South Australia

Bail Act 1985

An Act to regulate the granting of bail.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Bail Act 1985*.

3—Interpretation

(1) In this Act, unless the contrary intention appears—

ammunition has the same meaning as in the *Firearms Act 2015*;

bail authority means a court or person constituted as a bail authority by or under section 5;

case manager means a person responsible for supervision of a person's participation in an intervention program;

Chief Executive Officer has the same meaning as in the *Correctional Services Act 1982*;

child means a person who was, on the day on which an offence was allegedly committed by that person, under the age of 18 years;

Commonwealth Criminal Code means the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth, or a law of the Commonwealth that replaces that Code;

community corrections officer means—

(a) in relation to a child—an officer or employee of an administrative unit of the Public Service whose duties include the supervision of young offenders in the community;

(b) in any other case—an officer or employee of an administrative unit of the Public Service whose duties include the supervision of adult offenders in the community;

designated police facility has the same meaning as in section 78 of the *Summary Offences Act 1953*;

eligible person means a person who is eligible to apply for release on bail under section 4;

financial condition, in relation to bail, means a condition requiring an applicant for bail to provide security or obtain guarantees, or requiring a guarantor to provide security; and ***non-financial condition*** has a correlative meaning;

firearm has the same meaning as in the *Firearms Act 2015*;

guarantee means an agreement under section 7;

guarantor means a person who enters into a guarantee;

guardian, in relation to a child, means a parent of the child and any person who is the legal guardian of the child or who has the immediate custody and control of the child;

intervention program means a program that provides—

(a) supervised treatment; or

(b) supervised rehabilitation; or

(c) supervised behaviour management; or

(d) supervised access to support services; or

(e) a combination of any one or more of the above,

designed to address behavioural problems (including problem gambling), substance abuse or mental impairment;

intervention program manager means a person employed by the South Australian Courts Administration Authority to have general oversight of intervention programs and coordinate the implementation of relevant court orders (and includes a delegate of such a person);

officer in charge, in relation to a police station, means the police officer for the time being in charge of the police station;

responsible officer, in relation to a police station, means—

(a) the officer in charge of the police station; or

(b) if a police officer has, for the time being, been designated by the officer in charge of the police station as the officer with responsibility for persons accepted into custody at the police station—that officer;

serious and organised crime offence has the same meaning as in the *Criminal Law Consolidation Act 1935*;

serious and organised crime suspect—see section 3A;

telephone includes any telecommunication device for the transmission of speech;

terrorism intelligence authority means a terrorism intelligence authority designated by regulations under section 74B of the *Police Act 1998*;

terrorism notification means a terrorism notification under section 74B of the *Police Act 1998*;

terrorist offence means—

(a) an offence against Division 72 Subdivision A of the Commonwealth Criminal Code (International terrorist activities using explosive or lethal devices); or

(b) a terrorism offence against Part 5.3 of the Commonwealth Criminal Code (Terrorism) where the maximum penalty is 7 or more years imprisonment; or

(c) an offence against Part 5.5 of the Commonwealth Criminal Code (Foreign incursions and recruitment), except an offence against subsection 119.7(2) or (3) (Publishing recruitment advertisements); or

(d) an offence against the repealed *Crimes (Foreign Incursions and Recruitment) Act 1978* of the Commonwealth, except an offence against paragraph 9(1)(b) or (c) of that Act (Publishing recruitment advertisements); or

(e) an offence of a kind prescribed by the regulations for the purposes of this definition;

terror suspect—see section 3B;

training centre has the same meaning as in the *Young Offenders Act 1993*;

victim, in relation to an offence, means a person who allegedly suffers injury in consequence of the commission of the offence;

working day means any day except a Saturday, or a Sunday or other public holiday.

(2) For the purposes of this Act, a person will be taken to have been convicted of an offence if a formal finding of guilt has been made against that person by a court whether or not the court proceeds to record a conviction.

3A—Serious and organised crime suspects

(1) A bail authority may determine that a person is a ***serious and organised crime suspect*** for the purposes of this Act if the bail authority is satisfied, on application by the Crown, that—

(a) the person has been charged with a serious and organised crime offence; and

(b) the person was not, at the time of the alleged offence, a child; and

(c) the grant of bail to the person is likely to cause a potential witness, or other person connected with proceedings for the alleged offence, to reasonably fear for his or her safety.

(2) A determination by a bail authority that a person taken into custody on a charge of an offence is a serious and organised crime suspect ceases to apply after 6 months if, at that time—

(a) the person has not been tried, or is not on trial, for the offence; and

(b) the trial of the offence is not subject to a determination of the Supreme Court or the District Court under section 275(3) of the *Criminal Law Consolidation Act 1935*.

(3) Subsection (2) does not affect the operation of a bail agreement to which the person is subject at the time at which the determination ceases to apply.

Note—

The person is, however, eligible to reapply for bail—see section 4(1)(h).

3B—Terror suspects

(1) A person is a ***terror suspect*** for the purposes of a bail application or bail agreement under this Act if—

(a) the bail application or bail agreement does not relate to a terrorist offence; but

(b) the person—

(i) is, or has previously been, charged with, or convicted of, a terrorist offence; or

(ii) is the subject of a terrorism notification; or

(iii) is, or has previously been, the subject of a control order under Part 5.3 of the Commonwealth Criminal Code.

Note—

If the bail application or bail agreement relates to a terrorist offence, see section 15AA of the *Crimes Act 1914* of the Commonwealth.

(2) For the purposes of subsection (1)(b)(i), a person is only taken to have been charged with an offence if an information or other initiating process charging the person with the offence has been filed in a court.

4—Eligibility for bail

(1) The following persons are eligible for release on bail under this Act:

(a) a person who has been taken into custody—

(i) on a charge of an offence; or

(ii) in the case of a child—on suspicion of having committed an offence;

(b) a person who has been convicted of an offence but has not been sentenced for that offence;

(c) a person who has been convicted of, and sentenced for, an offence but has not exhausted all rights of appeal against the conviction or sentence, or to have it reviewed;

(d) a person who is appearing before a court for allegedly failing to observe a condition of a recognizance;

(e) a person who appears before a court in answer to a summons (including a person who so appears as a witness);

(f) a person who has been arrested on a warrant and is appearing or is to appear before a court as a witness;

(g) a person arrested on a warrant issued under section 19A;

(ga) a person who has been arrested without warrant under section 19B;

(h) a person who is no longer a serious and organised crime suspect because of the operation of section 3A(2);

(i) a person who has ceased to be a terror suspect.

(1a) A person who is eligible to apply for bail in accordance with subsection (1)(h) may so apply despite the fact that he or she is already subject to a bail agreement (the ***previous bail agreement***) if, at the time of the previous bail agreement, the person was a serious and organised crime suspect (and if a new bail agreement is entered into following such an application, the previous bail agreement ceases to be in force).

(1b) A person who is eligible to apply for bail in accordance with subsection (1)(i) may so apply despite the fact that the person is already subject to a bail agreement (the ***previous bail agreement***) if, at the time of the previous bail agreement, the person was a terror suspect (and if a new bail agreement is entered into following such an application, the previous bail agreement ceases to be in force).

(2) If a person who has been arrested is being detained pursuant to the *Summary Offences Act 1953* for a purpose related to the investigation of an offence, the person is not eligible for release on bail until the end of that detention.

(3) Where a person is being detained under Part 3 of the *Criminal Law (High Risk Offenders) Act 2015*, the person is not eligible for release on bail.

5—Bail authorities

(1) Subject to subsection (3), the following are constituted as bail authorities for the purposes of this Act:

(a) the Supreme Court;

(b) a court before which the eligible person has been charged with the offence in respect of which the eligible person has been taken into custody;

(c) a court before which the eligible person has appeared for trial or sentencing;

(d) if the eligible person—

(i) is charged with a summary offence only; or

(ii) is charged with an indictable offence but has not appeared before a court for trial or sentencing,

the Magistrates Court;

(e) if the eligible person—

(i) has been arrested on a warrant (other than a warrant endorsed by the court or justice issuing the warrant with a statement excluding the granting of bail by a police officer); or

(ii) has not appeared before a court charged with the offence in respect of which he or she has been taken into custody,

a police officer who is—

(iii) of or above the rank of sergeant; or

(iv) the responsible officer for a police station;

(ea) if the eligible person is appearing before a court in answer to a summons or for allegedly failing to observe a condition of a recognizance—that court;

(eb) if the eligible person is appearing, or is to appear, as a witness before a court—that court;

(f) a person authorised or required to release the eligible person on bail under subsection (2).

(2) If a warrant for the arrest of a person is issued, the court or justice issuing the warrant may, by endorsement on the warrant—

(a) authorise or require a specified person, or a person of a specified class, to release the arrested person on bail; or

(b) exclude the granting of bail to the arrested person by a police officer.

