

**CRIMINAL APPEAL (BAIL) AMENDMENT ACT,
1978, No. 165**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 165, 1978.

An Act to amend the Criminal Appeal Act, 1912, consequent upon the enactment of the Bail Act, 1978. [Assented to, 29th December, 1978.]

Criminal Appeal (Bail) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the "Criminal Appeal (Bail) Amendment Act, 1978".

**Commence-
ment.** **2.** (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Bail Act, 1978.

**Principal
Act.** **3.** The Criminal Appeal Act, 1912, is referred to in this Act as the Principal Act.

Schedules. **4.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

**Amendment
of Act No.
16, 1912.** **5.** The Principal Act is amended in the manner set forth in Schedule 1.

**Savings and
transitional
provisions.** **6.** Schedule 2 has effect.

Criminal Appeal (Bail) Amendment.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 1—

From the matter relating to Part VI, omit “ss. 26–28”, insert instead “s. 26”.

(b) Section 1—

After the matter relating to Part VI, insert :—

PART VII.—MISCELLANEOUS—ss. 27–29.

(2) Section 8 (2)—

Omit “, or for liberating him upon such conditions as to bail or recognizances as the court, or any judge thereof appointed for that purpose by the Chief Justice, shall deem fit”.

(3) Section 8A (2)—

After “may”, insert “, subject to the Bail Act, 1978,”.

(4) (a) Section 18 (1)—

Omit “admitted to”, insert instead “released on”.

(b) Section 18 (2)—

Omit the subsection.

(c) Section 18 (3)—

Omit “liberated on bail or recognizances”, insert instead “at liberty on bail”.

Criminal Appeal (Bail) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (5) (a) Section 22—
After “given,” insert “and”.
- (b) Section 22—
Omit “and to admit an appellant to bail,”.
- (6) (a) Section 24 (1)—
After “shall”, insert “, subject to the Bail Act, 1978,”.
- (b) Section 24 (1)—
Omit “, or for liberating him on bail, or recognizance,”.
- (c) Section 24 (2)—
After “may” where firstly occurring, insert “, subject to the Bail Act, 1978,”.
- (d) Section 24 (2)—
Omit “or for liberating him on bail or recognizance”.
- (7) Part VII, headings—
Before section 27, insert :—

PART VII.

MISCELLANEOUS.

- (8) Section 28 (2) (d)—
Omit “admission to bail or”.

Criminal Appeal (Bail) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) Section 29—

After section 28, insert :—

29. The Bail Act, 1978, shall prevail to the extent of any inconsistency between that Act and this Act and, without affecting the generality of the foregoing provisions of this section, shall prevail to the extent of any inconsistency between that Act and rules referred to in sections 8 (2) and 28.

Bail Act,
1978, to
prevail.

SCHEDULE 2.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule—

“authorised” means duly authorised by the Court of Criminal Appeal or a Judge thereof;

“bail” means bail that was authorised or granted before the commencement of this Schedule, so far as it could not have been so authorised or granted if this Act had then been in force;

“recognizance of bail” means a recognizance that was authorised or entered into before the commencement of this Schedule, so far as it could not have been so authorised or entered into if this Act had then been in force.

2. This Act does not affect bail authorised or granted, or a recognizance of bail authorised or entered into, under the Principal Act (or rules of court made for the purposes of the Principal Act) before the commencement of this Schedule, and for the purposes of or for purposes connected with any such bail or recognizance of bail this Act and the Bail Act, 1978, shall be deemed not to have been enacted.

3. Nothing in clause 2 prevents the making of a decision under the Principal Act, as amended by this Act, or the Bail Act, 1978, or the exercise or performance of a power, authority, duty or function thereunder, in respect of an offence or other matter (or any proceedings in connection therewith) to or with which the bail or recognizance of bail referred to in that clause relates or is connected.

Criminal Appeal (Bail) Amendment.

SCHEDULE 2—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

4. Rules of court may be made under the Supreme Court Act, 1970, containing other provisions of a savings or transitional nature consequent upon the enactment of this Act, and those provisions may, but need not, operate by reference to any provision of the Bail Act, 1978, and shall have effect notwithstanding anything in clause 2 or 3.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 29th December, 1978.*





CRIMINAL APPEAL (BAIL) AMENDMENT BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Bail Bill, 1978.

