4).

S. 9(3C)  
inserted by  
No. 70/2010  
s. 10(4).

**s. 9**

**S. 9(3D)**  
inserted by  
No. 70/2010  
s. 10(4).

(3D) A surety who under subsection (3B)—

- (a) signs a copy of an undertaking of bail; or
- (b) transmits a copy of a sworn affidavit of justification for bail—

without delay must send the signed copy of the undertaking or the original sworn affidavit (as the case may be) to the court or other person authorised by section 27 who admitted the accused to bail.

(4) Where a surety desires so to do he may make a declaration of justification instead of an affidavit of justification.

**S. 9(5)**  
amended by  
No. 9158  
s. 3(b)(i).

(5) A court or other person—

**S. 9(5)(a)**  
amended by  
No. 9158  
s. 3(b)(ii).

- (a) before which or whom an affidavit of justification is made may administer an oath to the deponent and shall ask any questions which are required by any Act or law to be asked in the circumstances or which appear to it or him to be necessary; or

**S. 9(5)(b)**  
amended by  
No. 9158  
s. 3(b)(iii).

- (b) before which or whom a declaration of justification is made may take the declaration and shall ask any questions which are required by any Act or law to be asked in the circumstances or which appear to it or him to be necessary.

**S. 9(6)**  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

(6) Where it appears to a court that a surety for bail has sworn an affidavit of justification or made a declaration of justification which he knew to be false in a material particular the court may declare the bail to be forfeited and issue its warrant for the apprehension of the accused.

- 
- (7) If a surety has lodged a document that is evidence of ownership of property or any other asset under subsection (3), the surety may lodge in cash the amount of the bail and receive the document in return.
- (7A) If a surety lodges cash under subsection (7), the affidavit of justification of bail made by the surety must be endorsed to the effect that the type of security has been changed.
- (8) Where a surety has pursuant to this section lodged in cash the amount of the bail the court or person with whom the cash is lodged shall issue a receipt for the money.
- 10 Where impracticable to bring person arrested before court**
- (1) Where a person is arrested and it is not practicable to bring him before a court forthwith after he is taken into custody a police officer of or above the rank of sergeant or for the time being in charge of a police station—
- (a) shall inquire into the case; and
- (b) may, and if it is not practicable to bring the person arrested before a court within 24 hours after he is taken into custody, shall, unless the provisions of this Act otherwise require, discharge the person on bail in accordance with the Act.
- (1A) If a person is arrested under the **Infringements Act 2006** by the sheriff or a person authorised under section 84(5) of that Act and it is not practicable to bring the person before a court forthwith after the person is taken into custody the sheriff or a person authorised under section 84(5) of that Act—
- (a) shall inquire into the case; and
- S. 9(7) inserted by No. 9158 s. 3(c), substituted by No. 70/2010 s. 10(5).
- S. 9(7A) inserted by No. 70/2010 s. 10(5).
- S. 9(8) inserted by No. 9158 s. 3(c).
- No. 6231 s. 460.
- S. 10(1) amended by No. 37/2014 s. 10(Sch. item 8.2(a)).
- S. 10(1A) inserted by No. 32/2006 s. 91(1).

s. 10

(b) may, and if it is not practicable to bring the person arrested before a court within 24 hours after the person is taken into custody, shall, unless the provisions of this Act otherwise require, discharge the person on bail in accordance with this Act.

S. 10(2)  
amended by  
Nos 51/1989  
s. 142(f),  
32/2006  
s. 91(2)(a)–(c),  
37/2014  
s. 10(Sch.  
item 8.2(b)).

(2) Where a police officer refuses to discharge a person from custody under subsection (1) or the sheriff or a person authorised under section 84(5) of the **Infringements Act 2006** refuses to release a person from custody under subsection (1A) or any person held in custody objects to the amount fixed for bail or any condition of bail the police officer, the sheriff or a person authorised under section 84(5) of the **Infringements Act 2006** (as the case requires) shall advise the person in custody that he is entitled, should he so desire, to apply to a bail justice for discharge from custody or for variation of the amount of bail or conditions of bail or shall give to the person a statement in writing setting forth the provisions of this subsection and if the person elects so to apply the police officer, the sheriff or a person authorised under section 84(5) of the **Infringements Act 2006**—

S. 10(2)(a)  
amended by  
No. 51/1989  
s. 142(f).

(a) shall cause the person to be brought before a bail justice as soon as practicable;

S. 10(2)(b)  
amended by  
No. 51/1989  
s. 142(f).

(b) shall cause to be produced before the bail justice the warrant, file or papers referred to in subsection (3); and

S. 10(2)(c)  
amended by  
No. 51/1989  
s. 142(f).

(c) shall abide by the decision of the bail justice in relation to that person.

- (3) A police officer or the sheriff or a person authorised under section 84(5) of the **Infringements Act 2006** (as the case requires) refusing to discharge a person from custody under this section shall endorse on the warrant file or papers relating to that person or in any register or record of persons in custody his reasons for refusing to discharge that person from custody.

S. 10(3)  
amended by  
Nos 32/2006  
s. 91(3),  
37/2014  
s. 10(Sch.  
item 8.2(c)).

### 11 Cash deposit as security for penalty

No. 7405 s. 19.

- (1) Where a person is apprehended for an offence against any of the provisions of sections 13, 14, 16 and 17 of the **Summary Offences Act 1966** a police officer of or above the rank of sergeant or for the time being in charge of a police station shall in addition to any power he may have to release such person on bail have power to release him on his making a deposit of such amount not exceeding \$50 as the police officer thinks reasonable as security for the payment of any penalty that may be imposed as punishment for his offence.
- (2) Upon releasing a person under this section the police officer shall notify him that he is required to appear before a court at a certain time and place and that if he fails to appear accordingly the charge against him may be heard in his absence and that the deposit will be appropriated to the payment or part payment of any fine that may be imposed by the court and that any surplus thereof will be paid into the Consolidated Fund but that if he appears to answer to the charge any surplus will be refunded to him.
- (3) Notwithstanding anything to the contrary in any Act or law, where any person who is released in accordance with the provisions of this section fails to appear at the time and place notified to him the charge against him may be heard and determined

S. 11(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 8.3).

S. 11(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 8.3).

s. 12

in his absence and the deposit lodged by him shall be appropriated to the payment or part payment of any fine that may be imposed by the court and any surplus thereof shall be paid into the Consolidated Fund.

- (4) Where a person who is released in accordance with the provisions of this section appears to answer to the charge against him any surplus shall be refunded to him.
- (5) A statement in the prescribed form purporting to be signed by the police officer who released a person under this section shall be prima facie evidence that the accused was released and notified in accordance with the provisions of subsections (1) and (2).

S. 11(5)  
amended by  
Nos 68/2009  
s. 97(Sch.  
item 11.10),  
37/2014  
s. 10(Sch.  
item 8.3).

No. 8731 s. 24.

## 12 Court or bail justice to grant or refuse bail

- (1) Where a person is apprehended, whether by virtue of a warrant or otherwise, and brought before a court or bail justice and application is made by or on behalf of the informant to remand the person in custody the court or bail justice before which he is first brought shall either grant bail for the attendance of the person on the day to which he is remanded or shall refuse bail and shall certify on the remand warrant—

- (a) where bail is granted—consent to the person being bailed, stating also the amount of any surety or sureties to be required, and any conditions applicable to the release of that person; or
- (b) where bail is refused—a statement of such refusal and of the grounds for refusal.