(3) If the eligible person is a terror suspect—

(a) only a court may act as a bail authority in accordance with subsection (1) in relation to the eligible person; and

(b) a terrorism intelligence authority is entitled to be heard in relation to any application under this Act relating to the eligible person.

Part 2—Bail agreements and guarantees

6—Nature of bail agreement

(1) A bail agreement with a person who has been charged with, or convicted of, an offence is an agreement under which that person makes an undertaking to the Crown—

(a) subject to any directions in the agreement to the contrary, to be present throughout all proceedings—

(i) if the person has not been convicted of the offence—relating to any preliminary examination of the charge and to the hearing and determination of the charge;

(ii) if the person is convicted of the offence—relating to sentencing and to any appeal from, or review of, the conviction or any sentence; and

(b) to comply with any conditions as to the person's conduct while on bail stipulated in the agreement; and

(c) if the agreement so provides—to forfeit to the Crown a sum stipulated in the agreement if the person fails, without proper excuse, to comply with a term or condition of the agreement.

(1a) For the purposes of subsection (1)—

(a) a child who has been arrested on suspicion of having committed an offence will, for so long as no charge is actually laid against the child, be taken to have been charged with that suspected offence; and

(b) if the child is not charged with that suspected offence but with some other offence arising out of the same circumstances as that suspected offence—a bail agreement entered into by the child relates to that other offence.

(1b) A bail agreement with a person who is appearing or is to appear before a court as a witness in proceedings (other than proceedings relating to an offence for which that person has been charged or convicted) is an agreement under which that person makes an undertaking to the court—

(a) to be present at the proceedings in accordance with the terms of the agreement; and

(b) to comply with any conditions as to the person's conduct while on bail stipulated in the agreement; and

(c) if the agreement so provides—to forfeit to the Crown a sum stipulated in the agreement if the person fails, without proper excuse, to comply with a term or condition of the agreement.

(2) A bail agreement must be in the prescribed form.

(3) If a bail authority decides to release a person on bail, the bail agreement may be entered into before the bail authority or, unless the bail authority otherwise directs, before—

(a) a justice; or

(b) a police officer who is—

(i) of or above the rank of sergeant; or

(ii) the responsible officer for a police station; or

(ba) if the person is in a training centre—the manager of the training centre; or

(c) if the person is in prison—the person who is in charge of the prison; or

(ca) a registrar or deputy registrar of a court; or

(d) any other person specified by the bail authority or any other person of a class specified by the bail authority.

(4) Despite the provisions of any other Act, a bail authority may for any sufficient reason, on the application of a person on bail or the Crown, or on its own initiative, vary the conditions of a bail agreement or revoke a bail agreement.

(5) If a bail authority revokes a bail agreement, the bail authority (not being a police officer) may, if it is necessary to do so, issue a warrant for the arrest of the person who was released under the agreement.

7—Guarantee of bail

(1) A guarantee of bail is an agreement with the Crown under which a person—

(a) guarantees that a person released under a bail agreement will comply with—

(i) all the terms and conditions of the agreement; or

(ii) such of the terms and conditions of the agreement as are specified in the guarantee; and

(b) undertakes that, if that person fails to comply with a term or condition of the bail agreement to which the guarantee relates, he or she (the guarantor) will forfeit to the Crown the sum (if any) specified in the guarantee.

(2) A guarantee of bail must be in the prescribed form.

(3) A guarantee of bail may be entered into before the bail authority granting bail or, unless the bail authority otherwise directs, before—

(a) a justice; or

(b) a police officer who is—

(i) of or above the rank of sergeant; or

(ii) the responsible officer for a police station; or

(ba) if the person who is to be released on bail is in a training centre—the manager of the training centre; or

(c) if the person who is to be released on bail is in prison—the person who is in charge of the prison; or

(ca) a registrar or deputy registrar of a court; or

(d) any other person specified by the bail authority or any other person of a class specified by the bail authority.

(4) A bail authority may for any sufficient reason, on the application of a guarantor, vary the terms of the guarantee or revoke the guarantee.

(5) If a bail authority varies or revokes a guarantee, the bail authority may make such consequential variation of the terms of the bail agreement, or revoke the bail agreement, as appears appropriate in the circumstances.

(6) A guarantor of bail must be of or above the age of 18 years.

Part 3—Applications for release on bail

Division 1—Applications generally

8—Form of application

(1) Subject to subsection (1a), an application of a person for release on bail—

(a) must be in the prescribed form; and

(b) must contain the prescribed information; and

(c) must be made in accordance with any procedure prescribed by the regulations.

(1a) An application for release on bail need not be made in accordance with subsection (1)—

(a) if the bail authority is satisfied that a less formal application should be permitted in view of the applicant's illiteracy, imperfect command of the English language, intellectual limitations or for any other proper reason; or

(b) if the bail authority has access to an application previously made by the applicant and considers that a further written application is unnecessary.

(2) A person who has the custody of an eligible person must, at the request of that person—

(a) afford such assistance as that person reasonably requires to complete a written application for release on bail; and

(b) if the custodian is not a bail authority—transmit the application as soon as practicable to a bail authority.

(2a) If the eligible person is a child, a request may be made on behalf of the child under subsection (2) by a guardian of the child.

(3) If a written application for release on bail comes before a bail authority for determination, the bail authority may proceed to consider and determine the application despite the fact that the application was made in the first instance to some other bail authority.

9—Power of bail authority to make inquiries and to hear evidence

(1) Subject to this section, a bail authority to which an application for release on bail is made—

(a) may make inquiries, or direct that inquiries be made, of the applicant and other persons who may be able to furnish information relevant to the determination of the application; and

(b) if the authority (not being a police officer) thinks fit—may take evidence on oath from the applicant or any other person who may be able to furnish information relevant to the determination of the application.

(2) If a bail authority takes evidence, or proposes to take evidence, on oath under subsection (1)(b), it must at the request of the applicant or the Crown permit such examination, cross-examination or re-examination of the witness as may be appropriate in the circumstances.

10—Discretion exercisable by bail authority

(1) If an application for bail is made to a bail authority by an eligible person who has been charged with, but not convicted of, an offence in respect of which he or she has been taken into custody, the bail authority should, subject to this Act, release the applicant on bail unless, having regard to—

(a) the gravity of the offence in respect of which the applicant has been taken into custody; and

(b) the likelihood (if any) that the applicant would, if released—

(i) abscond; or

(ii) offend again; or

(iii) interfere with evidence, intimidate or suborn witnesses, or hinder police inquiries; or

(iv) commit a breach of an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009*; and

(d) any need that the applicant may have for physical protection; and

(e) any medical or other care that the applicant may require; and

(f) any previous occasions on which the applicant may have contravened or failed to comply with a term or condition of a bail agreement; and

(g) any other relevant matter,

the bail authority considers that the applicant should not be released on bail.

(2) If the applicant has been convicted of the offence in respect of which he or she has been taken into custody, the bail authority has, subject to this Act, an unfettered discretion as to whether the applicant should be released on bail.

(3) If the applicant is a person who is appearing or is to appear before a court as a witness in proceedings (other than proceedings relating to an offence for which that person has been charged or convicted), the bail authority should, subject to this Act, release the applicant on bail unless there is a likelihood that the applicant would, if released, abscond.

(4) Despite the other provisions of this section, if there is a victim of the offence, the bail authority must, in determining whether the applicant should be released on bail, give primary consideration to the need that the victim may have, or perceive, for physical protection from the applicant.

10A—Presumption against bail in certain cases

(1) Despite section 10, bail is not to be granted to a prescribed applicant unless the applicant establishes the existence of special circumstances justifying the applicant's release on bail.

(1a) An applicant who is a serious and organised crime suspect will not be taken to have established that special circumstances exist for the purposes of subsection (1) unless the applicant also establishes, by evidence verified on oath or by affidavit, that he or she has not previously been convicted of—

(a) a serious and organised crime offence; or

(b) an offence committed in another jurisdiction that would, if committed in this jurisdiction, have been a serious and organised crime offence.

