

Version No. 001
Crown Proceedings Regulations 2011

S.R. No. 151/2011

Version as at
16 January 2012

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1 Objective

The objective of these Regulations is to prescribe forms to be used under the **Crown Proceedings Act 1958**.

2 Authorising provisions

These Regulations are made under sections 5(3)(e) and 6(8) of the **Crown Proceedings Act 1958**.

3 Commencement

These Regulations come into operation on 21 January 2012.

4 Revocation

- (1) The Crown Proceedings Regulations 2002¹ are **revoked**.
- (2) The Crown Proceedings Amendment Regulations 2009² are **revoked**.
- (3) The Crown Proceedings Amendment Regulations 2010³ are **revoked**.

5 Definition

In these Regulations, *the Act* means the **Crown Proceedings Act 1958**.

6 Forfeited recognisances

- (1) For the purposes of section 5(2) of the Act, the prescribed form for an order forfeiting a recognisance is Form 1.
 - (2) For the purposes of section 5(2A) of the Act, the prescribed form of notice to a principal and surety of a recognisance forfeited in the absence of the principal is Form 2.
 - (3) For the purposes of section 5(3)(b) of the Act, the prescribed form for an application to vary or rescind an order in the matter of a forfeited recognisance is Form 3.
 - (4) For the purposes of section 5(3)(d) of the Act, the prescribed form for an application for a stay of proceedings in the matter of a forfeited recognisance is Form 4.
 - (5) For the purposes of section 5(4) of the Act, the prescribed form for a warrant to imprison for non-payment of money due under a forfeited recognisance is Form 5.
 - (6) For the purposes of section 5(5) of the Act—
 - (a) the prescribed form for a warrant of seizure and sale is Form 6;
 - (b) the prescribed form for a warrant to seize property of a surety is Form 7;
 - (c) the prescribed form for a warrant to imprison a surety is Form 8.
 - (7) For the purposes of section 5(9A) of the Act—
 - (a) the prescribed form of notice to a member of the police force executing a warrant is Form 9;
 - (b) the prescribed form of the statement in writing to be delivered to a principal or surety is Form 10.
-

7 Breach of bail

- (1) For the purposes of section 6(2) of the Act, the prescribed form for an order forfeiting an undertaking of bail is Form 11.
 - (2) For the purposes of section 6(3) of the Act, the prescribed form of notice to a surety of an undertaking of bail forfeited in his or her absence is Form 12.
 - (3) For the purposes of section 6(5) of the Act, the prescribed form for an application to vary or rescind an order in the matter of a forfeited undertaking of bail is Form 13.
 - (4) For the purposes of section 6(7) of the Act, the prescribed form for an application for a stay of proceedings in the matter of a forfeited undertaking of bail is Form 14.
 - (5) For the purposes of section 6(9) of the Act—
 - (a) the prescribed form for a warrant of seizure and sale is Form 15;
 - (b) the prescribed form for a warrant to seize property of a surety is Form 16;
 - (c) the prescribed form for a warrant to imprison a surety is Form 17.
 - (6) For the purposes of section 6(10) of the Act—
 - (a) the prescribed form of notice to a member of the police force executing a warrant is Form 18;
 - (b) the prescribed form of the statement in writing to be delivered to a principal or surety is Form 19.
-

FORMS

FORM 1

Regulation 6(1)

ORDER FORFEITING A RECOGNISANCE

(section 5(2) of the **Crown Proceedings Act 1958**)

In the *Supreme/*County/*Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Principal [*full name*]

Surety [*full name*]

On [*date*] the Principal/*and Surety entered a recognisance for \$.

The conditions of the recognisance were—

[*set out details*]

The Principal has failed to observe a condition of the recognisance.

The Court therefore declares the recognisance forfeited and orders that—

the Principal pay the amount of \$ to the proper officer of the Court at [*venue*]

immediately

within [*period of time*] after the date of this order

and that in default of payment of the amount in accordance with this order the Principal be imprisoned for the term of [*period of time*].

the Surety pay the amount of \$ to the proper officer of the Court at [*venue*]

immediately

within [*period of time*] after the date of this order

and that in default of payment of the amount in accordance with this order the amount be obtained by seizing and selling the property of the Surety and in default of seizure and sale of property, in whole or in part, that the Surety be imprisoned for the term of [*period of time*].