S. 12(1)(a)  
amended by  
No. 70/2010  
s. 11(1)(d).

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- (1A) If a bail justice refuses bail to a person referred to in subsection (1), the bail justice must remand the person in custody to appear before a court—
- (a) on the next working day; or
  - (b) if the next working day is not practicable, within 2 working days.
- (2) Where a person charged with an indictable offence is committed for trial for the offence the magistrate committing him shall either grant bail for the attendance of the person upon his trial or on a date before trial fixed by the magistrate or shall refuse bail and shall certify on the remand warrant—
- (a) where the magistrate grants bail—his or her consent to the person being bailed, stating also the amount of any surety or sureties to be required, and any conditions applicable to the release of that person; or
  - (b) where the magistrate refuses bail—a statement of such refusal and of the grounds for refusal.
- 13 Court may grant bail**
- (1) Subject to subsection (2), a court may grant bail to an accused, whether or not that person has attained the age of 21 years.
- S. 12(1A) inserted by No. 84/1997 s. 6(2), substituted by No. 70/2010 s. 11(2).
- S. 12(2) amended by Nos 51/1989 s. 142(g)(i), 68/2009 s. 97(Sch. item 11.12), 70/2010 s. 11(3)(a)–(c).
- S. 12(2)(a) amended by Nos 51/1989 s. 142(g)(i)(ii), 70/2010 s. 11(3)(d).
- S. 12(2)(b) amended by Nos 9427 s. 6(1)(Sch. 5 item 7), 51/1989 s. 142(g)(i)(iii).
- No. 8731 s. 24.
- S. 13 amended by No. 9690 s. 3, substituted by No. 10084 s. 18(1)(b).
- S. 13(1) amended by No. 68/2009 s. 97(Sch. item 11.1).

s. 14

- (2) Bail shall not be granted to a person charged with treason or murder unless—
- (a) in the case of a person charged with treason—the Supreme Court or a Judge of the Supreme Court; or
  - (b) in the case of a person charged with murder—
    - (i) the Supreme Court;
    - (ii) a judge of the Supreme Court; or
    - (iii) the magistrate who commits the person for trial for murder—

S. 13(2)(b)(iii)  
amended by  
No. 10257  
s. 77.

is satisfied that exceptional circumstances exist which justify the making of such an order.

S. 14  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

#### 14 Refusal of bail where person seriously injured

Where, in the case of an injury to a person, doubt exists with respect to the degree or quality of the offence by reason of the fact that it is uncertain whether the person injured will die or recover, when application is made for bail by or on behalf of the accused a court may refuse to grant the application until it is satisfied that the person injured will not die from the injury.

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S. 15  
amended by  
Nos 51/1989  
s. 142(h)(i),  
68/2009  
s. 97(Sch.  
items 11.1,  
11.13),  
repealed by  
No. 70/2010  
s. 12.



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**16 Extension of bail**

No. 8731  
ss 26, 27.

(1) Every undertaking may with the consent of any person or persons offering himself or themselves as surety or sureties contain a provision for its extension without any further consent of the surety or sureties upon such postponements or adjournments of the hearing as are from time to time directed, but nothing in this subsection shall prejudice in any way the right of any person offering himself as surety to elect to be bound with respect to an undertaking which may be extended only with his consent given at the time of the extension and no court shall refuse to admit a person to bail on the ground only that a person offering himself as surety has so elected.

(2) Where a hearing is adjourned or postponed the time and place for the commencement of the sitting to which the hearing is adjourned or postponed shall be stated openly by the court, and the court—

S. 16(2)  
amended by  
No. 70/2010  
s. 13.

(a) with the consent of the sureties; or

(b) where the undertaking of bail so provides—  
without the consent of the sureties—

may extend the bail of the person charged, and thereupon the person charged shall be bound to attend at that time and place without entering into a fresh undertaking and the sureties shall be bound accordingly, or the court may make such order as to bail and as to the remand of the person charged in custody until bail is forthcoming as the court thinks fit.

(3) Where a person charged with an offence or apprehended under a warrant is remanded in custody or committed to safe custody during an adjournment or released on bail and a court is satisfied—

S. 16(3)  
amended by  
Nos 20/2004  
s. 11, 68/2009  
s. 97(Sch.  
items 11.1,  
11.14).

**s. 16A**

S. 16(3)(a)  
inserted by  
No. 20/2004  
s. 11,  
amended by  
No. 68/2009  
s. 97(Sch.  
items 11.1,  
11.14(a)).

(a) if the accused is remanded in custody or committed to safe custody, the accused is by reason of illness, accident or other sufficient cause unable to attend personally; or

S. 16(3)(b)  
inserted by  
No. 20/2004  
s. 11,  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

(b) if the accused is released on bail, the accused is not present for sufficient cause—

on the day on which he is required to attend the court may, in the absence of the accused, order him to be further remanded for such time or committed to safe custody for such time as the court thinks fit and may order any undertaking to be extended so as to require the attendance of the accused at every time and place to which the accused is remanded or the hearing is adjourned.

S. 16(4)  
amended by  
No. 51/1989  
s. 142(j).

(4) An endorsement on an undertaking to the effect that it has been extended by a court pursuant to the provisions of this section and stating the time and place at which the person charged is bound to attend and purporting to be signed by the person constituting the court shall be proof until the contrary is shown that the bail was so extended.

S. 16A  
inserted by  
No. 20/2004  
s. 12,  
amended by  
No. 68/2009  
s. 97(Sch.  
items 11.1,  
11.15).

**16A Written notice of extension of bail**

A court extending bail must cause to be given to the accused and the surety or sureties, if any, for the attendance of the accused notice in writing stating that—

(a) bail has been extended by the court in the absence of the accused and the surety; and

(b) the date, time and place at which the accused is bound to attend; and

S. 16A(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

(c) the consequences of failure to attend at that time and place.

### 17 Written notice of conditions of bail

(1) A court admitting an accused to bail shall cause to be given to the accused a notice in writing setting forth the obligations of the accused concerning the conditions of his bail and the consequences of his failure to comply with those conditions and shall be satisfied before releasing the accused that he understands the nature and extent of the conditions of his bail and the consequences of failure to comply with them.

S. 17(1)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

(2) A court admitting an accused to bail with a surety or sureties for his attendance and surrender into custody shall cause to be given to the surety or sureties notice in writing of the obligations of the accused concerning the conditions of his bail and the consequences of his failure to comply with those conditions and shall be satisfied before releasing the accused that the surety or each of the sureties (as the case requires) understands the nature and extent of the obligations of the accused under the conditions of his bail and the consequences of his failure to comply with them.

S. 17(2)  
amended by  
No. 68/2009  
s. 97(Sch.  
items 11.1,  
11.16).

Pt 3 (Heading)  
inserted by  
No. 70/2010  
s. 14.

**PART 3—FURTHER APPLICATION FOR BAIL, VARIATION  
OF BAIL CONDITIONS, REVOCATION OF BAIL**

S. 18  
amended by  
Nos 9158 s. 4,  
16/1986  
s. 30, 51/1989,  
s. 142(k)–(o),  
57/1989  
s. 4(1)(c),  
35/1996  
s. 453(Sch. 1  
item 8.2),  
84/1997  
s. 7, 68/2009  
s. 97(Sch.  
items 11.1,  
11.17),  
substituted by  
No. 70/2010  
s. 15.

