

# CONCURRENCE COPY

## BAIL (COMMUNITY WELFARE) AMENDMENT BILL, 1982

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### EXPLANATORY NOTE

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

This Bill is cognate with the Community Welfare Bill, 1982.

The objects of this Bill are—

- (a) to enable bail to be granted in accordance with the Bail Act, 1978, in respect of the period during which an application for the revocation, extension or amendment of a community service order or children's community service order is pending, the period between a person subject to a community service order being convicted of an offence under section 23 (1) of the Community Service Orders Act, 1979, and his appearing in respect of that offence and the period between a person the subject of a community service order under the Community Welfare Act, 1982, being found guilty of an offence under section 160 (1) of that Act and his appearing in respect of that offence;
  - (b) to enable the Minister for Youth and Community Services or an officer of the Department of Youth and Community Services to indemnify another person against forfeiture of bail granted to a ward or intellectually handicapped person under guardianship, within the meaning of the Community Welfare Act, 1982; and
  - (c) to make other amendments consequent upon the enactment of the Community Welfare Act, 1982.
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Act No. 1982.  
**BAIL (COMMUNITY WELFARE) AMENDMENT BILL, 1982**

No. , 1982.

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**A BILL FOR**

**An Act to amend the Bail Act, 1978, consequent upon the enactment of the  
Community Welfare Act, 1982.**

[MR K. J. STEWART—9 March, 1982.]

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*Bail (Community Welfare) Amendment.*

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**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 Short title.**

**1.** This Act may be cited as the "Bail (Community Welfare) Amendment Act, 1982".

**Commencement.**

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

**(2)** Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Community Welfare Act, 1982.

**Amendment of Act No. 161, 1978.**

15 **3.** The Bail Act, 1978, is amended in the manner set forth in Schedule 1.

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**SCHEDULE 1.**

**(Sec. 3.)**

**AMENDMENTS TO THE BAIL ACT, 1978.**

**(1) (a)** Section 4 (1), definition of "conviction"—

20 Omit "83 (3) of the Child Welfare Act, 1939", insert instead  
"197 of the Community Welfare Act, 1982".

**(b)** Section 4 (1), definition of "court of petty sessions"—

Omit "a children's court under the Child Welfare Act, 1939",  
insert instead "the Children's Court".



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*Bail (Community Welfare) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE BAIL ACT, 1978—*continued.*

## (c) Section 4 (1), definition of “magistrate”—

5 Omit “a special magistrate under the Child Welfare Act, 1939”,  
insert instead “a member of the Children’s Court”.

## (d) Section 4 (6)—

Omit the subsection, insert instead:—

10 (6) A reference in this Act to a prison includes in the case  
of a child within the meaning of the Community Welfare Act,  
1982, a reference to a remand centre or training centre within  
the meaning of that Act.

## (2) (a) Section 6 (g)—

Omit “and” where secondly occurring.

## (b) Section 6 (g1)–(g3)—

15 After section 6 (g), insert:—

(g1) the period during which an application for revocation,  
extension or amendment of a community service order,  
within the meaning of the Community Service Orders  
Act, 1979, or a children’s community service order,  
20 within the meaning of Division 4 of Part VIII of the  
Community Welfare Act, 1982, is pending;

(g2) the period between a person being convicted of an  
offence under section 23 (1) of the Community Service  
Orders Act, 1979, and his appearing, pursuant to that  
Act, before the court that made the community service  
order, within the meaning of that Act, to which the  
25 person is subject;

(g3) the period between a person being found guilty of  
an offence under section 160 (1) of the Community  
Welfare Act, 1982, and his appearing, pursuant to that  
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*Bail (Community Welfare) Amendment.*

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**SCHEDULE 1—continued.**

**AMENDMENTS TO THE BAIL ACT, 1978—continued.**

5 Act, before the court that made the children's community service order, within the meaning of that Act, to which the person is subject; and

(3) (a) Section 16 (d)—

Omit "87 (2) (a) of the Child Welfare Act, 1939", insert instead "165 (1) of the Community Welfare Act, 1982".

(b) Section 16 (d)—

10 Omit "children's court", insert instead "Children's Court".

(4) (a) Section 24 (5)—

Omit " a children's court", insert instead "the Children's Court".

(b) Section 24 (5)—

15 Omit "87 (2) (a) of the Child Welfare Act, 1939", insert instead "165 (1) of the Community Welfare Act, 1982".

(5) (a) Section 26 (1) (g)—

Omit "87 (2) (a) of the Child Welfare Act, 1939", insert instead "165 (1) of the Community Welfare Act, 1982".