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Form 1

Date:

*Judge
*Magistrate

*Delete if inapplicable

FORM 2

Regulation 6(2)

**NOTICE TO PRINCIPAL AND SURETY OF A RECOGNISANCE
FORFEITED IN THE ABSENCE OF THE PRINCIPAL**

(section 5(2A) of the **Crown Proceedings Act 1958**)

In the *Supreme/*County/*Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Principal [*full name*]
 [*address*]

Surety [*full name*]
 [*address*]

DETAILS OF THE COURT ORDER

To the *Principal/Surety.

On [*date*] in the *Supreme/*County/*Magistrates' Court at [*venue*] the
*Principal/Surety entered a recognisance in the amount of \$.

The conditions of the recognisance were—

[*set out details*]

The recognisance was extended to [*date*].

As the Principal failed to observe a condition of the recognisance the Court
on [*date*] declared the recognisance forfeited and ordered that—

the Principal pay the amount of \$ to the proper officer of the
Court at [*venue*]

immediately

within [*period of time*] after the date of the order

and that in default of payment of the amount in accordance with the
order the Principal be imprisoned for the term of [*period of time*].

- the Surety pay the amount of \$ _____ to the proper officer of the Court at [*venue*]
- immediately
- within [*period of time*] after the date of the order
- and that in default of payment of the amount in accordance with the order the amount be obtained by seizing and selling the property of the Surety and in default of seizure and sale of property, in whole or in part, that the Surety be imprisoned for the term of [*period of time*].

YOU HAVE 28 DAYS FROM THE DATE OF THE ORDER IN WHICH TO PAY THE AMOUNT DUE UNDER THE ORDER, OR TO OBTAIN AN INSTALMENT ORDER, OR TO APPLY TO VARY OR RESCIND THE ORDER

TAKE NOTICE—

*a warrant to imprison

*a warrant of seizure and sale

*a warrant to seize property

will issue after the expiration of 28 days after the date of the order unless—

- (a) the amount due under the order is paid; or
- (b) an order is made for the payment of the amount by instalments; or
- (c) within 28 days from receipt of this notice application to vary or rescind the order is made to the court where the recognisance was forfeited.

Proper officer of the Court:
[*signature*]

Date:

*Delete if inapplicable

FORM 3

Regulation 6(3)

**APPLICATION TO VARY OR RESCIND ORDER IN THE MATTER
OF A FORFEITED RECOGNISANCE**

(section 5(3)(b) of the **Crown Proceedings Act 1958**)

In the *Supreme/*County/*Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Principal [*full name*]

Surety [*full name*]

DETAILS OF THE COURT ORDER

On [*date*] the Principal/*and Surety entered a recognisance in the amount of
\$.

The conditions of the recognisance were—

[*set out details*]

As the Principal failed to observe a condition of the recognisance the Court
on [*date*] declared the recognisance forfeited and ordered that—

- I, [*full name of Principal*] of [*address*] pay the amount of \$ to
the proper officer of the Court
 - immediately
 - within [*period of time*] after the date of the orderand in default to be imprisoned for the term of [*period of time*].
- I, [*full name of Surety*] of [*address*] pay the amount of \$ to
the proper officer of the Court
 - immediately
 - within [*period of time*] after the date of the orderand in default the amount be obtained by seizure and sale of any
property;
and in default of the amount being obtained by seizure and sale of any
property, that I be imprisoned for the term of [*period of time*].

APPLICATION TO VARY OR RESCIND ORDER

Under section 5(3)(a) of the **Crown Proceedings Act 1958** I apply for an order to vary or rescind the order on the ground that it would be unjust to require me to pay the amount of the recognisance, and I give notice that I intend to apply to the *Supreme/*County/*Magistrates' Court on [date] at *a.m./*p.m.

Particulars of the ground are—

[set out details]

Date:

[Signed]
Applicant

To the proper officer of the court at [venue]

and to

the Director of Public Prosecutions

the informant or complainant

*Delete if inapplicable

FORM 4

Regulation 6(4)

**APPLICATION FOR A STAY OF PROCEEDINGS PENDING THE
DETERMINATION OF AN APPLICATION TO VARY OR RESCIND
A FORFEITED RECOGNISANCE**

(section 5(3)(d) of the **Crown Proceedings Act 1958**)

Principal [full name]

Surety [full name]

DETAILS OF THE COURT ORDER

The order declaring the recognisance forfeited was made at the
*Supreme/*County/*Magistrates' Court at [venue] on [date].