**18 Further application for bail where bail refused or  
revoked**

- (1) An accused who has been refused bail and is in custody pending the hearing or trial of a charge may make a further application for bail.
- (2) A person whose bail has been revoked under section 18AE or 24(3) may make a further application for bail.
- (3) Subject to section 144(2)(c) of the **Criminal Procedure Act 2009**, an application under subsection (1) or (2) is to be made—
  - (a) in the case of a person charged with treason or murder, to the Supreme Court or a judge of the Supreme Court;
  - (b) in any other case, to the court to which the person is remanded to appear.
- (4) Without limiting subsection (3), if it is reasonably practicable to do so, an application under this section is to be heard by a court constituted by the same judge or magistrate who heard the previous application for bail.

S. 18(4)  
inserted by  
No. 44/2013  
s. 5.

**18AA Certain circumstances required before application  
may be heard**

S. 18AA  
inserted by  
No. 70/2010  
s. 15.

- (1) A court must not hear an application under section 18 unless—
  - (a) the applicant satisfies the court that new facts or circumstances have arisen since the refusal or revocation of bail; or
  - (b) the applicant was not represented by a legal practitioner when bail was refused or revoked; or

(c) the order refusing or revoking bail was made by a bail justice.

(2) Nothing in this section derogates from the right of a person in custody to apply to the Supreme Court for bail.

**18AB Hearing and determination of further application for bail**

S. 18AB  
inserted by  
No. 70/2010  
s. 15.

An application under section 18 must be conducted as a fresh hearing and determined in accordance with section 4.

**18AC Application for variation of bail conditions**

S. 18AC  
inserted by  
No. 70/2010  
s. 15.

- (1) A person who has been granted bail, whether or not the person is in custody, may apply for variation of the amount of bail or the conditions of bail.
- (2) The informant or the Director of Public Prosecutions may apply for—
  - (a) variation of the amount of bail or the conditions of bail; or
  - (b) the imposition of conditions in respect of bail which has been granted unconditionally.
- (3) An application under subsection (1) or (2) is to be made—
  - (a) in the case of a person charged with treason or murder, to the Supreme Court or a judge of the Supreme Court;
  - (b) in any other case, to the court to which the person is required to surrender under his or her conditions of bail.
- (4) A person may apply for variation of the amount of bail or the conditions of bail if—
  - (a) the person has been granted bail by a bail justice or the Magistrates' Court; and

**s. 18AD**

(b) within 24 hours after the grant of bail, the person is unable to meet the conditions of bail.

(5) An application under subsection (4) is to be made to the bail justice who granted the bail or to the Magistrates' Court.

S. 18AD  
inserted by  
No. 70/2010  
s. 15.

**18AD Determination of application for variation of the amount of bail or bail conditions**

- (1) On an application under section 18AC, the court or bail justice may vary the amount of bail or the conditions of bail if it appears to the court or bail justice that it is reasonable to do so having regard to all the circumstances including, if relevant—
- (a) the nature and seriousness of the offence;
  - (b) the character, antecedents, associations, home environment and background of the accused;
  - (c) the history of any previous grants of bail to the accused;
  - (d) the strength of the evidence against the accused;
  - (e) the attitude, if known, of the alleged victim of the offence to the proposed variation of the amount of bail or the conditions of bail.

**Note**

Section 5 provides for the imposing of conditions of bail.

(2) In any other case, the court or bail justice must dismiss the application under section 18AC.

S. 18AE  
inserted by  
No. 70/2010  
s. 15.

**18AE Application for revocation of bail**

- (1) The informant or the Director of Public Prosecutions may apply for revocation of bail granted to a person.

- (2) An application under subsection (1) is to be made—
- (a) in the case of a person charged with treason or murder, to the Supreme Court or a judge of the Supreme Court;
  - (b) in any other case, to the court to which the person is required to surrender under his or her conditions of bail.

**18AF Determination of application for revocation of bail**

S. 18AF  
inserted by  
No. 70/2010  
s. 15.

On an application under section 18AE, the court may either—

- (a) revoke bail; or
- (b) dismiss the application.

**18AG Appeal against refusal to revoke bail**

S. 18AG  
inserted by  
No. 70/2010  
s. 15.

The Director of Public Prosecutions may appeal to the Supreme Court in the same manner as is provided in section 18A against a refusal to revoke bail if the Director is satisfied that an appeal should be brought in the public interest.

**18AH Preservation of the right of application or appeal to the Supreme Court or County Court**

S. 18AH  
inserted by  
No. 70/2010  
s. 15.

- (1) Nothing in section 18, 18AA, 18AC or 18AE derogates from any other right of application or appeal to the Supreme Court or the County Court.
- (2) Section 18AI applies to an application to the Supreme Court or the County Court made other than under this Act by an accused for an order to vary the amount of bail or a condition of bail.
- (3) Section 18AK applies to the following applications to the Supreme Court or the County Court made other than under this Act by an accused—
  - (a) a further application for bail;

S. 18AH(3)  
inserted by  
No. 44/2013  
s. 6.

s. 18AI

- (b) an application for variation of the amount of bail or the conditions of bail.

S. 18AI  
inserted by  
No. 70/2010  
s. 15.

**18AI Notice of application for variation to be given to sureties**

- (1) If an accused who has been admitted to bail with a surety or sureties applies for variation of the amount of bail or the conditions of bail, the accused must give written notice of the application to each surety.
- (2) Notice under subsection (1) must be—
- (a) in the prescribed form; and
  - (b) given a reasonable time before the hearing of the application; and
  - (c) given personally or by post or by causing the notice to be delivered at the place of residence of the surety shown in the affidavit of justification for bail.

S. 18AJ  
inserted by  
No. 70/2010  
s. 15.

**18AJ Surety entitled to attend on application for variation**

- (1) A surety for a person admitted to bail is entitled to attend and give evidence at the hearing of an application made by that person for variation of the amount of bail or the conditions of bail.
- (2) The court may adjourn the hearing of an application referred to in subsection (1) to enable a surety to attend.

S. 18AK  
inserted by  
No. 44/2013  
s. 7.

**18AK Notice of application to be given to informant and either DPP or prosecutor**

- (1) Subject to subsections (2) and (3), an accused must give notice in the prescribed form of an application under section 18 or an application under section 18AC to—
- (a) the informant; and



- (b) the Director of Public Prosecutions or the prosecutor, as the case requires.
- (2) Notice under subsection (1) must be given at least 3 days before the hearing of the application unless—
- (a) the court is satisfied that—
    - (i) the circumstances of the case justify the application being heard sooner; and
    - (ii) the court will be able to hear and determine the matter adequately despite the limited notice or lack of notice to other parties; or
  - (b) all the parties agree that the period of 3 days be waived.
- (3) Notice under subsection (1) may be dispensed with by the court in the circumstances referred to in subsection (2)(a).
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s. 18A

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**PART 4—APPEALS**

Pt 4 (Heading)  
inserted by  
No. 70/2010  
s. 16.

**18A Appeal by Director of Public Prosecutions against  
insufficiency of bail etc.**

S. 18A  
(Heading)  
inserted by  
No. 70/2010  
s. 17(1).

S. 18A  
inserted by  
No. 9690 s. 4.

S. 18A(1)  
amended by  
Nos 9902  
s. 2(1)(Sch.  
item 2), 10087  
s. 3(1)(Sch. 1  
item 5),  
57/1989  
s. 4(1)(d)(i),  
substituted by  
No. 70/2010  
s. 17(2).

