

**FINES AND FORFEITED RECOGNIZANCES (BAIL)  
AMENDMENT BILL, 1978**

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**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 Fines and Forfeited Recognizances Act, 1954 ("the Principal Act"), consequent upon the enactment of the proposed Bail Act, 1978.

The Bill extends the operation of the Principal Act so as to cover the forfeiture of bail money.

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

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**FINES AND FORFEITED RECOGNIZANCES (BAIL)  
AMENDMENT BILL, 1978**

No.           , 1978.

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**A BILL FOR**

**An Act to amend the Fines and Forfeited Recognizances Act, 1954,  
consequent upon the enactment of the Bail Act, 1978.**

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

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*Fines and Forfeited Recognizances (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 :—

- 5 1. This Act may be cited as the "Fines and Forfeited Recognizances (Bail) Amendment Act, 1978". Short title.
2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-  
ment.
- 10 (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.
3. The Fines and Forfeited Recognizances Act, 1954, is referred to in this Act as the Principal Act. Principal  
Act.
- 15 4. The Principal Act is amended in the manner set forth in Schedule 1. Amendment  
of Act No.  
25, 1954.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Long title—

20 After "recognizances" wherever occurring, insert "and bail money".



*Fines and Forfeited Recognizances (Bail) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) Section 3—

Omit the section, insert instead :—

5           3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-  
tation.

          “bail agreement” means an agreement entered into pursuant to a monetary bail condition;

10           “bail money” means the amount of money agreed to be forfeited under a monetary bail condition;

          “bail undertaking” means a bail undertaking under the Bail Act, 1978;

          “justice” means a justice of the peace;

15           “monetary bail condition” means a bail condition under the Bail Act, 1978, that provides for a person to enter into an agreement to forfeit an amount of money.

(3) Section 3A—

After section 3, insert :—

20           3A. This Act (sections 4 and 6 excepted) applies to and in respect of bail money in the same way as it applies to and in respect of a recognizance. Application  
of Act to  
bail  
money.

(4) Section 4A—

After section 4, insert :—

25           4A. (1) Any court may, on due proof that the bail undertaking to which a monetary bail condition relates has not been complied with, forfeit the bail money agreed to Forfeiture  
of bail  
money.

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*Fines and Forfeited Recognizances (Bail) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 be forfeited by the bail agreement entered into pursuant to  
the condition and transmit the bail undertaking, the  
instrument by which the condition was imposed and the bail  
agreement, together with the certificate referred to in  
subsubsection (2), to the Clerk of the Peace to be proceeded  
upon according to law.

10 (2) Where bail money is forfeited under this section  
by any court, the court shall certify in what respects the  
bail undertaking has not been complied with, and the  
certificate shall be prima facie evidence of the matters  
stated therein.

(5) (a) Section 6 (1A)—

15 After section 6 (1), insert :—

(1A) Where a bail undertaking entered into for the  
appearance of a person—

(a) before a court of summary jurisdiction; or

20 (b) before a stipendiary or special magistrate or  
a justice or justices in proceedings to  
determine whether that person should be  
committed for trial,

25 to answer, or to answer further, to any charge, has  
not been complied with, and an amount of bail money,  
not exceeding \$300, has been deposited by any person  
pursuant to a bail agreement, then—

30 (c) notwithstanding anything in this or any  
other Act, the documents referred to in  
section 4A (1) shall not be transmitted to  
the Clerk of the Peace and shall not be  
entered on any Estreat Roll;



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*Fines and Forfeited Recognizances (Bail) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (d) the person who deposited the amount of  
bail money may, within the prescribed  
period from the date on which the bail  
money was forfeited, lodge with the clerk  
of the court of summary jurisdiction by, at  
or nearest to the place at which the bail  
money was forfeited an application for the  
10 discharge of the forfeited bail money;
- 15 (e) the amount so deposited shall, if no  
application is lodged pursuant to paragraph  
(d) within the prescribed period, be paid  
to the Consolidated Revenue Fund upon the  
expiration of that period;
- 20 (f) the amount so deposited shall, if the  
application is lodged pursuant to paragraph  
(d) within the prescribed period, be held  
by the person with whom it was deposited  
until the application is determined.

In this subsection “prescribed period” means 21 days or such longer period as may be prescribed in lieu thereof.