DETAILS OF THE APPLICATION TO VARY OR RESCIND ORDER

The application to vary or rescind the order was lodged with the
*Supreme/*County /*Magistrates' Court at [venue] on [date].

APPLICATION FOR STAY OF PROCEEDINGS

I, [full name]

of [address]

apply to the Supreme Court
 the County Court at [venue]
 the Magistrates' Court

for a stay of proceedings pending the hearing of my application to vary or
rescind the order which declared a recognisance forfeited.

This application is ex parte (without notice).

[Signed]
Applicant

ORDER

Pending determination of the application of the *Principal/*Surety to vary or rescind the order declaring the recognisance forfeited, it is ordered that proceedings against the *Principal/*Surety be stayed and it is directed that—

*any warrant issued in the case must be returned unexecuted.

*the issue or execution of any warrant be stayed pending the determination of the application.

Date:

*Judge

*Magistrate

This document is to be filed with the court which declared the recognisance forfeited immediately after the order has been signed.

*Delete if inapplicable

Form 5

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FORM 5

Regulation 6(5)

WARRANT TO IMPRISON PRINCIPAL FOR NON-PAYMENT OF MONEY DUE UNDER A FORFEITED RECOGNISANCE

(section 5(4) of the **Crown Proceedings Act 1958**)

In the *Supreme/*County/*Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Principal's Name:

M F

Principal's Address:

Surety's Name:

M F

Surety's Address:

DETAILS OF THE COURT ORDER

On [*date*] the Principal/*and Surety entered into a recognisance in the amount of \$.

The conditions of the recognisance were—

[*set out details*]

As the Principal failed to observe a condition of the recognisance the *Supreme/*County/*Magistrates' Court at [*venue*] on [*date*] declared the recognisance forfeited and ordered the Principal to pay the amount of \$.

The Principal has not paid the amount as ordered.

AUTHORITY AND DIRECTIONS

To all members of the police force of the State of Victoria:

You are to demand payment of the amount of recognisance forfeited from the Principal. If this amount is paid you must send it immediately to the Principal Registrar.

If the amount is not paid:

You are authorised to break, enter and search any place where the Principal is suspected to be and to take and safely convey the Principal to the prison at [*venue*] or any other prison that is more accessible or more convenient and deliver the Principal to the officer in charge of the prison with this warrant.

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Form 5

To the officer in charge of the prison at [*venue*] or any other prison that is more accessible or more convenient—

You are directed and authorised to receive the Principal into your custody and safely keep that person in prison for [*period of time*] unless the Principal is otherwise removed or discharged from custody by due course of law.

If the amount of recognisance forfeited is paid you are to release the Principal and immediately send the amount to the Principal Registrar.

Issued by:

*Prothonotary/*Registrar:

[*signature*]

Date:

*Delete if inapplicable

FORM 6

Regulation 6(6)(a)

**WARRANT OF SEIZURE AND SALE OF SURETY'S PROPERTY
FOR MONEY DUE UNDER A FORFEITED RECOGNISANCE**

(section 5(5) of the **Crown Proceedings Act 1958**)

In the *Supreme/*County Court of
Victoria at [*venue*]

Court Reference:

Principal's Name:

M F

Principal's Address:

Surety's Name:

M F

Surety's Address:

DETAILS OF THE COURT ORDER

On [*date*] the Principal and Surety entered a recognisance in the amount of
\$.

The conditions of the recognisance were—

[*set out details*]

The Principal failed to observe a condition of the recognisance and the
*Supreme/*County Court at [*venue*] declared the recognisance forfeited and
ordered on [*date*] that the Surety pay the amount of \$.

WARRANT

To all members of the police force the Sheriff

The Surety has not paid the amount as ordered.

You are directed and authorised to:

1. Seize the personal property of the Surety.
2. Sell the personal property seized if the sums named in the warrant and all lawful costs for executing the warrant are not paid.
3. Pay all money recovered to the *Prothonotary of the Supreme Court/*Registrar of the County Court at the venue of the Court where this warrant was issued.

You or your officers must endorse details of execution on this warrant.

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Form 6

Issued at: [*venue*]

Issued by:

*Prothonotary/*Registrar:

[*signature*]

Date:

*Delete if inapplicable

FORM 7

Regulation 6(6)(b)

**WARRANT TO SEIZE SURETY'S PROPERTY FOR MONEY DUE
UNDER A FORFEITED RECOGNISANCE**

(section 5(5) of the **Crown Proceedings Act 1958**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Principal's Name:

M F

Principal's Address:

Surety's Name:

M F

Surety's Address:

DETAILS OF THE COURT ORDER

On [*date*] the Principal and Surety entered a recognisance in the amount of \$.