- (1) If a person is granted bail, the Director of Public Prosecutions may appeal to the Supreme Court against the order granting bail if—
  - (a) the Director is satisfied that—
    - (i) the conditions of bail are insufficient;  
or
    - (ii) the decision to grant bail contravenes this Act; and
  - (b) the Director is satisfied that it is in the public interest to do so.

S. 18A(2)  
amended by  
Nos 10084  
s. 18(2),  
57/1989  
s. 4(1)(d)(ii).

- (2) Where the Director of Public Prosecutions desires to appeal to the Court under subsection (1) he shall cause notice of appeal setting forth the grounds thereof to be given to the person granted bail (hereafter in this section called the *respondent*) and to each of the sureties (if any).
- (3) A notice required to be given to a surety under subsection (2) may be given personally or by post or by causing the notice to be delivered at the place of residence of the respondent or surety (as the case requires) shown in the affidavit or declaration of justification for bail.

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- |                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| (4) Notice of appeal shall not be given under subsection (1) more than one month after the bail is granted without first obtaining the leave of the Supreme Court.                                                                                                                                                                                  | S. 18A(4)<br>amended by<br>No. 57/1989<br>s. 4(1)(d)(iii).                                                         |
| (5) The Director of Public Prosecutions or a legal practitioner on his behalf may appear on behalf of Her Majesty on any appeal under this section and any respondent or surety to whom notice is given under subsection (3) may appear by himself or by a legal practitioner on his behalf.                                                        | S. 18A(5)<br>amended by<br>Nos 10084<br>s. 18(2),<br>35/1996<br>s. 453(Sch. 1<br>item 8.3).                        |
| (6) On an appeal under this section, if the Supreme Court thinks that a different order should have been made, the Supreme Court must set aside the order that is the subject of the appeal and, without limiting the powers of the Supreme Court with respect to bail, conduct a fresh hearing in relation to the grant of bail to the respondent. | S. 18A(6)<br>amended by<br>No. 68/2009<br>s. 97(Sch.<br>item 11.18),<br>substituted by<br>No. 70/2010<br>s. 17(3). |
| (7) If the respondent is not present in Court when an order granting bail is revoked or varied under this section the Court shall cause a warrant to be issued for apprehending the respondent and bringing him before the Court.                                                                                                                   | S. 18A(7)<br>amended by<br>No. 57/1989<br>s. 4(1)(d)(iv).                                                          |
| (8) If the Court revokes an order granting the respondent bail the Court shall remand the respondent in custody to await his trial.                                                                                                                                                                                                                 | S. 18A(8)<br>amended by<br>Nos 57/1989<br>s. 4(1)(d)(v),<br>70/2010<br>s. 17(4).                                   |
| (9) If the Court makes an order varying the amount or conditions of bail the Court shall require the respondent to find further or other surety or securities for the attendance of the respondent and may remand him in custody until further or other surety or security is provided.                                                             | S. 18A(9)<br>amended by<br>Nos 68/2009<br>s. 97(Sch.<br>item 11.19),<br>70/2010<br>s. 17(5).                       |
| (10) On the hearing and determination of an appeal under this section no costs shall be allowed on either side.                                                                                                                                                                                                                                     |                                                                                                                    |
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**s. 18A**

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(11) A respondent if he so desires is entitled to be present on the hearing of an appeal under this section notwithstanding that he may be in custody but the Court may make any order under this section where the respondent is for any reason not present.

**S. 18A(12)**  
inserted by  
**No. 70/2010**  
s. 17(6).

(12) The respondent or the Director of Public Prosecutions may appeal to the Court of Appeal from a decision of a single judge of the Supreme Court made under this section.

**Note to s. 18A**  
inserted by  
**No. 70/2010**  
s. 17(6).

**Note**

Sections 18AG and 24(4) also provide for certain appeals.

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**PART 5—MISCELLANEOUS**

Pt 5 (Heading)  
inserted by  
No. 70/2010  
s. 18.

**19 Arrest on another charge not to vacate bail**

No. 8731 s. 35.

(1) Where an accused is on bail to attend before a court his arrest on another charge shall not vacate the undertaking of bail which shall continue to bind him and his sureties (if any) until he is discharged or sentenced in respect of the offence to which the bail relates.

S. 19(1)  
amended by  
No. 68/2009  
s. 97(Sch.  
items 11.1,  
11.20).

(2) Notwithstanding anything to the contrary in subsection (1) where a person arrested on another charge is on bail to attend before a court the court may remand him in custody or may require him to furnish new or additional sureties for his attendance until he is discharged or sentenced.

S. 19(2)  
amended by  
Nos 68/2009  
s. 97(Sch.  
item 11.21),  
70/2010  
s. 19(1).

(3) If an accused who is on bail to attend for trial is remanded in custody pursuant to the provisions of subsection (2) the sureties (if any) for his attendance are discharged.

S. 19(3)  
amended by  
Nos 68/2009  
s. 97(Sch.  
items 11.1,  
11.22),  
70/2010  
s. 19(2).

**20 Death of surety**

No. 8731 s. 36.

Where a surety to bail dies before the bail is forfeited his estate shall not be subject to any liability in respect of the bail but the accused may be required to find another surety.

S. 20  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

**21 Abolition of right of a surety to apprehend a principal**

S. 21  
amended by  
Nos 51/1989  
s. 142(p)(q),  
68/2009  
s. 97(Sch.  
item 11.23),  
substituted by  
No. 70/2010  
s. 20.

The common law right of a surety to apprehend the principal and to bring him or her before a bail justice or a court is abolished.

S. 22  
amended by  
Nos 16/1986  
s. 30, 68/2009  
s. 97(Sch.  
item 11.24),  
repealed by  
No. 70/2010  
s. 20.

\* \* \* \* \*

No. 8731 s. 39.

### 23 Surety may apply for discharge

S. 23(1)  
amended by  
Nos 9158 s. 5,  
68/2009  
s. 97(Sch.  
item 11.25).

(1) Any of the sureties for the attendance of an accused released on bail may at any time apply to the court to which the accused would be required to surrender himself under the conditions of the bail to discharge the applicant from his liability with respect to the undertaking.

S. 23(2)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.25(c)).

(2) On an application being made under subsection (1) the court shall issue a warrant for apprehending the accused and bringing him before the court.

S. 23(3)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.25  
(a)(c)).

(3) On the attendance of the accused before the court the court may direct the applicant to be discharged from his liability with respect to the undertaking.

S. 23(4)  
amended by  
Nos 68/2009  
s. 97(Sch.  
item  
11.25(a)(c)),  
70/2010 s. 21.

(4) If the court discharges a surety from his liability with respect to an undertaking of bail the court shall require the accused to find another surety or other security for his attendance and may remand him in custody until a further surety or security is provided.