- 25 (b) Section 6 (2) (a)—  
Omit “paragraph (b) of subsection one of this section”, insert instead “subsection (1) (b) or (1A) (d)”.
- (c) Section 6 (2) (b) (ii)—  
After “recognizance”, insert “or bail money”.
- 30 (d) Section 6 (3)—  
After “recognizance” wherever occurring, insert “or bail money”.

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*Fines and Forfeited Recognizances (Bail) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) Section 17—

- 5 After “recognizance,” insert “or who, having been accepted under the Bail Act, 1978, by virtue of his ownership of specific property, as an acceptable person referred to in section 36 of that Act,”.

(7) Third Schedule—

After “recognizances”, insert “, bail money”.

10 (8) Fourth Schedule—

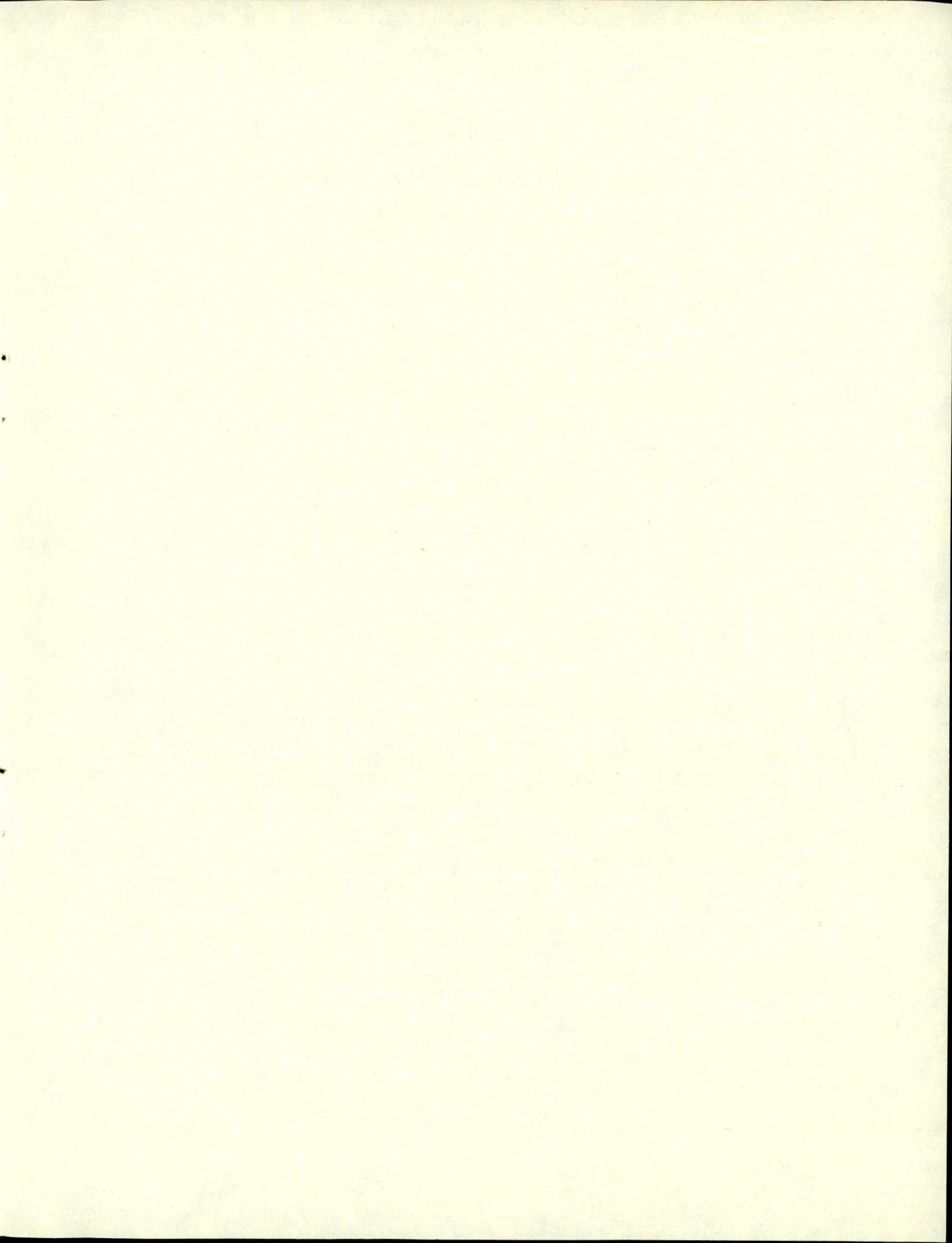
After “*recognizances*”, insert “, *bail money*”.