The conditions of the recognisance were—

[*set out details*]

The Principal failed to observe a condition of the recognisance and the Magistrates' Court at [*venue*] declared the recognisance forfeited and ordered on [*date*] that the Surety pay the amount of \$.

WARRANT

To all members of the police force the Sheriff

The Surety has not paid the amount as ordered.

You are directed and authorised to:

1. Seize the personal property of the Surety.
2. Sell the personal property seized if the sums named in the warrant and all lawful costs for executing the warrant are not paid.
3. Pay all money recovered to the Registrar of the Magistrates' Court at the venue of the Court where this warrant was issued.

You or your officers must endorse details of execution on this warrant.

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Form 7

Issued at: [*venue*]

Issued by:

Registrar:
[*signature*]

Date:

*Delete if inapplicable

FORM 8

Regulation 6(6)(c)

**WARRANT TO IMPRISON SURETY FOR WANT OF SEIZURE AND
SALE OF PROPERTY DUE UNDER A FORFEITED
RECOGNISANCE**

(section 5(5) of the **Crown Proceedings Act 1958**)

In the *Supreme/*County/*Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Principal's Name:

M F

Principal's Address:

Surety's Name:

M F

Surety's Address:

DETAILS OF THE COURT ORDER

On [*date*] the Principal and Surety entered into a recognisance in the amount of \$.

The conditions of the recognisance were—

[*set out details*]

As the Principal failed to observe a condition of the recognisance the *Supreme/*County/*Magistrates' Court at [*venue*] on [*date*] declared the recognisance forfeited and ordered the Surety to pay the amount of \$.

The Surety has not paid the amount as ordered and no sufficient property has been obtained by seizing and selling property.

AUTHORITY AND DIRECTIONS

To all members of the police force of the State of Victoria:

You are to demand payment of the amount of recognisance forfeited from the Surety. If this amount is paid you must send it immediately to the *Registrar/*Prothonary.

If the amount is not paid:

You are authorised to break, enter and search any place where the Surety is suspected to be and to take and safely convey the Surety to the prison at [*venue*] or any other prison that is more accessible or more convenient and deliver the Surety to the officer in charge of the prison with this warrant.

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Form 8

To the officer in charge of the prison at [venue] or any other prison that is more accessible or more convenient—

You are directed and authorised to receive the Surety into your custody and safely keep that person in prison for [period of time] unless the Surety is otherwise removed or discharged from custody by due course of law.

If the amount of recognisance forfeited is paid you are to release the Surety and immediately send the amount to the Principal Registrar.

Issued at: [venue]

Issued by:

*Prothonotary/*Registrar:

[signature]

Date:

*Delete if inapplicable

FORM 9

Regulation 6(7)(a)

**NOTICE TO MEMBER OF THE POLICE FORCE EXECUTING
WARRANT TO IMPRISON AGAINST PRINCIPAL OR SURETY OF
A FORFEITED RECOGNISANCE**

(section 5(9A) of the **Crown Proceedings Act 1958**)

To the member of the police force in the State of Victoria executing the
attached warrant to imprison.

TAKE NOTICE—

Before the execution of this warrant you are required to deliver to the person
liable to be imprisoned the attached "Statement under section 5(9A) of the
Crown Proceedings Act 1958 in respect of a forfeited recognisance".

You must allow the person reasonable time and opportunity to make
application to vary or rescind the order of forfeiture should he or she so
desire.

*Prothonotary/*Registrar:

[*signature*]

Date:

*Delete if inapplicable

FORM 10

Regulation 6(7)(b)

**STATEMENT UNDER SECTION 5(9A) OF THE CROWN
PROCEEDINGS ACT 1958 IN THE MATTER OF A FORFEITED
RECOGNISANCE**

(section 5(9A) of the **Crown Proceedings Act 1958**)

Principal [full name]

Surety [full name]

To the *Principal/*Surety

On [date] the *Supreme/*County/*Magistrates' Court at [venue] declared forfeited the recognisance entered by you and ordered that you pay the amount of \$ [amount] to the proper officer of the Court at [venue] *immediately/within [period of time].