(b) Section 26 (1) (g)—

20 Omit "children's court", insert instead "Children's Court".

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*Bail (Community Welfare) Amendment.*

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**SCHEDULE 1—continued.****AMENDMENTS TO THE BAIL ACT, 1978—continued.****(6) Section 58 (3A)—**

After section 58 (3), insert:—

- 5           (3A) This section does not apply in relation to an indemnity or an  
agreement to indemnify given by the Minister for Youth and Com-  
munity Services to an officer of the Department of Youth and Com-  
munity Services against any forfeiture which the officer may incur as  
10           a result of entering into any agreement under section 36 for the  
purpose of fulfilling a condition imposed on the grant of bail to a  
ward, within the meaning of the Community Welfare Act, 1982, or  
an intellectually handicapped person under guardianship within the  
meaning of Part XI of that Act.

**(7) Schedule 1, clause 1, definition of “law”—**

- 15           Omit “Child Welfare Act, 1939”, insert instead “Community  
Welfare Act, 1982”.

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BY AUTHORITY

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**BAIL (COMMUNITY WELFARE) AMENDMENT ACT, 1982,  
No. 78**

**New South Wales**



ANNO TRICESIMO PRIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 78, 1982.**

An Act to amend the Bail Act, 1978, consequent upon the enactment of the  
Community Welfare Act, 1982. [Assented to, 25th May, 1982.]

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*Bail (Community Welfare) Amendment.*

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**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 "Bail (Community Welfare) Amendment Act, 1982".

**Commencement.**

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

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Community Welfare Act, 1982.

**Amendment of Act No. 161, 1978.**

3. The Bail Act, 1978, is amended in the manner set forth in Schedule 1.

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SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE BAIL ACT, 1978.

(1) (a) Section 4 (1), definition of "conviction"—

Omit "83 (3) of the Child Welfare Act, 1939", insert instead "197 of the Community Welfare Act, 1982".

(b) Section 4 (1), definition of "court of petty sessions"—

Omit "a children's court under the Child Welfare Act, 1939", insert instead "the Children's Court".

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*Bail (Community Welfare) Amendment.*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE BAIL ACT, 1978—*continued.*

(c) Section 4 (1), definition of “magistrate”—

Omit “a special magistrate under the Child Welfare Act, 1939”,  
insert instead “a member of the Children’s Court”.

(d) Section 4 (6)—

Omit the subsection, insert instead:—

(6) A reference in this Act to a prison includes in the case  
of a child within the meaning of the Community Welfare Act,  
1982, a reference to a remand centre or training centre within  
the meaning of that Act.

(2) (a) Section 6 (g)—

Omit “and” where secondly occurring.

(b) Section 6 (g1)–(g3)—

After section 6 (g), insert:—

(g1) the period during which an application for revocation,  
extension or amendment of a community service order,  
within the meaning of the Community Service Orders  
Act, 1979, or a children’s community service order,  
within the meaning of Division 4 of Part VIII of the  
Community Welfare Act, 1982, is pending;

(g2) the period between a person being convicted of an  
offence under section 23 (1) of the Community Service  
Orders Act, 1979, and his appearing, pursuant to that  
Act, before the court that made the community service  
order, within the meaning of that Act, to which the  
person is subject;

(g3) the period between a person being found guilty of  
an offence under section 160 (1) of the Community  
Welfare Act, 1982, and his appearing, pursuant to that

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*Bail (Community Welfare) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE BAIL ACT, 1978—*continued.*

Act, before the court that made the children's community service order, within the meaning of that Act, to which the person is subject; and

## (3) (a) Section 16 (d)—

Omit "87 (2) (a) of the Child Welfare Act, 1939", insert instead "165 (1) of the Community Welfare Act, 1982".

## (b) Section 16 (d)—

Omit "children's court", insert instead "Children's Court".

## (4) (a) Section 24 (5)—

Omit " a children's court", insert instead "the Children's Court".

## (b) Section 24 (5)—

Omit "87 (2) (a) of the Child Welfare Act, 1939", insert instead "165 (1) of the Community Welfare Act, 1982".

## (5) (a) Section 26 (1) (g)—

Omit "87 (2) (a) of the Child Welfare Act, 1939", insert instead "165 (1) of the Community Welfare Act, 1982".

## (b) Section 26 (1) (g)—

Omit "children's court", insert instead "Children's Court".



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*Bail (Community Welfare) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE BAIL ACT, 1978—*continued.*

(6) Section 58 (3A)—

After section 58 (3), insert:—

(3A) This section does not apply in relation to an indemnity or an agreement to indemnify given by the Minister for Youth and Community Services to an officer of the Department of Youth and Community Services against any forfeiture which the officer may incur as a result of entering into any agreement under section 36 for the purpose of fulfilling a condition imposed on the grant of bail to a ward, within the meaning of the Community Welfare Act, 1982, or an intellectually handicapped person under guardianship within the meaning of Part XI of that Act.

(7) Schedule 1, clause 1, definition of “law”—

Omit “Child Welfare Act, 1939”, insert instead “Community Welfare Act, 1982”.

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

J. A. ROWLAND,  
*Governor.*

*Government House,  
Sydney, 25th May, 1982.*