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**24 Arrest of person released on bail**

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| (1) Any police officer, or any protective services officer on duty at a designated place, may without warrant arrest any person who has been released on bail—                                                                                                                                                                    | No. 8731 s. 40.<br>S. 24(1) amended by Nos 43/2011 s. 6(1), 37/2014 s. 10(Sch. item 8.4(a)).                 |
| (a) if the police officer or protective services officer has reasonable grounds for believing that the person is likely to break the condition for his attendance or any other condition on which he was admitted to bail, or has reasonable cause to suspect that the person is breaking or has broken any such other condition; | S. 24(1)(a) amended by Nos 68/2009 s. 97(Sch. item 11.26), 43/2011 s. 6(2), 37/2014 s. 10(Sch. item 8.4(a)). |
| (b) if the police officer or protective services officer is notified in writing by any surety for the person that the surety believes that the person is likely to break the condition for his attendance and for that reason the surety wishes to be relieved of his obligations as a surety; or                                 | S. 24(1)(b) amended by Nos 68/2009 s. 97(Sch. item 11.26), 43/2011 s. 6(2), 37/2014 s. 10(Sch. item 8.4(a)). |
| (c) if the police officer or protective services officer has reasonable grounds for believing that any surety is dead, or that for any other reason the security is no longer sufficient.                                                                                                                                         | S. 24(1)(c) amended by Nos 43/2011 s. 6(2), 37/2014 s. 10(Sch. item 8.4(a)).                                 |
| (1A) If a protective services officer arrests a person under subsection (1), the protective services officer must hand the person into the custody of a police officer as soon as practicable after the person is arrested.                                                                                                       | S. 24(1A) inserted by No. 43/2011 s. 6(3), amended by No. 37/2014 s. 10(Sch. item 8.4(a)).                   |

S. 24(2)  
amended by  
Nos 51/1989  
s. 142(r),  
68/2009  
s. 97(Sch.  
item 11.27),  
substituted by  
No. 43/2011  
s. 6(4),  
amended by  
No. 37/2014  
s. 10(Sch.  
item 8.4(a)).

(2) If a person is arrested under subsection (1) or is handed into the custody of a police officer by a protective services officer under subsection (1A), a police officer must—

S. 24(2)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 8.4(a)).

(a) bring the person before a bail justice as soon as practicable after the person is arrested or has been handed into the custody of a police officer and in any event within 24 hours thereafter; or

S. 24(2)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 8.4(a)).

(b) if the person is arrested or handed into the custody of a police officer within 24 hours before the time at which the person is bound by a condition of his or her bail to attend before a court—bring the person before that court at that time.

S. 24(3)  
amended by  
No. 51/1989  
s. 142(s).

(3) Where a person is brought before a bail justice or court pursuant to the provisions of paragraph (a) or paragraph (b) of subsection (2) the bail justice or court—

S. 24(3)(a)  
substituted by  
No. 84/1997  
s. 8(1),  
amended by  
No. 70/2010  
s. 22(1)(a).

(a) if of the opinion that the person has broken or is likely to break a condition of the undertaking on which the person was admitted to bail—may revoke the bail and remand the person in custody with a direction to the officer in charge of the prison—

S. 24(3)(a)(i)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.28).

(i) if the direction is given by a court, that the person be brought before the court at the time when the person is required by the conditions of the bail to attend; or



- 
- (ii) if the direction is given by a bail justice, that the person be brought before the court to which the person was required to surrender in answer to his or her bail on the next working day or, if the next working day is not practicable, within 2 working days—  
or release the person on his or her original undertaking or on a new undertaking with or without sureties; or
- (b) if not of that opinion—shall release the person on his or her original undertaking.
- (4) The Director of Public Prosecutions may appeal to the Supreme Court in the same manner as is provided in section 18A against a refusal to revoke bail if the Director is satisfied that it is in the public interest to do so.
- (5) If the bail of a person is revoked under subsection (3), the person may apply under section 18 for an order granting bail.
- (6) In this section—
- designated place* has the same meaning as in the **Victoria Police Act 2013**;
- S. 24(3)(a)(ii) substituted by No. 70/2010 s. 22(1)(b).
- S. 24(3)(b) substituted by No. 84/1997 s. 8(1).
- S. 24(4) inserted by No. 57/1989 s. 4(1)(e), substituted by No. 70/2010 s. 22(2).
- S. 24(5) inserted by No. 84/1997 s. 8(2), amended by No. 70/2010 s. 22(3).
- S. 24(6) inserted by No. 43/2011 s. 6(5).
- S. 24(6) def. of *designated place* substituted by No. 37/2014 s. 10(Sch. item 8.4(b)(i)).

S. 24(6) def. of  
*protective  
services  
officer*  
substituted by  
No. 37/2014  
s. 10(Sch.  
item 8.4(b)(ii)).

*protective services officer* has the same meaning  
as in the **Victoria Police Act 2013**.

No. 8731 s. 41.  
S. 25  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.29).

## 25 Arrest for imposing additional conditions

Where a court is of opinion that it is necessary or advisable in the interests of justice that the conditions of bail of any person should be amended or supplemented, the court may issue a warrant for the apprehension of the accused and may, when the accused is brought before the court amend or supplement the conditions as the court thinks fit.

No. 8731 s. 42.

## 26 Arrest where bail insufficient

S. 26(1)  
amended by  
No. 70/2010  
s. 23.

(1) Where a court by which a person was admitted to bail is of opinion that he was released with insufficient security or with security which has become insufficient the court by which the person was granted bail may issue a warrant for his apprehension directing that he be brought before a court and may order him to find sufficient security and, if he fails to do so, may remand him in custody.

S. 26(2)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.30).

(2) Where a person charged with or convicted of an offence has entered into an undertaking conditioned for his attendance before a court and, in breach of the undertaking, fails to attend the court may, without prejudice to any right of action arising out of the undertaking, issue a warrant for his apprehension.

## 27 Admission to bail

No. 8731  
s. 148(2).  
S. 27  
amended by  
No. 51/1989  
s. 142(t),  
84/1997  
s. 9 (ILA  
s. 39B(1)).

(1) Where the conditions of an undertaking have been fixed the undertaking need not be entered into before the court granting the bail but may be entered into by the parties before any other court or before a bail justice or a court official or before a police officer of or above the rank of sergeant or for the time being in charge of a police station or, where any of the parties is in prison, before the governor of the prison or any prison officer thereat of or above the rank of senior prison officer and thereupon all the consequences of law shall ensue as if the undertaking had been entered into before the court granting the bail.

S. 27(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 8.5).

(2) In this section, *court official* means—

S. 27(2)  
inserted by  
No. 84/1997  
s. 9(2).

- (a) in the case of the Supreme Court, the prothonotary or a deputy prothonotary;
- (b) in the case of the County Court, the registrar or a deputy registrar;
- (c) in the case of the Magistrates' Court, a registrar or deputy registrar;
- (d) in the case of an infringement warrant within the meaning of the **Infringements Act 2006**, the sheriff or a person authorised under section 84(5) of that Act.

S. 27(2)(d)  
inserted by  
No. 32/2006  
s. 91(4).

## 28 One undertaking may be entered in respect of number of charges

No. 8731 s. 24.  
S. 28  
amended by  
No. 68/2009  
s. 97(Sch.  
items 11.1,  
11.31).

Where an accused is taken into custody upon charges for two or more offences he may be admitted to bail upon his entering, together with

his sureties (if any), into one undertaking for his attendance at a stated time and place upon all the charges.

## 29 Notice of trial

S. 29(1)  
amended by  
Nos 9690  
s. 5(1), 9848  
s. 18(1),  
68/2009  
s. 97(Sch.  
item 11.32(a)),  
70/2010 s. 24.

- (1) Where a person committed for trial is on bail to attend at his trial the Director of Public Prosecutions shall, when a time is fixed for the trial, cause notice in writing to be given—

S. 29(1)(a)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.1).

- (a) to the accused; and

S. 29(1)(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
items 11.1,  
11.32(b)).

- (b) to each of the sureties (if any) for the attendance of the accused—

addressed to them at the respective addresses appearing in the undertaking or notified under subsection (2) advising them of the day time and place fixed for the trial.