You have failed to comply with the order and a warrant to imprison is in the possession of the member of the police force who has delivered this statement to you. The warrant requires that you go to prison unless you pay the amount specified in the warrant. However, the member of the police force must give you reasonable time and opportunity, should you so desire, to make an application to vary or rescind the order.

TAKE NOTICE—

The provisions relating to an application to vary or rescind the forfeiture order are contained in section 5(3) of the **Crown Proceedings Act 1958**, which provides—

1. If a recognisance has been forfeited, any Principal or Surety may apply to vary or rescind the forfeiture order—
 - (a) *if you were present in court* when the order was made—within 28 days after the making of the order;
 - (b) *if you were not present in court* when the order was made—within 28 days after the order first comes to your notice.
2. An application to vary or rescind a forfeiture order must be made to the court that made the order.
3. An application referred to in paragraph 1 must be in writing in the prescribed form and signed by the applicant and must set out the grounds. The application is to be lodged with the proper officer of the court where the application is to be heard within a reasonable time before the hearing.

4. Not less than 28 days before the hearing the applicant must serve or cause to be served personally or by post a true copy of the application—
 - (a) on the informant or complainant; or
 - (b) in the case of an indictment—on the Director of Public Prosecutions.
5. At any time after the lodging of the application, the applicant may apply ex parte (without notice) to a court for a stay of proceedings in the matter and the court may direct the return of any warrant unexecuted or may stay the issue or execution of any warrant pending the determination of the application.

DO NOT IGNORE THIS NOTICE

If you do not understand this notice, you should get someone to interpret it for you immediately.

Seek legal advice.

A legal practitioner can help you decide what steps you need to take.

For free legal information or to speak to a legal practitioner call:

Victoria Legal Aid [*insert telephone number*]

Federation of Community Legal Centres to find the centre closest to you [*insert telephone number*]

Victoria Aboriginal Legal Service [*insert telephone number*]

*Delete if inapplicable

FORM 11

Regulation 7(1)

ORDER FORFEITING AN UNDERTAKING OF BAIL

(section 6(1A), (2) of the **Crown Proceedings Act 1958**)

In the *Supreme/*County/*Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Principal [*full name*]

Surety [*full name*]

On [*date*] the Principal/*and Surety signed an undertaking of bail requiring the attendance of the Principal at the *Supreme/*County/*Magistrates' Court at [*venue*] on [*date*].

The undertaking was extended to [*date*].

The Principal has failed to observe a condition of the undertaking.

The Court therefore declares bail forfeited and orders that—

- the money deposited by the Principal be forfeited and the amount of the bail, being \$, be paid to the proper officer of the Court at [*venue*].
- (a) the Surety pay the amount of \$ to the proper officer of the Court at [*venue*]
 - immediately
 - within [*period of time*] after the date of this order; and
- (b) in default of payment of the amount in accordance with this order the amount be obtained by seizing and selling the property of the Surety; and
- (c) in default of seizure and sale of property, in whole or in part, the Surety be imprisoned for the term of [*period of time*].

*Judge/*Magistrate:

[*signature*]

Date:

*Delete if inapplicable

***FURTHER ORDER WHERE SURETY HAS LODGED CASH**

In accordance with section 9(3)(a) of the **Bail Act 1977** the Surety has lodged in cash the amount of the bail, being \$.

The Court further orders that the cash lodged be forfeited and the amount of the bail be paid to the proper officer of the Court at [*venue*].

*Judge/*Magistrate:

[*signature*]

Date:

*Delete if inapplicable

FORM 12

Regulation 7(2)

**NOTICE TO SURETY OF AN UNDERTAKING OF BAIL
FORFEITED IN HIS OR HER ABSENCE**

(section 6(3) of the **Crown Proceedings Act 1958**)

In the *Supreme/*County/*Magistrates' Court of
Victoria at [venue]

Court Reference:

Principal [name]
[address]

Surety [name]
[address]

To the Surety.

On [date] you signed an undertaking of bail requiring the attendance of the
Principal at the *Supreme/*County/*Magistrates' Court at [venue] on [date].

The undertaking was extended to [date].

* You lodged in cash the amount of the bail, being \$.

The Principal has failed to observe a condition of the undertaking.

The Court on [date] declared bail forfeited and ordered that—

- (a) you as Surety pay the amount of \$ to the proper officer of
the Court at [venue]
- immediately
- within [period of time] after the date of this order; and
- (b) in default of payment of the amount in accordance with the order, the
amount be obtained by seizure and sale of your property; and
- (c) in default of seizure and sale, in whole or in part, you be imprisoned
for the term of [period of time].

