

Queensland



ANNO VICESIMO NONO

ELIZABETHAE SECUNDAE REGINAE

No. 35 of 1980

An Act to consolidate and amend the law relating to bail in or in connexion with criminal proceedings and for incidental and other purposes

[ASSENTED TO 14TH MAY, 1980]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *Bail Act* 1980.
2. **Commencement.** This Act shall commence on a date appointed by Proclamation.
3. **Arrangement.** This Act is arranged as follows:—
 - PART I—PRELIMINARY, ss. 1-6;
 - PART II—GRANT AND ENLARGEMENT OF BAIL, ss. 7-19;
 - PART III—UNDERTAKINGS AND SURETIES, ss. 20-26;
 - PART IV—GENERAL PROVISIONS, ss. 27-37;
 - SCHEDULES.

4. Repeals and savings. (1) The Acts or enactments specified in the first schedule are repealed or amended as and to the extent therein indicated.

(2) The repeal of an Act or enactment set forth in the first schedule shall not affect the application of that Act or enactment in relation to recognizances of bail entered into or security given by persons before the commencement of this Act or the recognizances of sureties of those persons and all such proceedings may be taken upon and with respect to such recognizances and all amounts thereby provided to be paid by principals or sureties may be recovered as if this Act had not been passed.

5. Non-application. This Act does not apply to bail granted before the commencement of this Act.

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

“adjourn” includes postpone or reserve a question on a point of law;

“appeal” includes an application for leave to appeal;

“committal for trial” includes a committal for sentence;

“conviction” includes—

(a) a finding of guilt;

(b) a finding that a person is not guilty by reason of unsoundness of mind;

(c) a conviction of an offence for which an order is made placing the defendant on probation or discharging him absolutely or conditionally;

“court” includes a judge or justice whether sitting in court or chambers or acting in any other manner, a court exercising appellate jurisdiction and any justice or justices conducting an examination of witnesses in relation to an indictable offence;

“criminal proceeding” includes a hearing, trial or appeal in relation to an offence;

“Crown Solicitor” means the Crown Solicitor for Queensland and where the charge out of which a proceeding arises is a charge for an offence against the laws of the Commonwealth means a Deputy Commonwealth Crown Solicitor in Queensland;

“defendant” means a person charged with or convicted of an offence and includes such a person who is a party to an appeal;

“hearing” means a proceeding before a court or judge or before any justice or justices dealing summarily with a charge of a simple offence or conducting an examination of witnesses in relation to an indictable offence or a proceeding wherein a person is to be sentenced and includes a proceeding wherein a person is charged with an offence on indictment whether or not he has been called upon to plead to that indictment;

“offence” includes an alleged offence;

“police force” means the Queensland Police Force;

“prison” includes any institution or place at which a child is detained pursuant to the *Children's Services Act* 1965-1978 and any other place where persons may be detained in lawful custody;

- “proper officer”, when used in relation to a court, means—
- (a) in the case of the Supreme Court or a District Court, the registrar or any sheriff, deputy sheriff or under sheriff;
 - (b) in the case of a Magistrates Court, the clerk of the court;
- “simple offence” means an offence (whether or not indictable) punishable on summary conviction before a Magistrates Court by fine, imprisonment or otherwise;
- “surrender into custody”, when used in relation to a person on bail, means surrender himself into the custody of the court at the time and place for the time being appointed for him to do so;
- “trial” means a proceeding wherein a person is charged with an offence on indictment and includes a proceeding wherein a person is to be sentenced;
- “undertaking” means a promise in writing with respect to bail signed by a defendant or by a defendant and his surety or sureties that the defendant will appear at a hearing or an adjourned hearing or upon his trial or an appeal and surrender himself into custody and comply with such other conditions as are imposed for his release on bail;
- “vary”, when used in relation to bail, means impose further conditions after bail is granted, alter, amend or rescind conditions or alter the amount of bail.

(2) Where in any Act the expression “admit to bail” is used, that expression shall be read and construed as if it were the expression “grant bail” and derivatives of the former expression shall be read and construed as if they were derivatives of the latter expression.

PART II—GRANT AND ENLARGEMENT OF BAIL

7. **Power of member of police force to grant bail.** (1) Where a person who has been apprehended on a charge of an offence is delivered into the custody of a member of the police force at a place that is a police station, watch-house or lock-up and it is not practicable to bring him before a court forthwith, the member of the police force who is in charge of or the watch-house keeper at that place—

- (a) shall investigate the question whether or not bail should be granted; and
- (b) may and, if it is not practicable to bring the person before a court within 24 hours after he is taken into custody, shall, save where this Act otherwise provides, grant bail to that person and release him from custody in accordance with this Act.

(2) A person granted bail and released in accordance with this section shall be released—

- (a) pursuant to section 14; or
- (b) on conditions for his release made by the member of the police force pursuant to section 11.

(3) The member of the police force authorized by this section to grant bail who refuses to grant bail to a person under this section shall endorse on the papers relating to that person or the warrant or in a register or record of persons in custody his reasons for such refusal.

Failure by such member of the police force to endorse his reasons for such refusal shall not of itself render the custody unlawful.

(4) A grant of bail to a person under this section and his release from custody thereon discharges the duty of taking that person before a justice to be dealt with according to law.

(5) A court before which a person granted bail pursuant to this section appears may enlarge, vary or revoke bail so granted.

8. Power of court as to bail. (1) A court, subject to this Act—

(a) may grant bail to a person held in custody on a charge of or in connexion with an offence if—

(i) he is awaiting a criminal proceeding to be held by that court in relation to that offence;

(ii) the court has adjourned the criminal proceeding; or

(iii) the court has committed or remanded him in the course of or in connexion with a criminal proceeding to be held by that court or another court in relation to that offence;

(b) may enlarge, vary or revoke bail so granted.

(2) A person in custody on a charge of or in connexion with an offence who is not granted bail shall, unless he has been sentenced for that offence, be remanded in custody.

(3) Save where this Act or any other Act otherwise provides, an enlargement of bail may, if the court thinks fit, be granted in the absence of the defendant.