S. 29(2)  
amended by  
Nos 9848  
s. 18(1),  
68/2009  
s. 97(Sch.  
item 11.33).

- (2) A person on bail for attendance at trial and any surety for the attendance of a person at his trial shall, if he changes his place of residence or business from the place appearing in the undertaking as his address, forthwith notify the Director of Public Prosecutions in writing of the change of address.

S. 29(3)  
substituted by  
No. 9848  
s. 18(1).

- (3) For the purposes of subsection (2) the address of the Director of Public Prosecutions is the address for the time being prescribed for the purposes of this section.

- (4) Any person who fails to comply with the provisions of subsection (2) shall be guilty of an offence against this Act.

S. 29(4)  
amended by  
No. 9554  
s. 2(2)(Sch. 2  
item 18).

Penalty: 15 penalty units or imprisonment for three months.

### 30 Failure to answer bail

- (1) Any person released on bail who fails without reasonable cause, the proof whereof lies upon him, to attend in accordance with his undertaking of bail and surrender himself into custody shall be guilty of an offence against this Act.

S. 30(1)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.34).

Penalty: Imprisonment for twelve months.

- (2) In any proceedings against a person for an offence against this section—

- (a) a document purporting to be or to be a copy of an undertaking of bail entered into by the accused and to be certified by an officer of the court having the custody of the document to be the undertaking or a copy of the undertaking with which it is alleged in the proceedings that the accused has failed to comply shall be prima facie evidence of the entry of the accused into the undertaking and of the conditions of the undertaking; and

S. 30(2)(a)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.35(a)).

- (b) a document purporting to be or to be a copy of a declaration of forfeiture made by a court of an undertaking of bail entered into by the accused and certified by an officer of the court having the custody of the document to relate to the undertaking of bail with which it is alleged in the proceedings that the accused has failed to comply shall be prima facie evidence of the failure of the accused to attend in answer to his bail and surrender himself into custody.

S. 30(2)(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.35).

s. 30A

S. 30(3)  
amended by  
Nos 9690  
s. 5(2), 9848  
s. 18(1),  
68/2009  
s. 97(Sch.  
item 11.36),  
70/2010 s. 25.

- (3) In any proceedings against a person for failing to answer bail for attendance at a trial a certificate purporting to be signed by the Director of Public Prosecutions as to the giving of notice of the time and place fixed for the conduct of the trial shall be prima facie evidence of the service of the notice.

S. 30A  
inserted by  
No. 44/2013  
s. 8.

**30A Offence to contravene certain conduct conditions**

- (1) Subject to subsection (2), an accused on bail in respect of whom any conduct condition is imposed must not, without reasonable excuse, contravene any conduct condition imposed on him or her.

Penalty: 30 penalty units or 3 months imprisonment.

- (2) Subsection (1) does not apply to contravention of a conduct condition requiring the accused to attend and participate in bail support services.

S. 30B  
inserted by  
No. 44/2013  
s. 8.

**30B Offence to commit indictable offence whilst on bail**

An accused on bail must not commit an indictable offence whilst on bail.

Penalty: 30 penalty units or 3 months imprisonment.

**Note**

See sections 16 and 33 of the **Sentencing Act 1991** and sections 411 and 413 of the **Children, Youth and Families Act 2005**.

**31 Indemnifying surety**

S. 31(1)  
amended by  
Nos 9554  
s. 2(2)(Sch. 2  
item 18),  
68/2009  
s. 97(Sch.  
item 11.37).

- (1) Any person who indemnifies another person or who agrees with another person to indemnify that other person against any liability which that other person may incur as a surety to secure the attendance in answer to bail and the surrender to custody of a person accused or convicted of or

under arrest for an offence he and that other person shall be guilty of an offence.

Penalty: 15 penalty units or imprisonment for three months.

- (2) An offence is committed against subsection (1) whether the agreement is made before or after the person to be indemnified becomes a surety and whether or not he becomes a surety and whether the agreement contemplates compensation in money or money's worth.

### **32 Deposit forfeited on failure to attend**

Where a deposit of money or other security is made as a condition of bail declared to be forfeited because of the failure of the person released to attend in accordance with his undertaking the deposit becomes forfeited to Her Majesty but the person bailed shall have the same right as a surety has under section 6 of the **Crown Proceedings Act 1958** to apply for an order varying or rescinding the forfeiture and for that purpose the provisions of the said section 6 shall, so far as those provisions are applicable and with such modifications as are necessary, apply with respect to forfeited deposits of bail and in particular with the modification that any reference in those provisions to a surety shall be read and construed as a reference to the person bailed.

S. 32  
(Heading)  
inserted by  
No. 68/2009  
s. 97(Sch.  
item 11.38).  
S. 32  
amended by  
68/2009  
s. 97(Sch.  
item 11.39).

### **32A Infringement notices and infringement penalties**

- (1) A police officer may serve an infringement notice on a person who the police officer has reason to believe has committed an offence against section 30A.

S. 32A  
inserted by  
No. 44/2013  
s. 9.

S. 32A(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 8.6).

- (2) An authorised officer within the meaning of the **Fisheries Act 1995** may serve an infringement notice on a person who the authorised officer has reason to believe has committed an offence against section 30A while on bail in relation to an offence against the **Fisheries Act 1995** or an associated offence within the meaning of section 98 of that Act.
- (3) An offence referred to in subsection (1) or (2) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.
- (4) The infringement penalty for an offence against section 30A is 1 penalty unit.

### 33 Regulations

The Governor in Council may make regulations for or with respect to—

- (a) forms for the purposes of this Act and the particulars required to be given thereon;
- (b) the procedures to be followed in granting bail and admitting an accused to bail and upon applications or other proceedings under this Act;
- (c) the information to be given to an accused and sureties of any of the requirements of this Act and the giving of such information; and
- (d) generally any matter or thing which is required or authorized to be prescribed for carrying this Act into effect.

S. 33(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.40).

S. 33(c)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 11.40).



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### 34 Transitional provisions

- |                                                                                                                                                                                                                                                                                                      |                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| (1) The amendment of section 4(2)(aa) made by section 48 of the <b>Sentencing and other Acts (Amendment) Act 1997</b> applies only with respect to a charge for an offence filed after the commencement of that section of that Act.                                                                 | S. 34<br>inserted by<br>No. 48/1997<br>s. 49,<br>amended by<br>No. 84/1997<br>s. 10<br>(ILA s. 39B(1)). |
| (2) This Act as amended by Part 2 of the <b>Law and Justice Legislation (Further Amendment) Act 1997</b> applies only with respect to a charge for an offence filed on or after 1 January 1998.                                                                                                      | S. 34(2)<br>inserted by<br>No. 84/1997<br>s. 10.                                                        |
| (3) The amendment of section 4(2)(aa) made by section 5 of the <b>Bail (Amendment) Act 1998</b> applies only with respect to a charge for an offence filed on or after 1 January 1999.                                                                                                               | S. 34(3)<br>inserted by<br>No. 64/1998<br>s. 6.                                                         |
| (4) The amendments of section 4 made by the <b>Drugs, Poisons and Controlled Substances (Amendment) Act 2001</b> apply only with respect to a charge for an offence filed on or after the commencement of that Act.                                                                                  | S. 34(4)<br>inserted by<br>No. 61/2001<br>s. 13(3).                                                     |
| (5) The amendment of section 4(4) made by section 10 of the <b>Crimes (Property Damage and Computer Offences) Act 2003</b> applies only with respect to a charge for an offence filed on or after the commencement of that Act.                                                                      | S. 34(5)<br>inserted by<br>No. 10/2003<br>s. 11.                                                        |
| (6) Subject to subsection (7), this Act as amended by a provision of Part 2 of the <b>Bail Amendment Act 2010</b> applies only with respect to an application made, or an appeal commenced, or an admission to bail made, under this Act on or after the commencement of that provision of that Act. | S. 34(6)<br>inserted by<br>No. 70/2010<br>s. 26.                                                        |
| (7) Section 3A as inserted by section 5 of the <b>Bail Amendment Act 2010</b> applies to a determination made under this Act on or after the commencement of section 5 of that Act, including the determination of a charge for an offence                                                           | S. 34(7)<br>inserted by<br>No. 70/2010<br>s. 26.                                                        |

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against section 30, irrespective of when the charge-sheet was filed.