(2) In this section—

prescribed applicant means—

(a) an applicant taken into custody in relation to any of the following offences if committed, or allegedly committed, by the applicant in the course of attempting to escape pursuit by a police officer or attempting to entice a police officer to engage in a pursuit:

(i) an offence against section 13 of the *Criminal Law Consolidation Act 1935* in which the victim's death was caused by the applicant's use of a motor vehicle;

(ii) an offence against section 19A of the *Criminal Law Consolidation Act 1935*;

(iii) an offence against section 29 of the *Criminal Law Consolidation Act 1935* if the act or omission constituting the offence was done or made by the applicant in the course of the applicant's use of a motor vehicle; or

(b) an applicant taken into custody in relation to an offence against section 17 if there is alleged to have been a contravention of, or failure to comply with, a condition of a bail agreement imposed under section 11(2)(a)(ii); or

(ba) an applicant taken into custody in relation to an offence against section 31 of the *Intervention Orders (Prevention of Abuse) Act 2009* if the act or omission alleged to constitute the offence involved physical violence or a threat of physical violence; or

(bb) an applicant who is a serious and organised crime suspect;

(c) an applicant taken into custody in relation to an offence of contravening or failing to comply with a control order or public safety order issued under the *Serious and Organised Crime (Control) Act 2008*; or

(ca) an applicant charged with an aggravated offence involving physical violence or a threat of physical violence if an aggravating circumstance of the offence is that, at the time of the alleged offence, the applicant is alleged to have contravened an intervention order of a court and the offence lay within the range of conduct that the intervention order was designed to prevent; or

(d) an applicant taken into custody in relation to an offence against any of the following provisions of the *Criminal Law Consolidation Act 1935*:

(i) section 172;

(ii) section 248;

(iii) section 250;

(iv) section 85B; or

(e) an applicant taken into custody in relation to a serious firearm offence (within the meaning of Part 2 Division 2AA of the *Criminal Law (Sentencing) Act 1988*); or

(f) an applicant taken into custody in relation to both—

(i) a serious drug offence (within the meaning of section 34 of the *Controlled Substances Act 1984*); and

(ii) a serious offence against the person (within the meaning of section 74EA of the *Summary Offences Act 1953*); or

(g) an applicant who is a terror suspect.

11—Conditions of bail

(1) Subject to this Act, every grant of bail is subject to the following conditions:

(a) a condition prohibiting the applicant from possessing a firearm, ammunition or any part of a firearm;

(b) a condition requiring the applicant to submit to such tests (including testing without notice) for gunshot residue as may be reasonably required by the bail authority, or a person or class of persons or body specified by the bail authority.

(1a) A bail authority may only vary or revoke the conditions imposed by subsection (1) if the bail authority is satisfied that—

(a) there are cogent reasons to do so; and

(b) the possession of a firearm, ammunition or part of a firearm by the person to whom the bail agreement relates does not represent an undue risk to the safety of the public.

(1b) A bail authority that is a court can only be satisfied of the matters referred to in subsection (1a) by evidence given on oath.

(1c) If a bail authority varies or revokes a condition imposed by subsection (1), the bail authority must make a written record of the reasons for its decision.

(1d) Subject to this section, a bail authority may impose 1 or more of the conditions referred to in subsection (2).

(2) The conditions that may be imposed in relation to the grant of bail are as follows:

(a) that the applicant agree—

(i) to reside at a specified address; or

(ia) to reside at a specified address and to remain at that place of residence while on bail, not leaving it except for one of the following purposes:

(A) remunerated employment; or

(B) necessary medical or dental treatment for the applicant; or

(C) averting or minimising a serious risk of death or injury (whether to the applicant or some other person); or

(D) any other purpose approved by a community corrections officer; or

(ii) if there is a victim of the offence in respect of which the applicant has been charged—to comply with such conditions relating to the physical protection of the victim that the authority considers should apply to the applicant while on bail; or

(iii) to be under the supervision of a community corrections officer and to obey the lawful directions of the officer; or

(iv) to report to the police at a specified place and at specified times; or

(v) to surrender any passport that the applicant may possess; or

(vi) to comply with any other condition as to the applicant's conduct that the authority considers should apply while on bail;

(b) that the applicant provide the bail authority with written assurances from a stipulated number of persons, who are acceptable to the bail authority, that they are acquainted with the applicant and are confident that the applicant will comply with the terms and conditions of a bail agreement;

(c) that the applicant agree to forfeit to the Crown a sum of money (to be stipulated in the bail agreement) if the applicant fails, without proper excuse, to comply with a term or condition of the bail agreement;

(d) that the applicant provide security of a specified amount or value to secure payment of a monetary forfeiture agreed to under paragraph (c);

(e) that the applicant obtain specified guarantees, or guarantees of a specified nature;

(f) that a guarantor provide security of a specified amount or value to secure payment of a stipulated monetary forfeiture.

(2aa) If the applicant is a serious and organised crime suspect, any grant of bail to the applicant—

(a) must be made subject to the following conditions:

(i) a condition that the applicant agree to reside at a specified address and to remain at that place of residence while on bail, not leaving it except for 1 of the following purposes:

(A) necessary medical or dental treatment for the applicant;

(B) averting or minimising a serious risk of death or injury (whether to the applicant or some other person);

(C) any other purpose approved by the Chief Executive Officer;

(ii) a condition that the applicant agree to be fitted with a device of a kind approved by the Chief Executive Officer for the purpose of monitoring compliance with the condition referred to in subparagraph (i) and to comply with all reasonable directions of the Chief Executive Officer in relation to the device;

(iii) a condition that the applicant agree to not communicate with any person other than specified persons, or persons of a specified class or of a class prescribed by regulation;

(iv) a condition that the applicant agree to only use for communication purposes, or be in possession of, such telephones, mobile phones, computers or other communication devices as may be specified; and

(b) may not be made subject to the condition referred to in subsection (2)(a)(ia) (but the bail authority may, subject to this section, impose any other condition referred to in subsection (2)).

(2ab) If the applicant is a class 1 or class 2 offence suspect, any grant of bail to the applicant must, subject to this section, be made subject to the following conditions:

(a) a condition that the applicant agrees not to engage in child-related work;

(b) a condition that the applicant agrees not to apply for child-related work.

(2ac) A bail authority may only vary or revoke conditions imposed in accordance with subsection (2ab) if the bail authority is satisfied that—

(a) there are cogent reasons to do so; and

(b) the applicant engaging in child-related work will not pose a risk to the safety and well being of children.

(2ad) If a bail authority varies or revokes a condition imposed by subsection (2ab), the bail authority must make a written record of the reasons for its decision.

(2a) In deciding on the conditions to be imposed in relation to a grant of bail, a bail authority should give special consideration to any submissions made by the Crown on behalf of a victim of the alleged offence.

(3) A bail authority should not impose a condition under subsection (2)(a)(ia) or (iii) except on the application, or with the consent, of the Crown.

(3a) Before a bail authority imposes a condition under subsection (2)(a)(ia) or (2aa)(a)(i), the bail authority should obtain a report (whether oral or in writing) from the Crown on—

(a) in the case of a condition under subsection (2)(a)(ia)—the appropriateness of such a condition being imposed in the applicant's case; or

(b) in the case of a condition under subsection (2aa)(a)(i)—whether the place of residence proposed to be specified in the condition is appropriate in the applicant's case.

(4) A condition (other than a condition as to the conduct of the applicant while on bail) must not be imposed under this section unless the condition is, in the opinion of the bail authority, reasonably necessary to ensure that the applicant complies with the bail agreement.

(5) A financial condition must not be imposed under this section unless the bail authority is of the opinion that the object of ensuring that the applicant complies with the bail agreement cannot be properly secured by a non-financial condition or combination of non-financial conditions.

(6) It is a condition of every bail agreement that the person released under the agreement will not leave the State for any reason—

(a) if the person is under the supervision of a community corrections officer—without the permission of the Chief Executive (or his or her nominee) of the administrative unit of which the community corrections officer is an officer or employee;

(c) in any other case—without the permission of—

(i) a judge or magistrate; or

(ii) a police officer who is—

(A) of or above the rank of sergeant; or

(B) the responsible officer for a police station.

(7) A condition imposed under this section must be stipulated in the bail agreement.

(7a) If it is a condition of a bail agreement that the person released under the agreement will remain at a particular place of residence, a police officer or a community corrections officer authorised by the Minister for the purpose may enter the residence at any time for the purpose of ascertaining whether or not the person is complying with the condition.

(7b) A person must not hinder a person referred to in subsection (7a) in the exercise of powers under that subsection.

Maximum penalty: $2 500.

(8) If it is a condition of a bail agreement that the person released under the agreement will be under the supervision of a community corrections officer and obey the lawful directions of that officer, the officer to whom the person is assigned for supervision may give reasonable directions—

(a) requiring that person to report to the officer on a regular basis; or

(b) requiring that person to notify the officer of any change in the person's place of residence, or in the person's employment; or

(c) on any other matter stipulated by the bail authority.

(9) If—

(a) a bail authority imposes a condition under this section; but

(b) the applicant remains in custody because the condition is not fulfilled,

the applicant must (if he or she is not sooner released) be brought back before a bail authority for a review of the condition as soon as reasonably practicable and, in any event, within five working days after the condition is imposed.

(10) A bail authority may, on a review of a condition under subsection (9)—

(a) confirm, vary or revoke the condition; and

(d) impose any other condition under this section that the bail authority thinks fit.