(4) Notwithstanding subsection (2), a court may allow a person in custody on a charge of or in connexion with an offence to be released from custody without bail during any adjournment of a criminal proceeding for that offence.

A person released in accordance with this subsection shall be deemed to have been released on bail.

(5) A person to whom bail is granted shall not be released from custody while he is, for any other cause, being lawfully held in custody.

(6) The powers of the Court of Criminal Appeal with respect to bail may be exercised by a judge of the Supreme Court in the same manner as they may be exercised by the Court of Criminal Appeal. but, if the judge refuses an application with respect to bail, the person making the application may apply to the Court of Criminal Appeal and that court shall hear and determine the application.

9. Duty of court to grant bail in certain cases. Where a person held in custody on a charge of an offence of which he has not been convicted appears or is brought before a court empowered by section 8 to grant bail to him in relation to that offence, the court shall, subject to this Act, grant bail to that person or enlarge or vary bail already granted to him in relation to that offence.

10. General powers as to bail. (1) The Supreme Court or a judge thereof may, subject to this Act, grant bail to a person held in custody on a charge of an offence or enlarge, vary or revoke bail granted to a person in or in connexion with a criminal proceeding whether or not he has appeared before the Supreme Court in or in connexion therewith.

(2) Where the trial of a person has commenced in the Supreme Court or a District Court, the trial judge may in his discretion grant bail to that person notwithstanding that the person has been given in charge to the jury.

A decision as to bail made in accordance with this subsection by a trial judge shall be final and, notwithstanding this Act, a defendant in respect of whom such decision has been made shall not have the right to make a further application for bail in relation to the custody in which he is then held.

11. Conditions of release on bail. (1) A court or member of the police force authorized by this Act to grant bail shall consider the conditions for the release of a person on bail in the following sequence—

- (a) the release of the person on his own undertaking without sureties and without deposit of money or other security;
- (b) the release of the person on his own undertaking with a deposit of money or other security of stated value;
- (c) the release of the person on his own undertaking with a surety or sureties of stated value;
- (d) the release of the person on his own undertaking with a deposit of money or other security of stated value and a surety or sureties of stated value,

but shall not make the conditions for a grant of bail more onerous for the person than those that in the opinion of the court or member are necessary having regard to the nature of the offence, the circumstances of the defendant and the public interest.

(2) Where a court or a member of the police force authorized by this Act to grant bail considers that the imposition of special conditions is necessary to secure that a person—

- (a) appears in accordance with his bail and surrenders himself into custody;
- (b) while released on bail does not—
 - (i) commit an offence;
 - (ii) endanger the safety or welfare of members of the public;
 - or
 - (iii) interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or another person,

that court or member shall impose such conditions as it or he thinks fit for any or all of such purposes.

Conditions imposed pursuant to this subsection shall not be more onerous for the person than those that in the opinion of the court or member are necessary having regard to the nature of the offence, the circumstances of the defendant and the public interest.

(3) Where a court that grants bail upon an adjournment of a hearing or while the defendant is awaiting trial is of opinion that an investigation ought to be made into the physical or mental condition of the defendant, the bail may be made subject to a condition that the defendant undergo medical examination by a medical practitioner at an institution or place specified in the undertaking (not being a security patients' hospital within the meaning of the *Mental Health Act 1974*) or by a specified medical practitioner and, if bail is subject to such a condition, the court shall cause to be sent to the institution, place or practitioner a statement of the reasons for the investigation and of such information as is before the court about the physical or mental condition of the defendant.

Notwithstanding this subsection, bail may be made subject to a condition that the defendant undergo a medical examination only if the medical examination proposed to be made such a condition is one that the defendant could lawfully be required to undergo had he remained in custody.

12. Restriction on publication of information, evidence and the like given in bail application. (1) Where the complainant or prosecutor or a person appearing on behalf of the Crown opposes the grant of bail to a defendant, the court, at any time during the hearing of the application for bail, may make an order directing that the evidence taken, the information furnished, the representations made by or on behalf of either party or the reasons given by the court for the grant or refusal of bail or any part thereof or any of them shall not be published by any means—

- (a) if an examination of witnesses in relation to an indictable offence is held, before the defendant is discharged; or
- (b) if the defendant is tried or committed for trial, before the trial is ended.

(2) A person who fails without lawful excuse, the proof of which lies upon him, to comply with an order made under subsection (1) commits an offence against this Act.

Penalty: \$500 or imprisonment for 6 months.

13. Bail in cases of charges of serious offences. (1) Notwithstanding sections 7 and 8 and subject to this section, a person charged with—

- (a) the crime of treason or murder or a crime defined in the second paragraph of section 81 or in section 82 of *The Criminal Code*;
- (b) an offence defined in section 130 (2) or 130 (2A) of the *Health Act 1937-1978*,

shall be granted bail only by order of the Supreme Court or a judge thereof and not otherwise.

(2) Notwithstanding subsection (1), a court empowered by section 8 to grant bail may grant bail to a person charged with an offence specified in paragraph (b) of that subsection if—

- (a) the complainant or prosecutor or person appearing on behalf of the Crown indicates to the court that in his opinion the charge is one that may be dealt with by way of summary proceedings; and
- (b) the court is satisfied from material produced before it by evidence on oath or otherwise that the charge is one that may be dealt with by way of summary proceedings.

14. Release of persons apprehended on making deposit of money as security for appearance. (1) Where a person who has been apprehended for an offence other than an indictable offence or an offence specified in the second schedule is delivered into the custody of a member of the police force at a place that is a police station, watch-house or lock-up, without having first appeared before a justice in relation to that offence, the member of the police force who is in charge of or the watch-house keeper at that place, if he is satisfied that the person cannot be taken forthwith before a justice and if he thinks it prudent to do so, may grant bail to the person and release him from custody on his making a deposit of money as security for his appearance before a court or justice on such day and at such time and place as are notified to him in accordance with this section.

(2) The member of the police force who accepts a deposit of money from a person and grants bail to him pursuant to subsection (1)—

(a) shall enter in the book kept for that purpose at the police station, watch-house or lock-up—

(i) the name, place of residence and occupation of the person;

(ii) a short statement of the offence;

(iii) the amount of the deposit of money;

(iv) the day, time and place appointed for the person's appearance before the court or justice and the court or justice before which or whom he is required to appear;

(b) shall give to the person a notice in the prescribed form setting forth the prescribed particulars.