* The Court further ordered that the cash lodged by you be forfeited and the
amount of the bail be paid to the proper officer of the Court at [venue].

YOU HAVE 28 DAYS FROM THE DATE OF THE ORDER IN WHICH TO PAY THE AMOUNT DUE UNDER THE ORDER, OR TO OBTAIN AN INSTALMENT ORDER, OR TO APPLY TO VARY OR RESCIND THE ORDER

TAKE NOTICE—

* a warrant of seizure and sale

* a warrant to seize property

will issue after the expiration of 28 days after the date of the order unless—

- (a) the amount due under the order is paid; or
- (b) an order is made for the payment of the amount by instalments; or
- (c) within 28 days from receipt of this notice application to vary or rescind the order is made to the court where bail was forfeited.

Proper officer of the Court:

[*signature*]

Date:

*Delete if inapplicable

FORM 13

Regulation 7(3)

**APPLICATION TO VARY OR RESCIND ORDER IN THE MATTER
OF A FORFEITED UNDERTAKING**

(section 6(5) of the **Crown Proceedings Act 1958**)

In the *Supreme/*County/*Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Principal [*full name*]

Surety [*full name*]

DETAILS OF THE COURT ORDER

On [*date*] the Principal and Surety signed an undertaking of bail conditioned for the attendance of the Principal at

- the *Supreme/*County Court at the sittings commencing on [*date*]
- Magistrates' Court at [*venue*] on [*date*]

As the Principal failed to observe a condition of the undertaking the Court on [*date*] declared bail forfeited and ordered that I, the Surety, pay the amount of \$ _____ to the proper officer of the *Supreme/*County/*Magistrates' Court at [*venue*]

- immediately
- within [*period of time*] after the date of the order

and in default the amount be obtained by seizure and sale of my property;

and that in default of the amount being obtained by seizure and sale, I be imprisoned for the term of [*period of time*].

APPLICATION TO VARY OR RESCIND ORDER

Under section 6(4) of the **Crown Proceedings Act 1958** I apply for an order to vary or rescind the order on the ground that it would be unjust to require me to pay the amount undertaken to be paid. I give notice that I intend to apply to the *Supreme/*County/*Magistrates' Court at [*venue*] on [*date*] at _____ *a.m./*p.m.

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Form 13

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Particulars of such ground are—

[*give details*]

Date

[*Signed*]
Applicant

To the proper officer of the Court at [*venue*]

and to

- the Director of Public Prosecutions
- the informant or complainant
- the officer in charge of the police station at [*venue*]

*Delete if inapplicable

FORM 14

Regulation 7(4)

**APPLICATION FOR A STAY OF PROCEEDINGS IN THE MATTER
OF A FORFEITED UNDERTAKING**

(section 6(7) of the **Crown Proceedings Act 1958**)

Principal [full name]

Surety [full name]

DETAILS OF THE COURT ORDER

The order declaring the undertaking forfeited was made by the
*Supreme/*County/*Magistrates' Court at [venue] on [date] .

DETAILS OF THE APPLICATION TO VARY OR RESCIND ORDER

The application to vary or rescind the order was lodged with the
*Supreme/*County/*Magistrates' Court at [venue] on [date] .

APPLICATION FOR STAY OF PROCEEDINGS

I, the Surety

of [address]

apply to the Supreme Court
 the County Court at [venue]
 the Magistrates' Court

for a stay of proceedings pending the hearing of my application to vary or
rescind the order which declared the undertaking forfeited.

This application is ex parte (without notice).

[Signed]
Surety

ORDER

Pending determination of the application of the Surety to vary or rescind the
order declaring the undertaking forfeited, it is ordered that proceedings
against the Surety be stayed and it is directed that—

- * any warrant issued in the case must be returned unexecuted.
- * the issue or execution of any warrant be stayed pending the
determination of the application.

Crown Proceedings Regulations 2011

Form 14

S.R. No. 151/2011

Date

*Judge
*Magistrate

This document is to be filed with the court which declared the undertaking forfeited immediately after the order has been signed.