The object of this Bill is to make amendments to the Criminal Appeal Act, 1912 ("the Principal Act"), so as to bring it into conformity with the proposed Bail Act, 1978 ("the Bail Act").

The Bill removes from the Principal Act authority to grant bail in the course of criminal proceedings to accused persons being dealt with under the Principal Act, leaving bail to be dealt with by the Bail Act. The procedures set out in the Principal Act are subject to the provisions of the Bail Act, and a section 29 is to be inserted to this effect (Schedule 1 (9)).

The Bill contains other provisions of a minor, consequential or ancillary nature.



CRIMINAL APPEAL (BAIL) AMENDMENT BILL, 1978

No. , 1978.

A BILL FOR

An Act to amend the Criminal Appeal Act, 1912, consequent upon the enactment of the Bail Act, 1978.

[MR F. J. WALKER—13 *December*, 1978.]

Criminal Appeal (Bail) Amendment.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 1—

5 From the matter relating to Part VI, omit “ss. 26–28”,
insert instead “s. 26”.

(b) Section 1—

After the matter relating to Part VI, insert :—

PART VII.—MISCELLANEOUS—ss. 27–29.

(2) Section 8 (2)—

10 Omit “, or for liberating him upon such conditions as to
bail or recognizances as the court, or any judge thereof
appointed for that purpose by the Chief Justice, shall deem
fit”.

(3) Section 8A (2)—

15 After “may”, insert “, subject to the Bail Act, 1978,”.

(4) (a) Section 18 (1)—

Omit “admitted to”, insert instead “released on”.

(b) Section 18 (2)—

Omit the subsection.

20 (c) Section 18 (3)—

Omit “liberated on bail or recognizances”, insert
instead “at liberty on bail”.

Criminal Appeal (Bail) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) (a) Section 22—

After “given,” insert “and”.

5 (b) Section 22—

Omit “and to admit an appellant to bail,”.

(6) (a) Section 24 (1)—

After “shall”, insert “, subject to the Bail Act, 1978,”.

(b) Section 24 (1)—

10 Omit “, or for liberating him on bail, or recognizance,”.

(c) Section 24 (2)—

After “may” where firstly occurring, insert “, subject to the Bail Act, 1978,”.

(d) Section 24 (2)—

15 Omit “or for liberating him on bail or recognizance”.

(7) Part VII, headings—

Before section 27, insert :—

PART VII.

MISCELLANEOUS.

20 (8) Section 28 (2) (d)—

Omit “admission to bail or”.

Criminal Appeal (Bail) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) Section 29—

After section 28, insert :—

5 29. The Bail Act, 1978, shall prevail to the extent of Bail Act,
any inconsistency between that Act and this Act and, with- 1978, to
out affecting the generality of the foregoing provisions of prevail.
this section, shall prevail to the extent of any inconsistency
10 between that Act and rules referred to in sections 8 (2)
and 28.

SCHEDULE 2.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule—

15 “authorised” means duly authorised by the Court of Criminal Appeal
or a Judge thereof;

 “bail” means bail that was authorised or granted before the commence-
ment of this Schedule, so far as it could not have been so
authorised or granted if this Act had then been in force;

20 “recognizance of bail” means a recognizance that was authorised or
entered into before the commencement of this Schedule, so far as
it could not have been so authorised or entered into if this Act had
then been in force.

2. This Act does not affect bail authorised or granted, or a recognizance
of bail authorised or entered into, under the Principal Act (or rules of
25 court made for the purposes of the Principal Act) before the commence-
ment of this Schedule, and for the purposes of or for purposes connected
with any such bail or recognizance of bail this Act and the Bail Act, 1978,
shall be deemed not to have been enacted.

3. Nothing in clause 2 prevents the making of a decision under the
30 Principal Act, as amended by this Act, or the Bail Act, 1978, or the exercise
or performance of a power, authority, duty or function thereunder, in
respect of an offence or other matter (or any proceedings in connection
therewith) to or with which the bail or recognizance of bail referred to in
that clause relates or is connected.

Criminal Appeal (Bail) Amendment.

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

4. Rules of court may be made under the Supreme Court Act, 1970,
containing other provisions of a savings or transitional nature consequent
5 upon the enactment of this Act, and those provisions may, but need not,
operate by reference to any provision of the Bail Act, 1978, and shall have
effect notwithstanding anything in clause 2 or 3.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

[16c]