(3) The member of the police force who accepts a deposit of money from a person and grants bail to him at a place other than a place for holding Magistrates Courts and thereupon releases him from custody shall furnish to the officer in charge of or the watch-house keeper at the police station at the place where the person granted bail is required to appear the particulars entered by him in the book in accordance with subsection (2) (a).

The officer in charge or, as the case may be, watch-house keeper shall thereupon enter those particulars in the book kept for that purpose.

(4) The book referred to in subsection (2) or, as the case may be, subsection (3) containing the prescribed particulars shall be produced to the court or justice if the person granted bail and released thereon fails to appear in accordance with his bail and the court or justice orders the issue of a warrant for his apprehension.

(5) Where a person granted bail and released from custody pursuant to this section fails to appear before a court or justice in accordance with his bail, the court or justice shall, subject to subsections (7) and (9), order the forfeiture of the deposit of money made by him in connexion with his bail.

(6) Where a person granted bail and released from custody pursuant to this section appears before a court or justice in accordance with his bail, the court or justice shall order that the amount of the deposit of money paid by the person be refunded to him unless it or he orders that the amount or a part thereof be applied in or towards payment of any penalty or costs imposed or awarded or unless, where the hearing is adjourned and the person is permitted to go at large without bail, the court or justice orders that the amount or a part thereof be applied as security for the person's appearance at the time and place to which the hearing is adjourned or to be determined (which the court or justice is empowered to do) whereupon, in the latter case, if the person fails to appear at the time and place to which the hearing is adjourned or that has been determined the court or justice shall deal with the deposit of money in accordance with subsection (5) and that subsection shall apply and extend accordingly.

(7) Where a person granted bail and released from custody pursuant to this section does not appear in accordance with his bail but applies to the court or justice by his counsel or solicitor for an adjournment of the hearing and the court or justice grants the adjournment, the court or justice may, in lieu of ordering the amount of the deposit of money to be forfeited, order that the amount or a part thereof be applied as security

for the person's appearance at the time and place to which the hearing is adjourned or to be determined or permit him to go at large without bail.

If the person fails to appear at the time and place appointed or determined for the continuation of the hearing in accordance with his bail the court or justice shall deal with the deposit of money in accordance with subsection (5) and that subsection shall apply and extend accordingly.

(8) Subsections (6) and (7) apply in relation to the proceedings before a court or justice at all times and places to which the hearing is, from time to time, adjourned.

(9) Where a person has been granted bail and released thereon after making a deposit of money as security for his appearance and the hearing is adjourned pursuant to subsection (7) to a time and place to be determined and that person does not appear at the time and place so determined, steps shall not be taken to forfeit such deposit of money unless the court or justice is satisfied that reasonable notice of the time and place so determined has been given to the person.

(10) This section does not prejudice or in any way affect—

- (a) the powers of a court or justice with respect to adjournments or the issue of warrants of apprehension; or
- (b) the operation of any Act relating to the forfeiture of bail.

15. Procedure upon application for bail. In a proceeding with respect to bail—

- (a) the court may, subject to paragraph (b), make such investigations on oath or otherwise of and concerning the defendant as the court thinks fit;
- (b) the defendant shall not be examined or cross-examined by the court or any other person as to the offence with which he is charged and no enquiry shall be made of him as to that offence;
- (c) the complainant or prosecutor or any person appearing on behalf of the Crown may submit, in addition to other relevant evidence, evidence by affidavit or otherwise—
 - (i) to prove that the defendant—
 - (A) has been convicted previously of an indictable offence;
 - (B) has been charged with and is awaiting trial on an indictable offence;
 - (C) has failed previously to appear in accordance with his undertaking and surrender himself into custody; or
 - (ii) to show the circumstances of the offence particularly as they relate to the probability of conviction of the defendant;
- (d) the court may take into consideration such relevant matters as are agreed upon by the complainant or prosecutor and the defendant or his counsel or solicitor; and
- (e) the court may receive and take into account evidence of any kind that it considers credible or trustworthy in the circumstances.

16. Refusal of bail. (1) Notwithstanding this Act, a court or member of the police force authorized by this Act to grant bail shall refuse to grant bail to a defendant if the court or member is satisfied—

- (a) that there is an unacceptable risk that the defendant if released on bail—
 - (i) would fail to appear and surrender himself into custody;

- (ii) would while released on bail—
- (A) commit an offence;
 - (B) endanger the safety or welfare of members of the public; or
 - (C) interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or another person; or
- (b) that the defendant should remain in custody for his own protection or, if he is a child within the meaning of the *Children's Services Act 1965–1978*, for his own welfare.

Where it has not been practicable to obtain sufficient information for the purpose of making a decision in connexion with any matter specified in this subsection due to lack of time since the institution of proceedings against a defendant the court before which the defendant appears or is brought shall remand him in custody with a view to having further information obtained for that purpose.

(2) In assessing whether there is an unacceptable risk with respect to any event specified in subsection (1) (a) the court or member shall have regard to all matters appearing to be relevant and in particular, without in any way limiting the generality of this provision, to such of the following considerations as appear to be relevant—

- (a) the nature and seriousness of the offence;
 - (b) the character, antecedents, associations, home environment, employment, background and place of residence of the defendant;
 - (c) the history of any previous grants of bail to the defendant;
 - (d) the strength of the evidence against the defendant.
- (3) Where the defendant is charged—
- (a) with an indictable offence that is alleged to have been committed while he was at large with or without bail between the date of his apprehension and the date of his committal for trial or while awaiting trial for another indictable offence;
 - (b) with an indictable offence and is not ordinarily resident in Queensland;
 - (c) with an indictable offence in the course of committing which he is alleged to have used or threatened to use a firearm, offensive weapon or explosive substance; or
 - (d) with an offence against this Act,

the court or member shall refuse to grant bail unless the defendant shows cause why his detention in custody is not justified and, where bail is granted, shall include in the order a statement of the reasons for granting bail.