(11) If a bail authority imposes a condition requiring a person—

(a) to remain at a particular place of residence while on bail; or

(b) to be under the supervision of a community corrections officer,

the bail authority must ensure that a copy of the bail agreement is furnished to the relevant responsible Minister.

(12) A condition of bail may relate to a place or circumstances outside the State.

(13) In this section—

child-related work has the same meaning as in the *Child Sex Offenders Registration Act 2006*;

class 1 offence suspect means a person who has been charged with a class 1 offence (within the meaning of the *Child Sex Offenders Registration Act 2006*);

class 2 offence suspect means a person who has been charged with a class 2 offence (within the meaning of the *Child Sex Offenders Registration Act 2006*).

11A—Bail authority may direct person to surrender firearm etc

(1) A bail authority may, in relation to a grant of bail that is subject to the condition imposed by section 11(1)(a), direct the person to whom the grant of bail relates to surrender as soon as reasonably practicable at a police station specified by the bail authority any firearm, ammunition or part of a firearm owned or possessed by the person.

(2) A person who refuses or fails to comply with a direction under subsection (1) is guilty of an offence.

Maximum penalty: $10 000 or imprisonment for 2 years.

(3) No criminal liability attaches to a person to the extent that he or she is complying with a direction under this section.

(4) The Commissioner of Police must deal with any surrendered firearm, ammunition or part of a firearm in accordance with the scheme set out in the regulations.

(5) No compensation is payable by the Crown in respect of the exercise of a power or function under this section.

(6) The regulations may provide for the payment, recovery or waiver of fees in respect of this section.

12—Refusal of application

(1) If a bail authority decides to refuse an application for release on bail, the bail authority must make a written record of the reasons for its decision.

(2) The refusal of an application for release on bail does not preclude further applications.

Division 2—Procedure on arrest

13—Procedure on arrest

(1) If a police officer arrests a person who is, on arrest, eligible to apply for release on bail, the police officer must—

(a) as soon as reasonably practicable after delivering the arrested person to a police station or designated police facility after making the arrest, take reasonable steps to ensure that the arrested person (and, if the arrested person is a child, any guardian who is present) understands that the arrested person is entitled to apply for release on bail under this Act; and

(b) ensure that the arrested person (and, if the arrested person is a child, any guardian who is present) receives—

(i) a written statement, in the prescribed form, explaining how, and to what authorities, an application for release on bail may be made under this Act; and

(ii) the appropriate form for making an application for release on bail.

(2) An eligible person who is a child who has applied unsuccessfully to a police officer for release on bail must, if the child or a guardian so requests, be brought before the Youth Court as soon as practicable for the purpose of making an application for release on bail.

(3) An eligible person who has been arrested on a charge of an offence must, if not released beforehand, be brought before the appropriate authority on the charge in relation to which he or she was arrested as soon as reasonably practicable but, in any event, not later than 4 pm on the next working day following the day of arrest.

(4) The appropriate authority before whom a person is brought under subsection (3) must inquire as to whether that person wants to apply for release on bail and, if the person answers in the affirmative, the authority must afford the person a reasonable opportunity to apply for release on bail.

(5) For the purposes of this section, an eligible person may be brought before the Youth Court or the Magistrates Court—

(a) in person or by video link; or

(b) if the person is in custody in a police station or designated police facility that is situated in a remote area and there is no video link available—by audio link.

(6) In this section—

appropriate authority means—

(a) in relation to a child—the Youth Court; and

(b) in any other case—the Magistrates Court;

remote area, in relation to the situation of a police station or designated police facility, means—

(a) 200 kilometres or more; or

(b) if some other distance is prescribed by the regulations for the purposes of this definition—that distance,

from the nearest Youth Court or Magistrates Court (as the case requires);

Youth Court means the Youth Court of South Australia.

Part 4—Review of decisions of bail authorities

14—Review of decisions of bail authorities

(1) A decision of a bail authority (not being the Supreme Court) is subject to review under this section.

(2) A review may be carried out under this section on the application of the Crown, the person applying for release on bail or, if the person applying for release on bail is a child, the child or a guardian of the child—

(a) by the Supreme Court; or

(b) if the decision subject to review is a decision of a police officer or a court constituted of justices—by a magistrate.

(3) On a review, the reviewing authority will reconsider the application for release on bail and may make any decision on that application that should, in the opinion of the reviewing authority, have been made in the first instance.

(4) If an application for review of a decision of a bail authority is made, the bail authority must furnish the reviewing authority with any documentary or other material in its possession that may be relevant to the review.

(5) The reviewing authority must hear and determine an application under this section as expeditiously as possible.

15—Telephone review

(1) Subject to this section, if—

(a) an arrested person makes an application for release on bail to a police officer or a court constituted of justices; and

(b) the person is dissatisfied with the decision made on the application; and

(c) there is no magistrate in the vicinity immediately available to review the decision,

the police officer or justices who made the decision must, on the written application of the person, contact a magistrate by telephone for the purpose of having the decision reviewed.

(2) Subsection (1) does not apply to the following persons who have been arrested who are dissatisfied with the decision made on the person's application for release on bail:

(a) an arrested person (other than a child) who is dissatisfied with a decision made on application to a police officer on arrest who can be brought before the Magistrates Court constituted of a magistrate by not later than 4 pm on the next day following the day of arrest;

(b) an arrested person (other than a child) who is a prescribed applicant within the meaning of section 10A who is dissatisfied with the decision made on application to a police officer on arrest.

(3) If the arrested person is a child, the written application under subsection (1) may be made on behalf of the child by a guardian of the child.

(4) If, in relation to the original application for bail, compliance with section 8(1) was not required under section 8(1a) in that the application was not required in writing, the application for a telephone review under subsection (1) may be made orally.

(5) If the police officer who made the decision is not immediately available to contact a magistrate, contact must be made by another police officer of or above the rank of sergeant or the responsible officer for the police station.

(6) If a magistrate is contacted under subsection (1), the following provisions apply:

(a) the magistrate must make such inquiries as the magistrate thinks necessary to satisfy himself or herself of the genuineness of the application for review;

(b) the police officer or justices who made the telephone contact must explain to the magistrate—

(i) the circumstances of the application for bail; and

(ii) the nature of the decision made on the application; and

(iii) the reasons for that decision;

(c) the magistrate must then speak with the person who applied for bail or any legal practitioner representing or assisting that person, and any other person who may be present and who may, in the opinion of the magistrate, assist in explaining the circumstances of the particular case for the purpose of ensuring that the magistrate is fully informed—

(i) of the grounds and circumstances of the application for bail; and

(ii) of the reasons for the applicant's dissatisfaction with the decision taken on the application; and

(iii) if the applicant is a child—of the circumstances of the child;

(d) if the decision that is the subject of the review was made by justices—the magistrate must then speak with—

(i) if the police officer who appeared before the justices and opposed the application for bail is present and wishes to speak in relation to the application for review—the police officer; or

(ii) if that police officer is not immediately available—another police officer who is present and wishes to speak in relation to the application for review;

(e) the magistrate must then advise the police officer or justices who made the telephone contact of the decision on review, and bail must then be granted or refused in accordance with that decision.

(7) For the purposes of subsection (2), an arrested person can be brought before the Magistrates Court—

(a) in person or by video link; or

(b) if the person is in custody in a police station or designated police facility that is situated in a remote area and there is no video link available—by audio link.

(8) In this section—

remote area, in relation to the situation of a police station or designated police facility, means—

(a) 200 kilometres or more; or

(b) if some other distance is prescribed by the regulations for the purposes of this definition—that distance,

from the nearest Magistrates Court.

15A—Review of magistrate's decision by Supreme Court

(1) Subject to this section, a decision of a magistrate on a review of a decision of a bail authority is subject to review by the Supreme Court.

(2) A review may be carried out under this section on the application of the Crown, the person applying for release on bail or, if the person applying for release on bail is a child, the child or a guardian of the child.

(3) A review under this section may only occur with the permission of the Supreme Court (which should only be granted if it appears that there may have been some error of law or fact).

16—Stay of release on application for review

(1) Despite any other provision of this Act, if—

(a) —

(i) a bail authority decides to release a person on bail; or

(ii) on a review by a magistrate of a decision of a bail authority, the magistrate decides to release a person on bail; and

(b) a police officer or counsel on behalf of the Crown immediately indicates that an application for review of the decision will be made under this Part,

the release must be deferred.

(2) The period of deferral ends—

(a) if an application for a review is to be made—

(i) if the reviewing authority is satisfied that there is proper reason to fix a period longer than 72 hours for the period of deferral—at the end of the fixed period; or

(ii) in any other case—

(A) on the completion of the review; or

(B) when 72 hours elapses,

whichever occurs first; or

(b) if the Crown does not intend to proceed with the review—

(i) when the notice of discontinuance is filed on behalf of the Crown with the bail authority; or

(ii) when 72 hours elapses,

whichever occurs first.