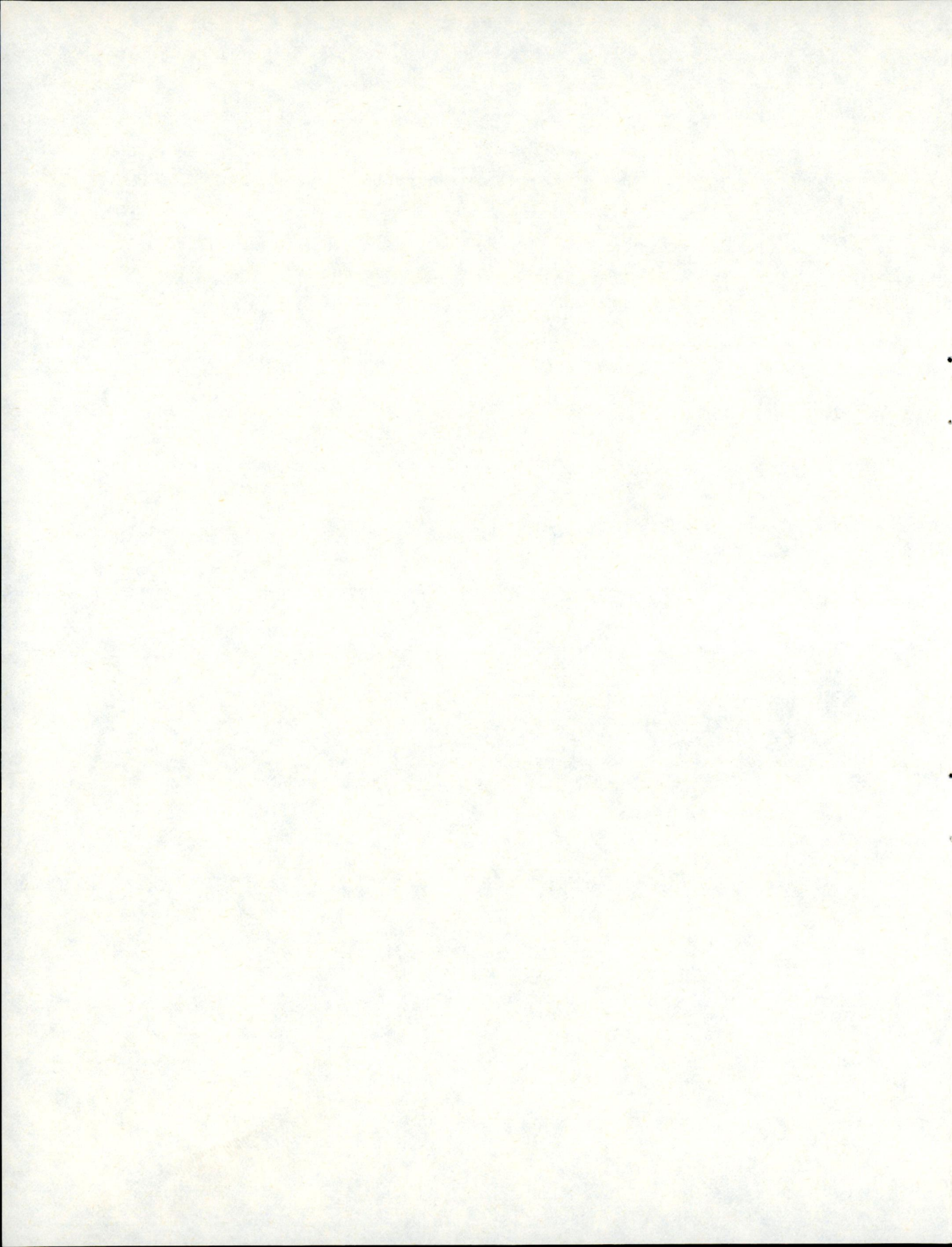
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BY AUTHORITY