*Delete if inapplicable

FORM 15

Regulation 7(5)(a)

**WARRANT OF SEIZURE AND SALE OF SURETY'S PROPERTY
FOR MONEYS DUE UNDER A FORFEITED UNDERTAKING OF
BAIL**

(section 6(9) of the **Crown Proceedings Act 1958**)

In the *Supreme/*County Court of

Victoria at [*venue*]

Court Reference:

Principal's Name:

M F

Principal's Address:

Surety's Name:

M F

Surety's Address:

DETAILS OF THE COURT ORDER

On [*date*] the Principal and Surety signed an undertaking of bail.

The conditions of the undertaking were—

[*set out details*]

The Principal failed to observe a condition of the undertaking and the *Supreme/*County Court at [*venue*] declared the bail forfeited and ordered on [*date*] that the Surety pay the amount of \$.

WARRANT

To all members of the police force the Sheriff

The Surety has not paid the amount as ordered.

You are directed and authorised to:

1. Seize the personal property of the Surety.
2. Sell the personal property seized if the sums named in the warrant and all lawful costs for executing the warrant are not paid.
3. Pay all money recovered to the *Prothonotary of the Supreme Court/*Registrar of the County Court at the venue of the Court where this warrant was issued.

You or your officers must endorse details of execution on this warrant.

Crown Proceedings Regulations 2011

Form 15

S.R. No. 151/2011

Issued at: [*venue*]

Issued by:

*Prothonotary/*Registrar:

[*signature*]

Date:

*Delete if inapplicable

FORM 16

Regulation 7(5)(b)

**WARRANT TO SEIZE SURETY'S PROPERTY FOR MONEY DUE
UNDER A FORFEITED UNDERTAKING OF BAIL**

(section 6(9) of the **Crown Proceedings Act 1958**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Principal's Name:

M F

Principal's Address:

Surety's Name:

M F

Surety's Address:

DETAILS OF THE COURT ORDER

On [*date*] the Principal and Surety signed an undertaking of bail.

The conditions of the undertaking were—

[*set out details*]

The Principal failed to observe a condition of the undertaking and the Magistrates' Court at [*venue*] declared the bail forfeited and ordered on [*date*] that the Surety pay the amount of \$.

WARRANT

To all members of the police force the Sheriff

The Surety has not paid the amount as ordered.

You are directed and authorised to:

1. Seize the personal property of the Surety.
2. Sell the personal property seized if the sums named in the warrant and all lawful costs for executing the warrant are not paid.
3. Pay all money recovered to the Registrar of the Magistrates' Court at the venue of the Court where this warrant was issued.

You or your officers must endorse details of execution on this warrant.

Crown Proceedings Regulations 2011

Form 16

S.R. No. 151/2011

Issued at: [*venue*]

Issued by:

Registrar:
[*signature*]

Date:

*Delete if inapplicable

FORM 17

Regulation 7(5)(c)

WARRANT TO IMPRISON SURETY FOR WANT OF SEIZURE AND SALE OF PROPERTY DUE UNDER A FORFEITED UNDERTAKING

(section 6(9) of the **Crown Proceedings Act 1958**)

In the *Supreme/*County/*Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Principal's Name:

M F

Principal's Address:

Surety's Name:

M F

Surety's Address:

DETAILS OF THE COURT ORDER

On [*date*] the Principal and Surety signed an undertaking of bail.

The conditions of the undertaking were—

[*set out details*]

As the Principal failed to observe a condition of the undertaking, the *Supreme/*County/*Magistrates' Court at [*venue*] on [*date*] declared bail forfeited and ordered the Surety to pay the amount of \$.

The Surety has not paid the amount as ordered and no sufficient property has been obtained by seizing and selling property.

AUTHORITY AND DIRECTIONS

To all members of the police force of the State of Victoria:

You are to demand payment of the amount of recognisance forfeited from the Surety. If this amount is paid you must send it immediately to the Principal Registrar.

If the amount is not paid:

You are authorised to break, enter and search any place where the Surety is suspected to be and are directed and authorised, unless the amount is sooner paid to you, to take and safely convey the Surety to the prison at [*venue*] or any other prison that is more accessible or more convenient and deliver the Surety to the officer in charge of that prison with this warrant.

Crown Proceedings Regulations 2011

Form 17

S.R. No. 151/2011

To the officer in charge of the prison at [*venue*] or any other prison that is more accessible or more convenient—

You are directed and authorised to receive the Surety into your custody and safely keep him or her in prison for [*period of time*] unless the Surety is otherwise removed or discharged from custody by due course of law.

If the amount of the undertaking forfeited is paid you are to release the Surety and immediately send the amount to the
*Prothonotary/*Registrar.