(3) If a person is released on bail under subsection (2) (other than on the completion of a review), the conditions of bail are those that would have applied had the person's release not been deferred.

(4) In this section—

reviewing authority means a magistrate or the Supreme Court, as the case may be.

Part 5—Enforcement and termination of bail

17—Non-compliance with bail agreement constitutes offence

(1) A person who, without reasonable excuse, contravenes or fails to comply with a term or condition of a bail agreement is guilty of an offence.

Maximum penalty: $10 000 or imprisonment for 2 years.

(2) A penalty imposed under this section must not exceed the maximum penalty that may be imposed for the principal offence.

(3) A penalty imposed under this section is in addition to any pecuniary forfeiture that the convicted person suffers or may suffer in consequence of the offence.

(4) A reference in this section to the principal offence is a reference to—

(a) the offence with which the person released on bail was charged; or

(b) if that person was charged with a number of offences—that one of the offences that attracts the highest penalty.

17A—Guarantor must inform member of police force if person fails to comply with bail agreement

If a guarantor knows, or has reasonable cause to suspect, that the person released under the bail agreement has failed to comply with a term or condition of the agreement in relation to which his or her guarantee has been given, the guarantor must take reasonable steps to inform a police officer that the failure has, or may have, occurred.

Maximum penalty: $1 250.

18—Arrest of eligible person on non-compliance with bail agreement

(1) If it appears to a court or justice that a person released on bail has contravened or failed to comply with a term or condition of a bail agreement, it may—

(a) revoke the bail agreement; and

(b) if it appears necessary or desirable to do so—issue a warrant for the person's arrest.

(2) A police officer may arrest without warrant a person released on bail if he or she has reasonable grounds for believing that the person—

(a) intends to abscond; or

(b) is contravening or failing to comply with a bail agreement; or

(c) has contravened or failed to comply with a bail agreement.

(3) A person who is arrested without warrant pursuant to subsection (2) must, after being delivered into custody at a police station or designated police facility, be brought as soon as practicable before—

(a) the court before which the person is bound to appear; or

(b) the Magistrates Court.

19—Estreatment

(1) If a person who has been released under a bail agreement contravenes or fails to comply with a term or condition of the agreement—

(a) the court before which that person is bound to appear; or

(b) the Magistrates Court,

may, on the application of the Crown or on its own initiative, order that a pecuniary forfeiture stipulated in a bail agreement or a guarantee be carried into effect.

(2) An order for pecuniary forfeiture under subsection (1) may provide that the order is not to be carried into effect until a subsequent day to be fixed by the court making the order.

(3) If a court makes an order under this section, the court may at any time for any sufficient reason, on the application of the person in relation to whom the order is made or on its own initiative—

(a) reduce the amount of the forfeiture as stipulated in the bail agreement or guarantee; or

(b) rescind its order.

(3a) A court that makes an order under this section may allow time for payment of the amount forfeited and, if appropriate, direct that the amount be paid in instalments.

(4) The amount of a pecuniary forfeiture that is carried into effect pursuant to an order under this section may be recovered as a fine.

19A—Arrest of person who is serious and organised crime suspect

If it appears to a court that—

(a) the matters referred to in section 3A(1)(a), (b) and (c) apply in relation to a person who has been released on bail; but

(b) no application was made by a police officer to the bail authority for a determination to that effect,

the court may—

(c) revoke the bail agreement; and

(d) if it appears necessary or desirable to do so—issue a warrant for the person's arrest.

19B—Arrest of person who is or becomes a terror suspect

(1) If—

(a) a person who has been released under a bail agreement becomes a terror suspect while subject to the bail agreement; or

(b) a terror suspect who has been released under a bail agreement is the subject of a certificate issued by the Commissioner of Police under this section,

the bail agreement is taken to be revoked and a police officer may arrest the person without warrant.

(2) The Commissioner of Police may issue a certificate for the purposes of this section in relation to a terror suspect who has been released under a bail agreement certifying that the Commissioner is satisfied that significant new information has come to light in relation to the person that should be considered by a bail authority.

(3) In any proceedings, a document that appears to be a certificate issued by the Commissioner of Police under this section may be admitted in evidence and is proof, in the absence of proof to the contrary, of the matter so certified.

20—Termination of bail agreement

When a person who is on bail is sentenced, or discharged without sentence, the bail agreement and guarantees (if any) terminate.

Part 6—Miscellaneous

21—Evidence

An apparently genuine document purporting to be a bail agreement or guarantee, or a copy of a bail agreement or guarantee, will be accepted by any court or justice as evidence of the bail agreement or guarantee and of its terms and conditions.

21A—Applications on behalf of the Crown

An application may be made or a consent given under this Act on behalf of the Crown by—

(a) the Director of Public Prosecutions; or

(b) a person acting on the instructions of the Crown; or

(c) any police officer.

21B—Intervention programs

(1) When a court releases a person who has been charged with an offence on bail, the court may make it a condition of the bail agreement that the person undertake an intervention program.

(2) Before imposing any such condition, the court must—

(a) satisfy itself that—

(i) the person is eligible for the services to be included on the program in accordance with applicable eligibility criteria (if any); and

(ii) those services are available for the person at a suitable time and place; and

(b) give consideration to any representations made by the person in relation to the program.

(3) The court may make appropriate orders for assessment of the person to determine—

(a) a form of intervention program that is appropriate for the person; and

(b) the person's eligibility for the services included on the program,

and may release the person on bail on condition that he or she undertake the assessment as ordered.

(4) If a bail agreement contains a condition under this section—

(a) the person released on bail under the agreement must comply with conditions regulating his or her participation in the assessment or intervention program notified from time to time by the person's case manager; and

(b) a failure to comply with a requirement under paragraph (a) may be regarded as a breach of a condition of the bail agreement.

(5) The court may, at any time, on application by a person released on bail on condition that he or she participate in an assessment or intervention program, make an order revoking or varying the condition.

(6) If an intervention program manager considers that—

(a) a person has failed to comply with a condition regulating the person's participation in an assessment or intervention program; and

(b) the failure to comply (of itself or in connection with other matters) suggests that the person is unwilling to participate in the assessment or program as directed,

the manager must refer the matter to the court and the court must then determine whether the failure to comply constitutes a breach of the bail agreement.

(7) A certificate apparently signed—

(a) by an intervention program manager as to—

(i) whether the services to be included on a program are available for a particular person and, if so, when they will be available; or

(ii) whether a particular person is eligible for the services to be included on a program; or

(b) by a case manager as to whether a particular person has complied with conditions regulating his or her participation in an assessment or intervention program,

is admissible as evidence of the matter so certified.

21C—Power of delegation—intervention program manager

(1) An intervention program manager may, by instrument in writing, delegate a power or function under this Act—

(a) to a particular person; or

(b) to the person for the time being performing particular duties or holding or acting in a particular position.

(2) A power or function so delegated under this section may, if the instrument of delegation so provides, be further delegated.

(3) A delegation—

(a) may be absolute or conditional; and

(b) does not derogate from the power of the delegator to act in a matter; and

(c) is revocable at will.

22—False information on bail applications

A person who provides false information in an application for release on bail knowing it to be false is guilty of an offence.

Maximum penalty: $1 250.

23—Period of release on bail not to count as part of sentence

If a person under sentence of imprisonment is released on bail pending the hearing and determination of an appeal, the period of release does not count as part of the sentence.

23A—Bail authority to consider intervention orders

(1) If a police officer or a person representing the Crown in bail proceedings is made aware that the victim of the alleged offence, or a person otherwise connected with proceedings for the alleged offence, feels a need for protection from the alleged offender or any other person associated with the alleged offender—

(a) the police officer or other person must ensure that the perceived need for protection is brought to the attention of the bail authority; and

(b) the bail authority must consider—

(i) if the bail authority is a court—whether to issue an intervention order in accordance with this section; or

(ii) in any other case—whether to apply to the Magistrates Court for an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009*.

(2) If an applicant for bail is a serious and organised crime suspect, the bail authority must, on its own initiative, consider—

(a) if the bail authority is a court—whether to issue an intervention order in accordance with this section; or

(b) in any other case—whether to apply to the Magistrates Court for an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009*.

(3) A court may, when determining a bail application, exercise the powers of the Magistrates Court to issue against the applicant or any person associated with the applicant, an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* as if an application had been made under that Act against the applicant or other person.

(4) An order issued under this section has effect as an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009*.