S. 34(8)  
inserted by  
No. 44/2013  
s. 10.

- (8) Section 18(4) applies in respect of any application made on or after the commencement of section 5 of the **Bail Amendment Act 2013**.

S. 34(9)  
inserted by  
No. 44/2013  
s. 10.

- (9) Section 18AK applies in respect of any application made on or after the commencement of section 7 of the **Bail Amendment Act 2013**.

S. 34(10)  
inserted by  
No. 44/2013  
s. 10.

- (10) Section 30A applies in respect of an offence alleged to have been committed on or after the commencement of section 8 of the **Bail Amendment Act 2013**.

S. 34(11)  
inserted by  
No. 44/2013  
s. 10.

- (11) Section 30B applies in respect of an offence alleged to have been committed on or after the commencement of section 8 of the **Bail Amendment Act 2013**.

S. 34(12)  
inserted by  
No. 44/2013  
s. 10.

- (12) For the purposes of subsections (10) and (11), if an offence is alleged to have been committed between two dates, one before and one on or after the commencement of section 8 of the **Bail Amendment Act 2013**, the offence is alleged to have been committed before that commencement.
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\* \* \* \* \*

**Sch.**  
amended by  
No. 9059  
s. 2(1)(Sch.  
items 1-5),  
repealed by  
No. 9863 s. 2.

## ENDNOTES

### 1. General Information

The **Bail Act 1977** was assented to on 10 May 1977 and came into operation on 1 September 1977: Government Gazette 17 August 1977 page 2654.

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## 2. Table of Amendments

This Version incorporates amendments made to the **Bail Act 1977** by Acts and subordinate instruments.

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### **Statute Law Revision Act 1977, No. 9059/1977**

*Assent Date:* 29.11.77  
*Commencement Date:* 29.11.77: subject to s. 2  
*Current State:* All of Act in operation

### **Age of Majority Act 1977, No. 9075/1977**

*Assent Date:* 6.12.77  
*Commencement Date:* 1.2.78: Government Gazette 11.1.78 p. 97  
*Current State:* All of Act in operation

### **Bail (Amendment) Act 1978, No. 9158/1978**

*Assent Date:* 30.5.78  
*Commencement Date:* 1.10.78: Government Gazette 6.9.78 p. 2869  
*Current State:* All of Act in operation

### **Statute Law Revision Act 1980, No. 9427/1980**

*Assent Date:* 27.5.80  
*Commencement Date:* 27.5.80: subject to s. 6(2)  
*Current State:* All of Act in operation

### **Penalties and Sentences Act 1981, No. 9554/1981**

*Assent Date:* 19.5.81  
*Commencement Date:* S. 44 on 26.9.80: s. 1(3); ss 1, 36–46 on 3.6.81: Government Gazette 3.6.81 p. 1778; rest of Act on 1.9.81: Government Gazette 26.8.81 p. 2799  
*Current State:* All of Act in operation

### **Bail (Amendment) Act 1981, No. 9690/1981**

*Assent Date:* 5.1.82  
*Commencement Date:* 5.1.82  
*Current State:* All of Act in operation

### **Director of Public Prosecutions Act 1982, No. 9848/1982**

*Assent Date:* 21.12.82  
*Commencement Date:* Ss 1–8, 17 on 12.1.83: Government Gazette 12.1.83 p. 80; rest of Act on 1.6.83: Government Gazette 11.5.83 p. 1146  
*Current State:* All of Act in operation

### **Statute Law Revision (Repeals) Act 1982, No. 9863/1982**

*Assent Date:* 5.1.83  
*Commencement Date:* 5.1.83  
*Current State:* All of Act in operation

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**Statute Law Revision Act 1983, No. 9902/1983**

*Assent Date:* 15.6.83  
*Commencement Date:* 15.6.83: subject to s. 2(2)  
*Current State:* All of Act in operation

**Drugs, Poisons and Controlled Substances (Amendment) Act 1983,  
No. 10002/1983**

*Assent Date:* 13.12.83  
*Commencement Date:* 18.12.83: Government Gazette 14.12.83 p. 3954  
*Current State:* All of Act in operation

**Crimes (General Amendment) Act 1984, No. 10084/1984**

*Assent Date:* 22.5.84  
*Commencement Date:* 1.7.84: Government Gazette 27.6.84 p. 2119  
*Current State:* All of Act in operation

**Statute Law Revision Act 1984, No. 10087/1984**

*Assent Date:* 22.5.84  
*Commencement Date:* 22.5.84: subject to s. 3(2)  
*Current State:* All of Act in operation

**Coroners Act 1985, No. 10257/1985**

*Assent Date:* 10.12.85  
*Commencement Date:* Ss 1–3, Pt 9 on 12.2.86: Government Gazette 12.2.86  
p. 382; rest of Act on 1.6.86: Government Gazette  
30.4.86 p. 1115  
*Current State:* All of Act in operation

**Courts Amendment Act 1986, No. 16/1986**

*Assent Date:* 22.4.86  
*Commencement Date:* Ss 1–11, 13–27, 29–34 on 1.7.86: Government  
Gazette 25.6.86 p. 2180; s. 28 on 1.9.86: Government  
Gazette 27.8.86 p. 3201; s. 12 on 1.1.88: Government  
Gazette 7.10.87 p. 2701  
*Current State:* All of Act in operation

**Bail (Amendment) Act 1986, No. 89/1986**

*Assent Date:* 16.2.86  
*Commencement Date:* Pts 1, 2 on 15.2.87: Government Gazette 11.2.87  
p. 291; Pt 3 on 3.8.87: Government Gazette 24.6.87  
p. 1600  
*Current State:* All of Act in operation

**Community Services Act 1987, No. 16/1987**

*Assent Date:* 12.5.87  
*Commencement Date:* Ss 1–6, 9–13, Sch. 1 on 22.2.89: Government Gazette  
22.2.89 p. 386; Sch. 2 items 1–13 on 15.3.89:  
Government Gazette 15.3.89 p. 587; rest of Act on  
25.6.92: Government Gazette 24.6.92 p. 1532  
*Current State:* All of Act in operation

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**County Court (Amendment) Act 1989, No. 19/1989**

*Assent Date:* 16.5.89  
*Commencement Date:* 16.5.89: Government Gazette 26.7.89 p. 1858  
*Current State:* All of Act in operation