In granting bail in accordance with this subsection a court or member may impose conditions in accordance with section 11.

17. Enlargement of undertaking. (1) An undertaking may, with the consent of any person or persons offering himself or themselves as surety or sureties, contain a provision for its enlargement without the further consent of the surety or sureties upon such adjournments of the criminal proceeding as are from time to time directed.

This subsection does not prejudice in any way the right of a person offering himself as surety to elect to be bound with respect to an undertaking that may be enlarged only with his consent given at the time of the enlargement and the court shall not refuse to grant bail to a person by reason only that a person offering himself as surety has so elected.

(2) Where a criminal proceeding is adjourned, the court may enlarge the undertaking of the defendant if he is then on bail and, where there is a surety or are sureties to the undertaking, the court shall, unless the undertaking otherwise provides, obtain his or their consent to such enlargement and thereupon the defendant shall be bound to attend the court at the time and place or sittings to which the criminal proceeding has been adjourned and be bound by all other conditions imposed by the original undertaking without entering into a fresh undertaking and the surety or sureties shall be bound accordingly.

A court that enlarges an undertaking pursuant to this subsection shall endorse or cause to be endorsed on the undertaking the time and place or sittings at which the defendant is bound to attend and surrender himself into custody in accordance with the undertaking as so enlarged.

(3) An endorsement pursuant to subsection (2) may include a condition that the defendant attend and surrender himself into custody at the date, time and place fixed for the trial or appeal of which notice is given to him by the Crown Solicitor or person duly authorized by him in accordance with section 27.

(4) Notwithstanding subsection (2), the court may make such order as to bail and as to the commitment of the defendant to prison until bail is forthcoming as the court thinks fit.

(5) An undertaking may be enlarged pursuant to subsection (2) if any condition of the undertaking remains to be fulfilled notwithstanding that the defendant has surrendered himself into custody in compliance with the undertaking.

(6) An endorsement on an undertaking to the effect that it has been enlarged in accordance with subsection (2) and specifying the time and place or sittings at which the defendant is bound to attend the court and purporting to be signed by the judge or justices constituting the court or the proper officer thereof shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that the bail was so enlarged.

18. Endorsement of decision as to bail on papers and warrant. A court that grants or refuses bail to a defendant shall endorse or cause to be endorsed on the papers relating to the defendant and on the warrant of remand, committal or, as the case may be, commitment, if any, its decision as to bail and the court or the proper officer thereof shall certify—

(a) where bail is granted—

- (i) consent to the defendant's release on bail;
- (ii) the amount of money or other security, if any, to be deposited;
- (iii) the amount of any surety or sureties to be required; and
- (iv) the special conditions, if any, applicable to the defendant's release on bail; or

(b) where bail is refused—

- (i) the refusal of bail; and
- (ii) the grounds for such refusal.

19. Application re refusal or conditions of bail. (1) A defendant held in custody in relation to an offence who has been refused bail or having been granted bail feels aggrieved by the amount fixed or any condition imposed for his release from custody may make application to a court empowered by section 8 to grant bail to him for an order granting or varying bail.

(2) On the hearing of the application, the court may, subject to this Act, grant bail to him, vary the bail already granted or refuse the application.

PART III—UNDERTAKINGS AND SURETIES

20. Undertaking as to bail. (1) A person to whom bail is granted in or in connexion with a criminal proceeding other than a person to whom bail is granted under section 14 shall, before being released from custody, enter into an undertaking in the prescribed form.

(2) An undertaking shall be subject to—

(a) conditions that the defendant—

(i) shall appear before a specified court at the time and place or sittings specified in the undertaking and surrender himself into custody;

(ii) shall not depart without leave of the court and will as often as leave is granted return at the time appointed by the court and again surrender himself into custody;

(b) such further conditions as are imposed in accordance with section 11 (2) or 11 (3).

(3) Notwithstanding subsection (2) (a) (i), an undertaking may include a condition that the defendant appear and surrender himself into custody at the date, time and place fixed for the trial or appeal of which notice is given to him by the Crown Solicitor or person duly authorized by him, in accordance with section 27.

(4) A defendant who is taken into custody upon charges for two or more offences and who has been granted bail may be released from custody upon his entering, together with his surety or sureties, if any, into one undertaking for his appearance at a specified court, time and place or sittings upon all or any two or more of the charges.

(5) The justice, member of the police force, prison officer or officer of the Department of Children's Services authorized by subsection (6) before whom a defendant and his surety or sureties, if any, sign an undertaking—

(a) shall satisfy himself that the defendant and the surety or sureties understand the nature and extent of the obligations of the defendant under the conditions of his bail and the consequences of his failure to comply with them;

(b) shall give to the defendant and his surety or sureties a notice of the undertaking in the prescribed form.

(6) An undertaking in respect of which the conditions have been fixed may be entered into before—

(a) a justice;

(b) a member of the police force authorized by this Act to grant bail;

(c) where a party to the undertaking—

(i) is in prison, a prison officer within the meaning of the *Prisons Act 1958-1974* of or above the rank of chief prison officer;

(ii) is a child within the meaning of the *Children's Services Act 1965-1978*, an officer of the Department of Children's Services holding the office of supervising child care officer or a higher office in that department.

21. Sureties. (1) Every surety to an undertaking must be a person who has attained the age of 18 years who is not under any disability in law and is worth not less than the amount of bail in real or personal property.

(2) A person who enters into an undertaking as a surety becomes bound, upon its forfeiture, to pay to Her Majesty the sum of money set forth in the undertaking with respect to that surety.

(3) Where a defendant is required to provide any surety or sureties, regard may be had in considering the suitability of a person as a surety, in addition to other relevant matters, to the following:—

- (a) the person's financial resources;
- (b) his character and antecedents;
- (c) his proximity to the defendant (whether by kinship, place of residence or otherwise).

(4) Before accepting a person as a surety, a justice shall satisfy himself as to the sufficiency of the means of the person and shall require that person to make before him an affidavit of justification in the prescribed form.

(5) A justice before whom an affidavit of justification is sworn shall ask the proposed surety all questions that are required by any Act or law to be asked in the circumstances or that appear to the justice to be necessary.