24—Act not to affect provisions relating to intervention and restraining orders

Except as provided in section 23A, nothing in this Act affects the operation of—

(a) the *Intervention Orders (Prevention of Abuse) Act 2009*; or

(b) the provisions of the *Summary Procedure Act 1921* relating to restraining orders.

25—Non-application of 48 Geo. III c. 58 in this State

The Act of the Imperial Parliament 48 Geo. III c. 58 has no further force or effect in this State.

26—Regulations

The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1985	5	*Bail Act 1985*	7.3.1985	7.7.1985 (*Gazette 9.5.1985 p1399*)
1986	33	*Statutes Amendment (Children's Bail) Act 1986*	10.4.1986	30.3.1987 (*Gazette 26.2.1987 p440*)
1987	32	*Bail Act Amendment Act 1987*	23.4.1987	4.10.1987 (*Gazette 30.7.1987 p273*)
1990	23	*Statute Law Revision Act 1990*	26.4.1990	Sch 2—29.6.1990 (*Gazette 14.6.1990 p1606*)
1991	49	*Director of Public Prosecutions Act 1991*	21.11.1991	6.7.1992 (*Gazette 25.6.1992 p1869*)
1991	69	*Statutes Repeal and Amendment (Courts) Act 1991*	12.12.1991	6.7.1992 (*Gazette 2.7.1992 p209*)
1993	62	*Statutes Amendment (Courts) Act 1993*	27.5.1993	ss 19—23—1.7.1993 (*Gazette 24.6.1993 p2047*)
1993	94	*Statutes Repeal and Amendment (Children's Protection and Young Offenders) Act 1993*	4.11.1993	1.1.1994 (*Gazette 4.11.1993 p2177*)
1994	22	*Domestic Violence Act 1994*	26.5.1994	1.8.1994 (*Gazette 14.7.1994 p68*)
1995	27	*Statutes Amendment (Attorney-General's Portfolio) Act 1995*	27.4.1995	ss 4—11—10.7.1995 (*Gazette 29.6.1995 p2973*)
1996	67	*Statutes Amendment (Attorney-General's Portfolio) Act 1996*	15.8.1996	ss 4 & 5—17.10.1996 (*Gazette 17.10.1996 p1361*)
1999	42	*Statutes Amendment and Repeal (Justice Portfolio) Act 1999*	5.8.1999	Pt 3 (ss 5—10)—1.9.2000 (*Gazette 11.5.2000 p2472*)
2005	49	*Statutes Amendment (Intervention Programs and Sentencing Procedures) Act 2005*	27.10.2005	Pt 2 (ss 4 & 5) and Sch 1—19.12.2005 (*Gazette 15.12.2005 p4326*)
2005	56	*Justices of the Peace Act 2005*	17.11.2005	Sch 2 (cl 7)—1.7.2006 (*Gazette 22.6.2006 p2012*)

2005	81	*Statutes Amendment (Vehicle and Vessel Offences) Act 2005*	8.12.2005	Pt 3 (s 13)—30.7.2006 (*Gazette 27.7.2006 p2400*)
2006	17	*Statutes Amendment (New Rules of Civil Procedure) Act 2006*	6.7.2006	Pt 11 (ss 45—47)—4.9.2006 (*Gazette 17.8.2006 p2831*)
2007	48	*Statutes Amendment (Victims of Crime) Act 2007*	8.11.2007	Pt 2 (s 4)—17.7.2008 (*Gazette 17.7.2008 p3372*)
2008	13	*Serious and Organised Crime (Control) Act 2008*	15.5.2008	Sch 1 (cl 2)—4.9.2008 (*Gazette 4.9.2008 p4227*)
2009	18	*Cross-border Justice Act 2009*	21.5.2009	Sch 1 (cl 2)—1.11.2009 (*Gazette 29.10.2009 p4982*)
2009	73	*Bail (Arson) Amendment Act 2009*	10.12.2009	10.12.2009
2009	85	*Intervention Orders (Prevention of Abuse) Act 2009*	10.12.2009	Sch 1 (cll 2—4)—9.12.2011 (*Gazette 20.10.2011 p4269*)
2012	12	*Statutes Amendment (Serious and Organised Crime) Act 2012*	10.5.2012	Pt 3 (ss 8—16)—17.6.2012 (*Gazette 14.6.2012 p2756*)
2012	33	*Statutes Amendment (Serious Firearm Offences) Act 2012*	27.9.2012	Pt 2 (ss 4—7)—4.3.2013 (*Gazette 21.2.2013 p485*)
2013	41	*Child Sex Offenders Registration (Miscellaneous) Amendment Act 2013*	3.10.2013	Sch 1 (cl 1)—22.12.2013 (*Gazette 19.12.2013 p4923*)
2013	60	*Statutes Amendment (Arrest Procedures and Bail) Act 2013*	7.11.2013	Pt 2 (ss 4—13) & Sch 1—1.10.2014 (*Gazette 4.9.2014 p4244*)
2015	13	*Criminal Law (High Risk Offenders) Act 2015*	9.7.2015	Sch 1 (cl 2)—25.1.2016 (*Gazette 11.11.2015 p4886*)
2015	14	*Intervention Orders (Prevention of Abuse) (Miscellaneous) Amendment Act 2015*	9.7.2015	Sch 1 (cl 1)—1.12.2015 (*Gazette 19.11.2015 p4975*)
2015	46	*Firearms Act 2015*	17.12.2015	Sch 1 (cl 2)—1.7.2017 (*Gazette 27.6.2017 p2619*)
2016	62	*Statutes Amendment (Courts and Justice Measures) Act 2016*	8.12.2016	Pt 2 (ss 4 & 5)—8.12.2016: s 2(1)
2017	18	*Summary Procedure (Indictable Offences) Amendment Act 2017*	14.6.2017	Sch 2 (cll 1, 2 & 41)—5.3.2018 (*Gazette 12.12.2017 p4961*
2017	34	*Bail (Miscellaneous) Amendment Act 2017*	22.8.2017	22.8.2017 except Pt 3—9.10.2017 (*Gazette 4.10.2017 p4231*)
2017	53	*Statutes Amendment (Sentencing) Act 2017*	28.11.2017	Pt 2 (s 4)—30.4.2018 (*Gazette 6.2.2018 p612*)
2017	**69**	***Statutes Amendment (Terror Suspect Detention) Act 2017***	**12.12.2017**	**Pt 2 (ss 4 to 10)—26.2.2018 (*Gazette 13.2.2018 p733*)**
2017	**70**	***Statutes Amendment (Attorney-General's Portfolio No 3) Act 2017***	**12.12.2017**	**Pt 3 (ss 5 to 7)—1.3.2018 (*Gazette 6.2.2018 p610*)**

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		

s 2	*deleted by 23/1990 s 3(1) (Sch 2)*	*29.6.1990*
s 3(1)		
s 3(1)	s 3 redesignated as s 3(1) by 33/1986 s 3(c)	30.3.1987
ammunition	inserted by 33/2012 s 4(1)	4.3.2013
	amended by 46/2015 Sch 1 cl 2(1)	1.7.2017
case manager	inserted by 49/2005 s 4(1)	19.12.2005
Chief Executive Officer	inserted by 12/2012 s 8(1)	17.6.2012
child	inserted by 33/1986 s 3(a)	30.3.1987
Commonwealth Criminal Code	**inserted by 69/2017 s 4(1)**	**26.2.2018**
community corrections officer	inserted by 42/1999 s 5	1.9.2000
designated police facility	inserted by 60/2013 s 4(1)	1.10.2014
firearm	inserted by 33/2012 s 4(2)	4.3.2013
	amended by 46/2015 Sch 1 cl 2(2)	1.7.2017
guardian	inserted by 33/1986 s 3(b)	30.3.1987
intervention program	inserted by 49/2005 s 4(2)	19.12.2005
intervention program manager	inserted by 49/2005 s 4(2)	19.12.2005
officer in charge	inserted by 60/2013 s 4(2)	1.10.2014
responsible officer	inserted by 60/2013 s 4(2)	1.10.2014
serious and organised crime offence	inserted by 12/2012 s 8(2)	17.6.2012
serious and organised crime suspect	inserted by 12/2012 s 8(2)	17.6.2012
terrorism intelligence authority	**inserted by 69/2017 s 4(2)**	**26.2.2018**
terrorism notification	**inserted by 69/2017 s 4(2)**	**26.2.2018**
terrorist offence	**inserted by 69/2017 s 4(2)**	**26.2.2018**
terror suspect	**inserted by 69/2017 s 4(2)**	**26.2.2018**
training centre	**inserted by 70/2017 s 5**	**1.3.2018**
victim	amended by 32/1987 s 3	4.10.1987
working day	amended by 34/2017 s 4	22.8.2017
s 3(2)	inserted by 33/1986 s 3(c)	30.3.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
s 3A	inserted by 12/2012 s 9	17.6.2012
s 3A(2)	amended by 18/2017 Sch 2 cl 1	5.3.2018—not incorporated
s 3B	**inserted by 69/2017 s 5**	**26.2.2018**
s 4		