**Magistrates' Court Act 1989, No. 51/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 16(4) on 15.6.89: Special Gazette (No. 32) 15.6.89 p. 1; ss 16(5), 52, 141(3)(a)–(f) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.1.90: Government Gazette 25.7.90 p. 2216  
*Current State:* All of Act in operation

**Children and Young Persons Act 1989, No. 56/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 286 on 31.1.91: Special Gazette (No. 9) 31.1.91 p. 2; Sch. 2 item 2.1 on 23.9.91: Government Gazette 28.8.91 p. 2368; Sch. 2 items 2.2 and 2.3 on 30.9.92: Government Gazette 26.8.92 p. 2470  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217  
*Current State:* All of Act in operation

**Medical Practice Act 1994, No. 23/1994**

*Assent Date:* 17.5.94  
*Commencement Date:* Ss 1, 2 on 17.5.94; rest of Act on 1.7.94: Government Gazette 23.6.94 p. 1672  
*Current State:* All of Act in operation

**Crimes (Amendment) Act 1994, No. 95/1994**

*Assent Date:* 13.12.94  
*Commencement Date:* Pt 1 (ss 1, 2) on 13.12.94; ss 3–10 on 23.1.95: Government Gazette 19.1.95 p. 121; rest of Act on 13.6.95: s. 2(3)  
*Current State:* All of Act in operation

**Legal Practice Act 1996, No. 35/1996**

*Assent Date:* 6.11.96  
*Commencement Date:* S. 453(Sch. 1 items 8.1–8.3) on 1.1.97: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Sentencing and Other Acts (Amendment) Act 1997, No. 48/1997**

*Assent Date:* 11.6.97  
*Commencement Date:* Ss 48, 49 on 1.9.97: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

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**Law and Justice Legislation (Further Amendment) Act 1997, No. 84/1997**

*Assent Date:* 2.12.97  
*Commencement Date:* Ss 3–10 on 1.1.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Bail (Amendment) Act 1998, No. 64/1998**

*Assent Date:* 4.11.98  
*Commencement Date:* 1.1.99: s. 2  
*Current State:* All of Act in operation

**Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001, No. 11/2001**

*Assent Date:* 8.5.01  
*Commencement Date:* S. 3(Sch. item 5) on 1.6.01: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Drugs, Poisons and Controlled Substances (Amendment) Act 2001, No. 61/2001**

*Assent Date:* 23.10.01  
*Commencement Date:* S. 13 on 1.1.02: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Criminal Justice Legislation (Miscellaneous Amendments) Act 2002, No. 35/2002**

*Assent Date:* 18.6.02  
*Commencement Date:* Ss 25(1), 28(Sch. item 1) on 19.6.02: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Crimes (Property Damage and Computer Offences) Act 2003, No. 10/2003**

*Assent Date:* 6.5.03  
*Commencement Date:* Ss 10, 11 on 7.5.03: s. 2  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Justice Legislation (Sexual Offences and Bail) Act 2004, No. 20/2004**

*Assent Date:* 18.5.04  
*Commencement Date:* Ss 10–12 on 19.5.04: s. 2  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Legal Profession (Consequential Amendments) Act 2005, No. 18/2005**

*Assent Date:* 24.5.05  
*Commencement Date:* S. 18(Sch. 1 item 9) on 12.12.05: Government Gazette 1.12.05 p. 2781  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Children and Young Persons (Miscellaneous Amendments) 2005, No. 21/2005**

*Assent Date:* 31.5.05  
*Commencement Date:* S. 60 on 1.7.05: s. 2(6)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**



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**Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Act 2005, No. 93/2005**

*Assent Date:* 29.11.05  
*Commencement Date:* S. 13 on 30.11.05: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Health Professions Registration Act 2005, No. 97/2005**

*Assent Date:* 7.12.05  
*Commencement Date:* S. 182(Sch. 4 item 4) on 1.7.07: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006**

*Assent Date:* 13.6.06  
*Commencement Date:* S. 91 on 1.7.06: Government Gazette 29.6.06 p. 1315  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Children, Youth and Families (Consequential and Other Amendments) Act 2006, No. 48/2006**

*Assent Date:* 15.8.06  
*Commencement Date:* S. 42(Sch. item 4) on 23.4.07: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Family Violence Protection Act 2008, No. 52/2008**

*Assent Date:* 23.9.08  
*Commencement Date:* S. 233 on 8.12.08: Special Gazette (No. 339) 4.12.08 p. 1  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Stalking Intervention Orders Act 2008, No. 68/2008**

*Assent Date:* 18.11.08  
*Commencement Date:* S. 63 on 8.12.08: Special Gazette (No. 339) 4.12.08 p. 1  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 97(Sch. item 11) on 1.1.10: Government Gazette 10.12.09 p. 3215  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Statute Law Amendment (Evidence Consequential Provisions) Act 2009, No. 69/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 54(Sch. Pt 1 item 4), (Sch. Pt 2 item 6) on 1.1.10: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

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**Statute Law Amendment (National Health Practitioner Regulation) Act 2010, No. 13/2010**

*Assent Date:* 30.3.10  
*Commencement Date:* S. 51(Sch. item 7) on 1.7.10: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Personal Safety Intervention Orders Act 2010, No. 53/2010**

*Assent Date:* 7.9.10  
*Commencement Date:* S. 221(Sch. item 1) on 5.9.11: Special Gazette (No. 271) 23.8.11 p. 1  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Bail Amendment Act 2010, No. 70/2010**

*Assent Date:* 19.10.10  
*Commencement Date:* Ss 3–26 on 1.1.11: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Justice Legislation Amendment (Protective Services Officers) Act 2011, No. 43/2011**

*Assent Date:* 6.9.11  
*Commencement Date:* S. 6 on 28.11.11: Special Gazette (No. 379) 22.11.11 p. 1  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Justice Legislation Amendment (Family Violence and Other Matters) Act 2012, No. 83/2012**

*Assent Date:* 18.12.12  
*Commencement Date:* S. 31(1) on 17.4.13: Special Gazette (No. 141) 16.4.13 p. 2  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

**Bail Amendment Act 2013, No. 44/2013**

*Assent Date:* 27.8.13  
*Commencement Date:* 20.12.13: Special Gazette (No. 419) 26.11.13 p. 1  
*Current State:* All of Act in operation

**Honorary Justices Act 2014, No. 32/2014**

*Assent Date:* 13.5.14  
*Commencement Date:* S. 56 on 1.9.14: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Bail Act 1977**

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**Victoria Police Amendment (Consequential and Other Matters) Act 2014,  
No. 37/2014**

*Assent Date:* 3.6.14  
*Commencement Date:* S. 10(Sch. item 8) on 1.7.14: Special Gazette  
(No. 200) 24.6.14 p. 2  
*Current State:* This information relates only to the provision/s  
amending the **Bail Act 1977**

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### 3. Explanatory Details

<sup>1</sup> S. 4(2)(d)(ii): The amendment proposed by section 286(Sch. 2 item 2.2) of the **Children and Young Persons Act 1989**, No. 56/1989 is not included in this publication because section 4(2)(d)(ii) was repealed by the **Community Services Act 1987**, No. 16/1987.

<sup>2</sup> S. 5(3): The amendments proposed by section 286(Sch. 2 item 2.3) of the **Children and Young Persons Act 1989**, No. 56/1989 are not included in this publication because section 5(3) was repealed by the **Community Services Act 1987**, No. 16/1987.