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

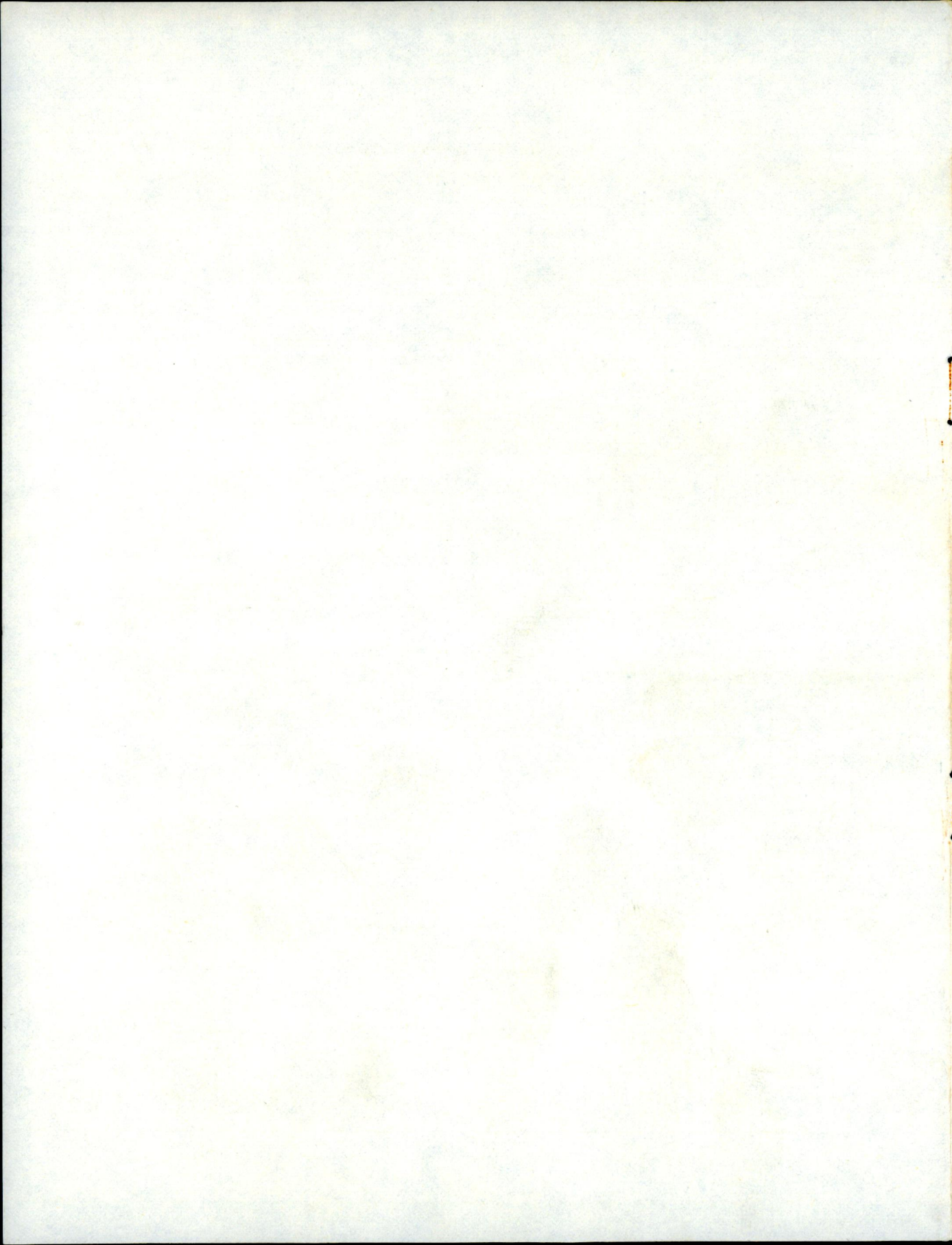














**FINES AND FORFEITED RECOGNIZANCES (BAIL)  
AMENDMENT ACT, 1978, No. 167**

**New South Wales**



ANNO VICESIMO SEPTIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 167, 1978.**

An Act to amend the Fines and Forfeited Recognizances Act, 1954,  
consequent upon the enactment of the Bail Act, 1978.  
[Assented to, 29th December, 1978.]