s 4(1)	s 4 amended by 33/1986 s 3(d)	30.3.1987
	s 4 amended and redesignated as s 4(1) by 32/1987 s 4	4.10.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 62/1993 s 19	1.7.1993
	amended by 12/2012 s 10(1)	17.6.2012
	amended by 69/2017 s 6(1), (2)	**26.2.2018**
s 4(1a)	inserted by 12/2012 s 10(2)	17.6.2012
s 4(1b)	**inserted by 69/2017 s 6(3)**	**26.2.2018**
s 4(2)	inserted by 32/1987 s 4(c)	4.10.1987
	amended by 60/2013 Sch 1	1.10.2014
s 4(3)	inserted by 13/2015 Sch 1 cl 2	25.1.2016
s 5		
s 5(1)	amended by 32/1987 s 5	4.10.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 62/1993 s 20	1.7.1993
	amended by 27/1995 s 4	10.7.1995
	amended by 67/1996 s 4(a)	17.10.1996
	amended by 56/2005 Sch 2 cl 7	1.7.2006
	amended by 60/2013 s 5, Sch 1	1.10.2014
	amended by 69/2017 s 7(1)	**26.2.2018**
s 5(2)	substituted by 67/1996 s 4(b)	17.10.1996
	amended by 60/2013 Sch 1	1.10.2014
s 5(3)	**inserted by 69/2017 s 7(2)**	**26.2.2018**
Pt 2		
s 6		
s 6(1)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 62/1993 s 21(a)	1.7.1993
	amended by 42/1999 s 6	1.9.2000
	amended by 60/2013 Sch 1	1.10.2014
	amended by 18/2017 Sch 2 cl 2	5.3.2018—not incorporated
s 6(1a)	inserted by 33/1986 s 3(e)	30.3.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
s 6(1b)	inserted by 62/1993 s 21(b)	1.7.1993
s 6(3)	substituted by 32/1987 s 6	4.10.1987
	amended by 60/2013 s 6, Sch 1	1.10.2014
	amended by 62/2016 s 4	8.12.2016
	amended by 70/2017 s 6	**1.3.2018**
s 6(4)	substituted by 32/1987 s 6	4.10.1987
	amended by 17/2006 s 45	4.9.2006
	amended by 60/2013 Sch 1	1.10.2014
s 6(5)	inserted by 32/1987 s 6	4.10.1987
	amended by 60/2013 Sch 1	1.10.2014

s 7		
s 7(1)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
s 7(3)	substituted by 32/1987 s 7	4.10.1987
	amended by 60/2013 s 7	1.10.2014
	amended by 62/2016 s 5	8.12.2016
	amended by 70/2017 s 7	**1.3.2018**
s 7(4)	substituted by 32/1987 s 7	4.10.1987
s 7(5)	inserted by 32/1987 s 7	4.10.1987
	amended by 60/2013 Sch 1	1.10.2014
s 7(6)	inserted by 32/1987 s 7	4.10.1987
Pt 3		
s 8		
s 8(1)	substituted by 32/1987 s 8	4.10.1987
s 8(1a)	inserted by 32/1987 s 8	4.10.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
s 8(2)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
s 8(2a)	inserted by 33/1986 s 3(f)	30.3.1987
	amended by 60/2013 Sch 1	1.10.2014
s 8(3)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 60/2013 Sch 1	1.10.2014
s 9		
s 9(1)	amended by 60/2013 Sch 1	1.10.2014
s 9(2)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 60/2013 Sch 1	1.10.2014
s 10		
s 10(1)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 62/1993 s 22(a)	1.7.1993
	(c) deleted by 22/1994 Sch cl 2(a)	1.8.1994
	amended by 85/2009 Sch 1 cl 2	9.12.2011
	amended by 60/2013 Sch 1	1.10.2014
s 10(2)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 60/2013 Sch 1	1.10.2014
s 10(3)	inserted by 62/1993 s 22(b)	1.7.1993
	amended by 60/2013 Sch 1	1.10.2014
s 10(4)	inserted by 22/1994 Sch cl 2(b)	1.8.1994
	amended by 60/2013 Sch 1	1.10.2014
s 10A	inserted by 81/2005 s 13	30.7.2006
s 10A(1a)	inserted by 12/2012 s 11(1)	17.6.2012
s 10A(2)	substituted by 48/2007 s 4	17.7.2008
	substituted by 13/2008 Sch 1 cl 2	4.9.2008
prescribed applicant	amended by 73/2009 s 3	10.12.2009
	amended by 85/2009 Sch 1 cl 3	9.12.2011
	amended by 12/2012 s 11(2)	17.6.2012

	amended by 33/2012 s 5	4.3.2013
	amended by 60/2013 Sch 1	1.10.2014
	amended by 34/2017 s 6(1), (2)	9.10.2017
	amended by 69/2017 s 8	**26.2.2018**
	amended by 53/2017 s 4	30.4.2018—not incorporated
s 11		
s 11(1)	substituted by 33/2012 s 6	4.3.2013
s 11(1a)—(1d)	inserted by 33/2012 s 6	4.3.2013
s 11(2)	amended by 33/1986 s 3(g)	30.3.1987
	amended by 32/1987 s 9(a)	4.10.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 42/1999 s 7(a), (b)	1.9.2000
	amended by 60/2013 Sch 1	1.10.2014
s 11(2aa)	inserted by 12/2012 s 12(1)	17.6.2012
s 11(2ab)—(2ad)	inserted by 41/2013 Sch 1 cl 1(1)	22.12.2013
s 11(2a)	inserted by 32/1987 s 9(b)	4.10.1987
s 11(3)	amended by 33/1986 s 3(m)	30.3.1987
	substituted by 32/1987 s 9(b)	4.10.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
s 11(3a)	inserted by 32/1987 s 9(b)	4.10.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	substituted by 12/2012 s 12(2)	17.6.2012
s 11(4) and (5)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
s 11(6)	substituted by 32/1987 s 9(c)	4.10.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 27/1995 s 5(a)	10.7.1995
	amended by 42/1999 s 7(c)	1.9.2000
	(b) deleted by 42/1999 s 7(c)	1.9.2000
	amended by 60/2013 s 8, Sch 1	1.10.2014
s 11(7)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
s 11(7a)	inserted by 32/1987 s 9(d)	4.10.1987
	amended by 42/1999 s 7(d)	1.9.2000
	amended by 60/2013 Sch 1	1.10.2014
s 11(7b)	inserted by 32/1987 s 9(d)	4.10.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 42/1999 s 7(e)	1.9.2000
s 11(8)	amended by 33/1986 s 3(n)	30.3.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 42/1999 s 7(f)	1.9.2000
	amended by 60/2013 Sch 1	1.10.2014
s 11(9)	inserted by 32/1987 s 9(e)	4.10.1987
	substituted by 27/1995 s 5(b)	10.7.1995
	amended by 60/2013 Sch 1	1.10.2014

s 11(10)	inserted by 32/1987 s 9(e)	4.10.1987
	amended by 60/2013 Sch 1	1.10.2014
	(b), (c) deleted by 60/2013 Sch 1	1.10.2014
s 11(11)	inserted by 32/1987 s 9(e)	4.10.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	substituted by 42/1999 s 7(g)	1.9.2000
	amended by 60/2013 Sch 1	1.10.2014
s 11(12)	inserted by 32/1987 s 9(e)	4.10.1987
	deleted by 42/1999 s 7(g)	1.9.2000
	inserted by 18/2009 Sch 1 cl 2	1.11.2009
s 11(13)	inserted by 41/2013 Sch 1 cl 1(2)	22.12.2013
s 11A	inserted by 33/2012 s 7	4.3.2013
s 11A(1)	amended by 60/2013 Sch 1	1.10.2014
s 12		
s 12(1)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 60/2013 Sch 1	1.10.2014
s 13 before substitution by 60/2013		
s 13(1)	*amended by 33/1986 s 3(o), (p)*	*30.3.1987*
	amended by 23/1990 s 3(1) (Sch 2)	*29.6.1990*
s 13(2)	*amended by 33/1986 s 3(q)*	*30.3.1987*
	amended by 23/1990 s 3(1) (Sch 2)	*29.6.1990*
	amended by 94/1993 s 5(a)	*1.1.1994*
	substituted by 27/1995 s 6(a)	*10.7.1995*
s 13(3)	*amended by 33/1986 s 3(r)*	*30.3.1987*
	amended by 23/1990 s 3(1) (Sch 2)	*29.6.1990*
	amended by 94/1993 s 5(a)	*1.1.1994*
	amended by 67/1996 s 5	*17.10.1996*
s 13(4)	*amended by 23/1990 s 3(1) (Sch 2)*	*29.6.1990*
	amended by 94/1993 s 5(b)	*1.1.1994*
s 13(5)	*inserted by 94/1993 s 5(c)*	*1.1.1994*
	amended by 27/1995 s 6(b)	*10.7.1995*
s 13	substituted by 60/2013 s 9	1.10.2014
Pt 4		
s 14		
s 14(2)	amended by 33/1986 s 3(s)	30.3.1987
	amended by 27/1995 s 7	10.7.1995
	amended by 60/2013 Sch 1	1.10.2014
s 14(3)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
s 14(4)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 60/2013 Sch 1	1.10.2014
s 14(5)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990