Issued at: [*venue*]

Issued by:

*Prothonotary/*Registrar:

[*signature*]

Date:

*Delete if inapplicable

FORM 18

Regulation 7(6)(a)

**NOTICE TO MEMBER OF THE POLICE FORCE EXECUTING
WARRANT TO IMPRISON AGAINST SURETY OF A FORFEITED
UNDERTAKING**

(section 6(10) of the **Crown Proceedings Act 1958**)

To the member of the police force in the State of Victoria executing the attached warrant to imprison.

TAKE NOTICE—

Before the execution of this warrant you are required to deliver to the person liable to be imprisoned the attached "Statement under section 6(10) of the **Crown Proceedings Act 1958** in respect of a forfeited undertaking".

You must allow the person reasonable time and opportunity to make application to vary or rescind the order of forfeiture should he or she so desire.

Issued at: [*venue*]

Issued by:

*Prothonotary/*Registrar:
[*signature*]

Date:

*Delete if inapplicable

FORM 19

Regulation 7(6)(b)

**STATEMENT UNDER SECTION 6(10) OF THE CROWN
PROCEEDINGS ACT 1958 IN THE MATTER OF A FORFEITED
UNDERTAKING**

(section 6(10) of the **Crown Proceedings Act 1958**)

Principal [full name]

Surety [full name]

To the Surety

On [date] the *Supreme/*County/*Magistrates' Court at [venue] declared forfeited the undertaking of bail signed by you and ordered that you pay the amount of \$ to the proper officer of the Court at [venue] *immediately/*within [period of time].

You have failed to comply with the order and a warrant to imprison is in the possession of the member of the police force who has delivered this statement to you. The warrant requires that you go to prison unless you pay the amount specified in the warrant. However, the member of the police force must give you reasonable time and opportunity, should you so desire, to make an application to vary or rescind the order.

TAKE NOTICE—

The provisions relating to the application to vary or rescind the forfeiture order are contained in section 6(4) to (7) of the **Crown Proceedings Act 1958**, which provides—

1. If bail is declared to be forfeited, any Surety may apply to vary or rescind the forfeiture order—
 - (a) *if you were present in court* when the order was made—within 28 days after the making of the order;
 - (b) *if you were not present in court* when the order was made—within 28 days after the order first comes to your notice.
2. An application to vary or rescind a forfeiture order must be made to the court that made the order.
3. An application referred to in paragraph 1 must be in writing in the prescribed form signed by the applicant and must set out the grounds. The application is to be lodged with the proper officer of the court where the application is to be heard within a reasonable time before the hearing.

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4. Not less than 28 days before the hearing the applicant must serve or cause to be served personally or by post a true copy of the application—
 - (a) on the informant or complainant; or
 - (b) if the informant is a member of the police force—on the officer in charge of the police station nearest to the court where the application is to be heard; or
 - (c) in the case of an indictment or an appeal—on the Director of Public Prosecutions.
 5. At any time after the lodging of the application, the applicant may apply *ex parte* (without notice) to a court for a stay of proceedings in the matter and the court may direct the return of any warrant unexecuted or may stay the issue or execution of a warrant pending the determination of the application.

DO NOT IGNORE THIS NOTICE

If you do not understand this notice, you should get someone to interpret it for you immediately.

Seek legal advice.

A legal practitioner can help you decide what steps you need to take.

For free legal information or to speak to a legal practitioner call:

Victoria Legal Aid [*insert telephone number*]

Federation of Community Legal Centres to find the centre closest to you [*insert telephone number*]

Victoria Aboriginal Legal Service [*insert telephone number*]

*Delete if inapplicable

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ENDNOTES

1. General Information

The Crown Proceedings Regulations 2011, S.R. No. 151/2011 were made on 13 December 2011 by the Governor in Council under sections 5(3)(e) and 6(8) of the **Crown Proceedings Act 1958**, No. 6232/1958 and came into operation on 21 January 2012: regulation 3.

The Crown Proceedings Regulations 2011 will sunset 10 years after the day of making on 13 December 2021 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

There are no amendments made to the **Crown Proceedings Regulations 2011** by statutory rules, subordinate instruments and Acts.

3. Explanatory Details

¹ Reg. 4(1): S.R. No. 2/2002 as amended by S.R. Nos 171/2009 and 120/2010.

² Reg. 4(2): S.R. No. 171/2009.

³ Reg. 4(3): S.R. No. 120/2010.