(6) A surety, in order to satisfy the sufficiency of his means, may deposit in the office of the proper officer of the court that granted bail to the defendant or of some other court or with the keeper of the prison in which the defendant is detained the amount of his surety in money and where the undertaking is subsequently forfeited, the court shall apply the amount so deposited towards satisfaction of the surety's obligation with respect thereto.

(7) A court to which it is made to appear that a surety required to be provided by an undertaking has sworn an affidavit of justification that is false in a material particular may revoke the bail and issue a warrant for the apprehension of the defendant concerned.

(8) A person shall not be accepted as a surety if it appears to the justice before whom the affidavit of justification of that person is sworn that it would be ruinous or injurious to the person or his family if the undertaking were forfeited.

22. Procedure where sureties do not attend prison. (1) Where a certificate as to bail is endorsed on papers or a warrant pursuant to section 18 and it is not convenient for the proposed surety or sureties to attend at the prison in which the defendant is detained to sign the undertaking, the proper officer of the court that made the endorsement may make a duplicate of the certificate endorsed on the papers or warrant. A justice, upon production to him of that duplicate and the undertaking, may obtain the signature or, as the case may be, signatures of the proposed surety or sureties on the undertaking in conformity with the certificate and witness that signature or those signatures.

Where the undertaking as so signed is transmitted to the keeper of the prison and produced to a person authorized by section 20 (6) together with the papers or warrant with the certificate endorsed thereon and the duplicate certificate, that person may thereupon obtain the signature of the defendant on the undertaking, witness that signature and order the release from custody of the defendant and the keeper of the prison shall, if the defendant is detained for no other lawful purpose, forthwith obey such order.

(2) Where a defendant is detained in a prison at one place and the proposed surety or sureties is or are resident at another place too far removed to enable the procedure laid down in subsection (1) to be carried out immediately, it shall be sufficient compliance with subsection (1) if the following procedure is adopted:—

- (a) Upon request made in that behalf the keeper of the prison in which the defendant is detained shall advise the proper officer of the court in the district in which the surety or sureties are resident that a certificate of bail has been granted and of the terms and conditions of that bail.
- (b) The proper officer may thereupon arrange to have the surety or, as the case requires, sureties execute a separate undertaking binding him or them in conformity with the certificate as to bail, advise the keeper of the prison in which the defendant is detained that this has been done and forward forthwith to the keeper of the prison the undertaking so executed.
- (c) A person authorized by section 20 (6) upon being satisfied that the undertaking referred to in paragraph (b) has been executed and production to him of the papers or warrant with the certificate as to bail endorsed thereon may thereupon obtain the signature of the defendant on a separate undertaking and witness that signature and thereupon the provisions of subsection (1) as to the release of the defendant from custody apply.

23. Application to court by surety for discharge. (1) A surety for the appearance of a defendant who has been released on bail may at any time make application to the court before which the defendant is required to appear in accordance with his undertaking or the court that granted bail for the discharge of the surety from his liability with respect to the undertaking.

(2) The court shall, on the making of an application under subsection (1), issue a warrant to apprehend the defendant and bring him before the court.

(3) On the appearance of the defendant before it, the court may make such orders as it thinks fit including an order that the surety be discharged from his liability with respect to the undertaking.

(4) The court shall, where it discharges a surety in accordance with subsection (3), require the defendant to furnish another surety or other security for his appearance and may commit him to prison until a further surety or other security is furnished.

24. Apprehension of defendant by surety. (1) Where a defendant has been released on bail to appear before a court, a surety for the bail may, at any time before the defendant is required to appear and surrender himself into custody in accordance with this Act, apprehend the defendant and bring him before the court before which he is required to appear or a justice.

Members of the police force shall, if required by the surety to do so, assist him in the apprehension.

(2) The court or justice may, upon the appearance of the defendant before it or him, order that the liability of the surety be discharged and may call upon the defendant to furnish another surety in the same amount and, if he fails to do so, may commit the defendant to prison.

(3) A defendant committed to prison following his appearance pursuant to subsection (2) may apply to the court before which he was required to appear or any other court to be granted bail again and the court—

- (a) may refuse the application; or
- (b) may grant the application and make such order with respect to the number of sureties, if any, and the amount and conditions of bail as it thinks proper in the circumstances.

25. Effect of death of surety. The estate of a surety who dies before an undertaking entered into by a defendant is forfeited shall not be subject to liability in respect of that undertaking.

Where a surety has died, the defendant may be required by the court to furnish another surety to act in the stead of the surety who has died.

26. Offence of indemnifying surety. (1) Where a person indemnifies another person or agrees with another person to indemnify that other person against any liability that that other person may incur as a surety to secure the appearance in answer to bail and the surrender into custody of a person charged with or convicted of or in custody for an offence the firstmentioned person and that other person commit an offence against this Act.

Penalty: \$1 000 or imprisonment for 12 months.

(2) It is immaterial, in relation to an offence defined in subsection (1)—

- (a) whether the agreement is made before or after the person to be indemnified becomes a surety;
- (b) whether or not he becomes a surety; or
- (c) whether the agreement contemplates compensation in money or money's worth.

PART IV—GENERAL PROVISIONS

27. Notice of date, time and place of trial or appeal. (1) Where a defendant—

- (a) who has been committed, or remanded for trial, is on bail to appear at his trial;
- (b) who has been convicted and has appealed against the conviction or sentence imposed thereon, is on bail to appear at the hearing of his appeal;
- (c) is on bail following the adjournment of his trial or appeal to appear at the adjourned trial or appeal,

the Crown Solicitor or person authorized by him in writing in that behalf, either generally or in a particular case, may cause notice to be given—

- (d) to the defendant or his solicitor; and

(e) to each of his sureties, if any, for the appearance of the defendant,

at the respective addresses appearing in the undertaking or notified under subsection (2), advising them of the date, time and place fixed for the trial or appeal.

A notice pursuant to this subsection may be an oral or a written notice save where it is given to a defendant in which case it shall be a written notice and shall be given a reasonable time before the date fixed for the trial or appeal, having regard to all the circumstances.