s 15 before substitution by 60/2013		
s 15(1)	*amended by 33/1986 s 3(t)*	*30.3.1987*
	amended by 23/1990 s 3(1) (Sch 2)	*29.6.1990*
	amended by 27/1995 s 8(a), (b)	*10.7.1995*
s 15(2)	*amended by 33/1986 s 3(u), (v)*	*30.3.1987*
	amended by 23/1990 s 3(1) (Sch 2)	*29.6.1990*
	amended by 27/1995 s 8(c)—(e)	*10.7.1995*
s 15(3)	*amended by 33/1986 s 3(w), (x)*	*30.3.1987*
	amended by 23/1990 s 3(1) (Sch 2)	*29.6.1990*
	amended by 27/1995 s 8(f)	*10.7.1995*
s 15	substituted by 60/2013 s 10	1.10.2014
s 15(2)	substituted by 34/2017 s 7	9.10.2017
s 15A	inserted by 32/1987 s 10	4.10.1987
s 15A(2)	amended by 60/2013 Sch 1	1.10.2014
s 15A(3)	amended by 17/2006 s 46	4.9.2006
	amended by 60/2013 Sch 1	1.10.2014
s 16	substituted by 32/1987 s 11	4.10.1987
	substituted by 60/2013 s 11	1.10.2014
Pt 5		
s 17		
s 17(1)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 27/1995 s 9(a)	10.7.1995
	amended by 42/1999 s 8	1.9.2000
s 17(2)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	substituted by 27/1995 s 9(b)	10.7.1995
s 17(3)	amended by 27/1995 s 9(c)	10.7.1995
s 17(3a)	*inserted by 32/1987 s 12*	*4.10.1987*
	deleted by 27/1995 s 9(d)	*10.7.1995*
s 17(4)	amended by 60/2013 Sch 1	1.10.2014
s 17A	inserted by 32/1987 s 13	4.10.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 42/1999 s 9	1.9.2000
	amended by 60/2013 Sch 1	1.10.2014
s 18		
s 18(1)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 60/2013 s 12(1), Sch 1	1.10.2014
s 18(2)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 60/2013 Sch 1	1.10.2014
s 18(3)	inserted by 32/1987 s 14	4.10.1987
	amended by 27/1995 s 10	10.7.1995
	amended by 60/2013 s 12(2)	1.10.2014

s 19		
s 19(1)	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 27/1995 s 11(a), (b)	10.7.1995
	amended by 17/2006 s 47(1)	4.9.2006
	amended by 60/2013 Sch 1	1.10.2014
s 19(2)	substituted by 32/1987 s 15(a)	4.10.1987
	amended by 27/1995 s 11(c)	10.7.1995
s 19(3)	amended by 27/1995 s 11(d)	10.7.1995
	amended by 17/2006 s 47(2)	4.9.2006
	amended by 60/2013 Sch 1	1.10.2014
s 19(3a)	inserted by 32/1987 s 15(b)	4.10.1987
	substituted by 62/1993 s 23	1.7.1993
	amended by 27/1995 s 11(e)	10.7.1995
s 19A	inserted by 12/2012 s 13	17.6.2012
	amended by 60/2013 s 13, Sch 1	1.10.2014
s 19B	**inserted by 69/2017 s 9**	**26.2.2018**
s 20	amended by 33/1986 s 3(y)	30.3.1987
	substituted by 32/1987 s 16	4.10.1987
Pt 6		
s 21	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
s 21A	inserted by 32/1987 s 17	4.10.1987
	amended by 49/1991 Sch 2	6.7.1992
	amended by 60/2013 Sch 1	1.10.2014
s 21B	inserted by 49/2005 s 5	19.12.2005
s 21B(2)	substituted by 14/2015 Sch 1 cl 1	1.12.2015
s 21B(4)	amended by 60/2013 Sch 1	1.10.2014
s 21C	inserted by 49/2005 s 5	19.12.2005
s 21C(1)	amended by 60/2013 Sch 1	1.10.2014
s 22	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	amended by 42/1999 s 10	1.9.2000
s 23 before substitution by 69/1991		
s 23(1)	*s 23 redesignated as s 23(1) by 32/1987 s 18*	*4.10.1987*
	substituted by 23/1990 s 3(1) (Sch 2)	*29.6.1990*
s 23(2)	*inserted by 32/1987 s 18*	*4.10.1987*
s 23	substituted by 69/1991 s 18	6.7.1992
	amended by 60/2013 Sch 1	1.10.2014
s 23A	inserted by 12/2012 s 14	17.6.2012
s 24	amended by 33/1986 s 3(z)	30.3.1987
	amended by 23/1990 s 3(1) (Sch 2)	29.6.1990
	substituted by 22/1994 Sch cl 2(c)	1.8.1994
	amended by 85/2009 Sch 1 cl 4	9.12.2011

amended by 12/2012 s 15 17.6.2012

Transitional etc provisions associated with Act or amendments

Statutes Amendment (Intervention Programs and Sentencing Procedures) Act 2005, Sch 1

1—Review of services included on intervention programs

(1) Either House of Parliament may, not before the first anniversary of the commencement of this Act, require the Ombudsman to carry out an investigation concerning the value and effectiveness of all services included on intervention programs (within the meaning of the *Bail Act 1985* and the *Criminal Law (Sentencing) Act 1988*) in the 12 month period following that commencement (or another period specified by the House).

(2) For the purposes of the investigation, the Ombudsman may exercise the same investigative powers as are conferred on the Ombudsman by the *Ombudsman Act 1972* in relation to an investigation duly initiated under that Act.

(3) The Ombudsman must, after completing the investigation, submit a report on the outcome of the investigation to—

(a) if the investigation was required by the Legislative Council—the President of the Legislative Council; or

(b) if the investigation was required by the House of Assembly—the Speaker of the House of Assembly.

(4) If the Ombudsman is required to carry out an investigation in accordance with this clause, the Attorney-General must ensure that the Ombudsman is provided with the resources the Ombudsman reasonably requires for the purposes of carrying out the investigation.

Statutes Amendment (Serious and Organised Crime) Act 2012

16—Transitional provision

The amendments to the *Bail Act 1985* effected by this Part only apply in relation to a person taken into custody on a charge of an offence allegedly committed after the commencement of this Part.

Bail (Miscellaneous) Amendment Act 2017

5—Retrospective effect

It is the intention of the Parliament that—

(a) the *Bail Act 1985* is to be taken to have always excluded a Saturday, a Sunday and any other public holiday from the definition of a ***working day***; and

(b) no liability lies against the Crown or any officer or employee of the Crown, or any magistrate or other holder of judicial office, in respect of a failure to bring a person taken into custody before the commencement of this section before an appropriate authority on a Saturday.

Statutes Amendment (Terror Suspect Detention) Act 2017, Pt 2

10—Transitional provision

(1) The amendments to the *Bail Act 1985* effected by this Act apply in relation to—

(a) a person who applies for bail on or after the commencement of this Act; or

(b) a person who is, on the commencement of this Act, subject to a bail agreement,

regardless of when the relevant offence was committed.

(2) The reference in section 19B of the *Bail Act 1985* (as amended by this Act) to a person becoming a terror suspect includes a person who, on the commencement of this Part, becomes a terror suspect because they are a person to whom section 3B of the *Bail Act 1985* (as amended by this Act) applies.

Historical versions

Reprint No 1—6.7.1992
Reprint No 2—1.7.1993
Reprint No 3—1.1.1994
Reprint No 4—1.8.1994
Reprint No 5—10.7.1995
Reprint No 6—17.10.1996
Reprint No 7—1.9.2000
19.12.2005
1.7.2006
30.7.2006
4.9.2006
17.7.2008
4.9.2008
1.11.2009
10.12.2009
9.12.2011
17.6.2012
4.3.2013
22.12.2013
1.10.2014
1.12.2015
25.1.2016
8.12.2016
1.7.2017
22.8.2017
9.10.2017
26.2.2018 (electronic only)