*Fines and Forfeited Recognizances (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 "Fines and Forfeited Recognizances (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 Fines and Forfeited Recognizances Act, 1954, is referred to in this Act as the Principal Act.

Amendment of Act No. 25, 1954. **4.** The Principal Act is amended in the manner set forth in Schedule 1.

Sec. 4.

### SCHEDULE 1.

#### AMENDMENTS TO THE PRINCIPAL ACT.

(1) Long title—

After "recognizances" wherever occurring, insert "and bail money".



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*Fines and Forfeited Recognizances (Bail) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) Section 3—

Omit the section, insert instead :—

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“bail agreement” means an agreement entered into pursuant to a monetary bail condition;

“bail money” means the amount of money agreed to be forfeited under a monetary bail condition;

“bail undertaking” means a bail undertaking under the Bail Act, 1978;

“justice” means a justice of the peace;

“monetary bail condition” means a bail condition under the Bail Act, 1978, that provides for a person to enter into an agreement to forfeit an amount of money.

(3) Section 3A—

After section 3, insert :—

3A. This Act (sections 4 and 6 excepted) applies to and in respect of bail money in the same way as it applies to and in respect of a recognizance. Application of Act to bail money.

(4) Section 4A—

After section 4, insert :—

4A. (1) Any court may, on due proof that the bail undertaking to which a monetary bail condition relates has not been complied with, forfeit the bail money agreed to Forfeiture of bail money.

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*Fines and Forfeited Recognizances (Bail) Amendment.*

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

be forfeited by the bail agreement entered into pursuant to the condition and transmit the bail undertaking, the instrument by which the condition was imposed and the bail agreement, together with the certificate referred to in subsection (2), to the Clerk of the Peace to be proceeded upon according to law.

(2) Where bail money is forfeited under this section by any court, the court shall certify in what respects the bail undertaking has not been complied with, and the certificate shall be prima facie evidence of the matters stated therein.

## (5) (a) Section 6 (1A)—

After section 6 (1), insert :—

(1A) Where a bail undertaking entered into for the appearance of a person—

- (a) before a court of summary jurisdiction; or
- (b) before a stipendiary or special magistrate or a justice or justices in proceedings to determine whether that person should be committed for trial,

to answer, or to answer further, to any charge, has not been complied with, and an amount of bail money, not exceeding \$300, has been deposited by any person pursuant to a bail agreement, then—

- (c) notwithstanding anything in this or any other Act, the documents referred to in section 4A (1) shall not be transmitted to the Clerk of the Peace and shall not be entered on any Estreat Roll;



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*Fines and Forfeited Recognizances (Bail) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (d) the person who deposited the amount of bail money may, within the prescribed period from the date on which the bail money was forfeited, lodge with the clerk of the court of summary jurisdiction by, at or nearest to the place at which the bail money was forfeited an application for the discharge of the forfeited bail money;
- (e) the amount so deposited shall, if no application is lodged pursuant to paragraph (d) within the prescribed period, be paid to the Consolidated Revenue Fund upon the expiration of that period;
- (f) the amount so deposited shall, if the application is lodged pursuant to paragraph (d) within the prescribed period, be held by the person with whom it was deposited until the application is determined.

In this subsection “prescribed period” means 21 days or such longer period as may be prescribed in lieu thereof.

(b) Section 6 (2) (a)—

Omit “paragraph (b) of subsection one of this section”, insert instead “subsection (1) (b) or (1A) (d)”.

(c) Section 6 (2) (b) (ii)—

After “recognizance”, insert “or bail money”.

(d) Section 6 (3)—

After “recognizance” wherever occurring, insert “or bail money”.

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*Fines and Forfeited Recognizances (Bail) Amendment.*

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

## (6) Section 17—

After “recognizance,” insert “or who, having been accepted under the Bail Act, 1978, by virtue of his ownership of specific property, as an acceptable person referred to in section 36 of that Act,”.

## (7) Third Schedule—

After “recognizances”, insert “, bail money”.

## (8) Fourth Schedule—

After “*recognizances*”, insert “, *bail money*”.

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

A. R. CUTLER,  
*Governor.*

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