(2) A defendant on bail to appear at his trial or appeal and any surety for the appearance of a defendant at his trial or appeal shall, if he changes his place of residence or business from the place appearing in the undertaking as his address, and in the case of a defendant, if he changes his solicitor, give notice in writing forthwith to the Crown Solicitor or other person specified in the undertaking at the address set forth in the undertaking of the change, sent by post or telegram or delivered by hand.

(3) A person who fails to comply with the provisions of subsection (2) commits an offence against this Act.

Penalty: \$500 or imprisonment for 6 months.

28. Warrant for apprehension of defendant on bail. Where a defendant has entered into an undertaking and in breach thereof fails to appear before the court and surrender himself into custody, the court may, without prejudice to any right of action arising out of the undertaking, issue a warrant for his apprehension.

29. Apprehension by police officer of defendant on bail. (1) A member of the police force may apprehend without warrant a defendant who has been released on bail—

(a) if the member believes on reasonable grounds—

(i) that the defendant is likely to break the condition for his appearance or any other condition of the undertaking on which he was granted bail or that he is breaking or has broken any such other condition;

(ii) that any surety for the defendant's appearance is dead; or

(iii) that for any reason the security is no longer sufficient; or

(b) if the member is notified in writing by a surety for the defendant that the surety believes that the defendant is likely to break the condition for his appearance and for that reason the surety wishes to be relieved of his obligations as a surety.

(2) A defendant apprehended pursuant to subsection (1)—

(a) shall, subject to paragraph (b), be taken forthwith before a justice;

(b) where he is apprehended within 24 hours before the time at which he is bound by a condition of his undertaking to appear before a court, shall be held in custody and brought before that court at that time.

(3) The justice before whom a defendant is brought pursuant to subsection (2) (a), if he is of opinion that the defendant has broken or is likely to break a condition of the undertaking, may revoke the bail and commit him to prison with a direction to the keeper of the prison that he be brought before the court at the time when he is required by a condition of his undertaking to appear or may release him on his original undertaking or on a fresh undertaking with or without sureties or, if he is not of that opinion, shall release him on his original undertaking.

30. Apprehension for revocation or variation of bail. (1) Where it is made to appear on the application of the Crown or the complainant to the court that granted bail to a defendant or the Supreme Court that bail so granted should be varied or revoked, the court may issue a warrant to apprehend the defendant and bring him before the court.

(2) On the appearance of the defendant before it, the court may, if it is of opinion that it is necessary or advisable in the interests of justice to do so, revoke the bail or vary it in such manner as the court thinks fit and if it is not of that opinion shall release the defendant from custody on his original undertaking.

(3) The Crown or, as the case may be, complainant may, in a case where the defendant has been granted bail with a surety or sureties, at any time before the date fixed for the hearing of the application, give notice in writing of the application in the prescribed form to the surety or sureties and the surety or sureties shall be entitled to appear at the hearing and to give evidence and the court may if it thinks fit adjourn the hearing to enable the surety or sureties to do so.

(4) A notice to a surety pursuant to subsection (3) may be given personally or by causing the notice to be sent by post to or delivered at his place of residence or business appearing in the undertaking in connexion with bail entered into by the surety or notified under section 27 (2).

31. Forfeiture of undertaking. (1) Where a defendant who has been released on bail fails without reasonable cause, the proof of which lies on him, to appear before the court and surrender himself into custody in accordance with his undertaking, the court may declare the undertaking to be forfeited.

(2) The court that forfeits an undertaking—

(a) shall endorse or cause to be endorsed on the undertaking—

(i) the respects in which the undertaking has not been complied with; and

(ii) the declaration of forfeiture and particulars of any order made by the court;

(b) shall transmit to the proper officer of the court the undertaking so endorsed.

32. Forfeiture of deposit or other security. (1) Where an undertaking that has been declared forfeited because of the failure of the person released on bail to appear in accordance with the undertaking contains as a condition of bail the making of a deposit of money or other security, the court that declares the forfeiture may order that the deposit or other security so made be forfeited and paid to Her Majesty.

The court shall endorse or cause to be endorsed on the undertaking particulars of every order made pursuant to this section.

(2) A person released on bail to whom subsection (1) applies shall have the same right as a surety has under section 15 of the *Crown Proceedings Act 1979* to apply for an order varying or rescinding the forfeiture and for that purpose the provisions of that section shall, so far as they are applicable and with such modifications as are necessary, apply with respect to a forfeited deposit of money or other security and in particular with the modification that any reference in those provisions to a surety shall be read and construed as a reference to the person released on bail.

33. Failure to appear in accordance with undertaking. (1) A person released on bail who—

- (a) fails without reasonable cause, the proof of which lies on him, to appear in accordance with his undertaking and surrender himself into custody; or
- (b) having reasonable cause therefor has failed to appear in accordance with his undertaking, fails to appear and surrender himself into custody at the appointed place as soon after the appointed time as is reasonably practicable,

commits an offence against this Act.

Penalty: Imprisonment for 2 years.

(2) A person charged with an offence defined in subsection (1) (a) or (1) (b) may be convicted of the other of those offences if that other offence is proved by the evidence.

(3) Notwithstanding any Act, law or practice, a term of imprisonment imposed on a defendant upon a conviction for an offence defined in subsection (1) shall be cumulative upon any other term of imprisonment whether imposed upon a conviction for an offence against the laws of the Commonwealth or the State—

- (a) that the defendant is undergoing at the time of the conviction;
- (b) that is imposed on the defendant at the time of the conviction; or
- (c) that is imposed on the defendant at any time during the term of imprisonment that the defendant is undergoing at the time of the conviction.

(4) A term of imprisonment ordered to be served in default of payment of a penalty or sum of money under this Act or any other Act shall be deemed to be a term of imprisonment for the purposes of subsection (3).

34. Effect of apprehension on another charge of defendant on bail.

(1) The apprehension of a defendant who has been released on bail to appear before a court on another charge shall not vacate the undertaking to which the bail relates and that undertaking shall continue to bind the defendant and his surety or sureties, if any, until he is discharged or sentenced in respect of the offence to which the bail relates.

(2) Notwithstanding subsection (1), the court may commit to prison a defendant on bail who is arrested on another charge or may grant bail to him.

(3) Where a defendant who has been released on bail to appear for trial is committed to prison pursuant to subsection (2), the sureties, if any, for his appearance are, without other authority than this subsection, discharged from liability in respect of the bail while he remains in prison.

35. Proceedings for offences. (1) Subject to this section, a prosecution for an offence against this Act shall be taken by way of summary proceedings under the *Justices Act 1886-1979*.

(2) A defendant released on bail who has been apprehended for failure to appear before a court and surrender himself into custody may, subject to this Act, be dealt with in accordance with the provisions of this subsection.

Where a defendant fails to appear before the Supreme Court and surrender himself into custody in accordance with his undertaking, he shall be taken to be in contempt of that court by reason of such failure and may be dealt with by that court for the contempt.

Where a defendant fails to appear before a District Court and surrender himself into custody in accordance with his undertaking, he shall be taken to have done an act or thing which is a contempt of that court by reason of such failure and may be dealt with by that court for the contempt.

Where a defendant fails to appear before a Magistrates Court and surrender himself into custody in accordance with his undertaking, he shall be taken to be in contempt of that court by reason of such failure and may be orally charged and dealt with by that court for the contempt.

(3) In dealing with a defendant pursuant to subsection (2) a court is not required to take evidence on oath or issue any process but the defendant shall, at any time before the rising of the court, be called upon to show cause why he should not be punished.

(4) Where a defendant released on bail who has been apprehended for failure to appear before the Supreme Court, a District Court or a Magistrates Court is not dealt with pursuant to subsection (2) by that court for the contempt constituted by that failure, the court shall endorse or cause to be endorsed on the papers relating to the defendant a certificate to that effect and such certificate shall, when produced in any proceeding brought pursuant to subsection (1), be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

Notwithstanding any other Act or law, a prosecution may be taken for an offence to which this subsection applies although more than 12 months have elapsed since the offence was committed.

(5) A person who has been dealt with for contempt pursuant to this section—

(a) is liable upon being so dealt with to imprisonment for 2 years;

(b) is not liable to prosecution as for an offence against this Act for failure to appear before a court and surrender himself into custody in accordance with his undertaking.

(6) (a) A person dealt with for contempt by the Supreme Court or a District Court in accordance with this section may appeal against his being so dealt with and against the sentence passed on him to the same court, on the same grounds and on the same conditions as if he had been convicted on indictment.

(b) A person dealt with for contempt by a Magistrates Court in accordance with this section may appeal against his being so dealt with and against the sentence passed on him in the same manner as he may appeal against a conviction or any other order of a Magistrates Court.

36. Evidentiary provisions. In a proceeding for the purposes of this Act—

(a) a certificate purporting to be signed by the Crown Solicitor or person duly authorized by him setting forth—

(i) that a notice has been given to a specified person at a specified address and the contents of such notice;

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- (ii) that a notice has or has not been received by the Crown Solicitor or, where the Crown Solicitor has authorized another person to sign a certificate, that other person from a specified person and, where the certificate relates to the receipt of the notice, the contents of such notice, shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (b) a document purporting to be or to be a copy of—
- (i) an undertaking;
 - (ii) a declaration of forfeiture made by a court of an undertaking;
 - (iii) an order made by a court in consequence of a forfeiture by that court of an undertaking with respect to a surety, deposit of money or security;
 - (iv) a certificate containing particulars of the respects in which an undertaking has not been complied with;
 - (v) an enlargement or variation of an undertaking, in any case purporting to be certified by an officer of the court having custody of the document to be or relate to the undertaking with which it is alleged in the proceeding the defendant has failed to comply shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (c) it shall not be necessary to prove the appointment or signature of the Crown Solicitor or other authorized person;
- (d) a book purporting to be a book referred to in sections 14 (2) and 14 (3) shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of all matters recorded therein that are relevant to the proceeding.

37. Regulations. The Governor in Council may make regulations not inconsistent with this Act for or with respect to all matters required or permitted by this Act to be prescribed and all matters that in the opinion of the Governor in Council are necessary or convenient for the proper administration of this Act or to achieve the objects and purposes of this Act.

The power to regulate conferred by this section includes the power to prohibit.

FIRST SCHEDULE

[s. 4]

Act or Enactment and Amendment	New Title or Construction
<p><i>Children's Services Act 1965-1978</i></p> <p>In section 26, (a) in subsection (1), omit paragraph (a) and substitute the following paragraph:— “(a) the child may be granted bail in accordance with the <i>Bail Act 1979</i>;”; (b) in subsection (2), in paragraph (b), omit subparagraph (i) and substitute the following subparagraph:— “(i) grant bail to him in accordance with the <i>Bail Act 1979</i>;”.</p>	<p><i>Children's Services Act 1965-1980</i></p>
<p><i>Coroners Act 1958-1977</i></p> <p>In section 29, omit subsection (5) and substitute the following subsection:— “(5) A witness in an inquest (whether or not he has already given evidence in that inquest) shall appear at the times and places to which the inquest is adjourned from time to time until he is released by the coroner from further attendance and every summons to a witness issued pursuant to subsection (4) shall without any authority other than this subsection be enlarged for the appearance of the witness at such times and places. The provisions of the <i>Justices Act 1886-1979</i> relating to witnesses and warrants of apprehension on the non-appearance of witnesses and the punishment of witnesses who fail to appear in obedience to a summons or who refuse to answer questions shall, with and subject to all necessary adaptations, apply with respect to witnesses to whom this Act applies.”.</p> <p>In section 41, omit subsection (2) and substitute the following subsection:— “(2) A coroner who commits a person for trial shall have the like powers, authorities, functions and duties in relation thereto as are had by justices if the committal were by justices and the relevant provisions of the <i>Justices Act 1886-1979</i> and the <i>Bail Act 1979</i> shall, with and subject to all necessary adaptations, apply and extend accordingly.”.</p>	<p><i>Coroners Act 1958-1980</i></p>

FIRST SCHEDULE—*continued*

[s. 4]

Act or Enactment and Amendment	New Title or Construction
<p>In section 45, omit the words “and recognizances” and substitute the words “, undertakings as to bail and notices to witnesses”.</p>	<p><i>District Courts Act</i> 1967–1980</p>
<p><i>District Courts Act</i> 1967–1976</p>	
<p>In section 28, omit the words “recognizances of” and substitute the words “notices to”.</p> <p>In section 61, omit the words “extension of his bail or the recognizances of” and substitute the words “enlargement of his bail or the notices to”.</p>	<p><i>Gaming Act</i> 1972–1980</p>
<p><i>Gaming Act</i> 1972</p>	
<p>In section 2, in paragraph (c), omit paragraph (a) and substitute the following paragraph:—</p> <p>“(a) where that person has been released on bail on entering into an undertaking, shall declare the undertaking to be forfeited;”.</p>	
<p><i>Justices Act</i> 1886–1979</p>	<p><i>Justices Act</i> 1886–1980</p>
<p>In section 4, omit from the definition “Decision” the words “an admission to bail,”.</p> <p>In section 49, omit all words commencing with the words “if the defendant is in custody” to the end of the section and substitute the words “whether or not the defendant is in custody, may admit him to bail or may suffer him to go at large without bail”.</p> <p>Section 69A and the heading immediately preceding that section are repealed.</p> <p>Section 87 is repealed.</p> <p>In section 88, omit subsection (2) and substitute the following subsection:—</p> <p>“(2) Upon adjourning a hearing the justices or, if only one justice is present, that justice—</p> <p>(a) may commit the defendant; or</p> <p>(b) whether or not the defendant is in custody, may admit him to bail or suffer him to go at large without bail.”.</p>	

FIRST SCHEDULE—*continued*

[s. 4]

Act or Enactment and Amendment	New Title or Construction
<p>Section 91 is repealed and the following section is substituted:—</p> <p>“ 91. Notice to witness. (1) A clerk of the court may give to any witness or person sought to be made a witness a notice in the prescribed form requiring him to attend the court at the time and place to which the hearing is adjourned or specified in the notice or that is to be determined or at all times and places to which the hearing is adjourned from time to time or specified in the notice.</p> <p>(2) A notice pursuant to subsection (1)—</p> <p>(a) may be served personally or sent by post to the person to whom it is addressed at his address last known to the clerk of the court concerned;</p> <p>(b) shall have effect as if it were a summons to the witness or person sought to be made a witness issued out of the court that the witness or person is by the notice required to attend.”.</p>	
<p>Section 92 is repealed.</p>	
<p>Section 93 is repealed and the following section is substituted:—</p> <p>“ 93. Procedure on non-appearance. (1) Where a witness or other person does not appear at any time and place to which the hearing is adjourned or that is specified in the notice or that has been determined, the justices who are then present may adjourn the hearing.</p> <p>(2) Where a person who has been released on bail under section 14 of the <i>Bail Act 1979</i> does not appear in accordance with his bail the justices who are then present—</p> <p>(a) may adjourn the hearing; and</p> <p>(b) may issue a warrant for his apprehension.</p>	

Act or Enactment and Amendment	New Title or Construction
<p>(3) Where a defendant who has been released on bail or who has made a deposit of money as security conditioned for his appearance at a time and place to be determined does not appear at the time and place so determined steps shall not be taken to issue a warrant for his apprehension unless the justices are satisfied that reasonable notice of the time and place so determined has been given to the defendant.”.</p> <p>Section 96 is repealed.</p> <p>In section 99, omit the word “recognizance” and substitute the words “undertaking as to bail”.</p> <p>In section 101, omit the words “and the admission to bail”.</p> <p>In section 108, in subsection (1), omit the words “as hereinafter in this Act provided”.</p> <p>In section 113,</p> <p>(a) in subsection (1), omit the words “as hereinafter in this section provided”;</p> <p>(b) omit subsections (2), (3) and (5).</p> <p>Section 114 and the heading immediately preceding that section are repealed.</p> <p>Section 115 is repealed.</p> <p>Section 116 is repealed.</p> <p>Section 118 is repealed.</p> <p>In the heading immediately preceding section 121, omit the words “<i>Recognizances of</i>” and substitute the words “<i>Undertaking as to</i>”.</p> <p>In section 121,</p> <p>(a) in the note appearing in and at the beginning of the section, omit the word “recognizance” and substitute the words “undertaking as to bail”;</p> <p>(b) (i) omit the words “a recognizance” and substitute the words “an undertaking as to bail”;</p> <p>(ii) omit the words “the recognizance” and substitute the words “the undertaking”;</p> <p>(c) omit the words “by this Act”.</p> <p>Section 122 and the heading immediately preceding that section are repealed.</p> <p>In section 126, in subsection (1), omit the words “and recognizances” and substitute the words “, undertakings as to bail and copies of notices to witnesses”.</p>	

FIRST SCHEDULE—*continued*

[s. 4]

Act or Enactment and Amendment	New Title or Construction
<p>In section 129, (a) omit the words “ as hereinbefore provided,”; (b) omit the words “, subject to the provisions hereinbefore contained,”.</p>	
<p>In section 132, in paragraph (a), omit the words “ as hereinbefore in this Act provided and shall bind over the witnesses by recognizance accordingly ” and substitute the words “ and give to each witness the notice prescribed by section 123 to be given ”.</p>	
<p>In section 133, (a) in subsection (1), (i) omit paragraph (b) and substitute the following paragraph:— “(b) shall order that each witness be given the notice prescribed by section 123 with such adaptations as are necessary.”; (ii) add at the end thereof the following paragraph:— “Section 123 shall apply and extend to notices given to witnesses pursuant to this subsection as if they were notices given under that section.”; (b) in subsection (2), omit paragraph (b) and substitute the following paragraph:— “(b) admit the defendant to bail.”; (c) in subsection (3), (i) omit from paragraph (a) the words “ and recognizance taken ” and substitute the words “, undertaking as to bail taken and notice to witness given ”; (ii) omit from paragraph (b) the words “ and recognizance taken ” and substitute the words “, undertaking as to bail taken and notice to witness given ”.</p>	
<p>Section 134 is repealed and the following section is substituted:— “ 134. Effect of depositions, undertakings as to bail and notices to witnesses taken, given or ordered to be given elsewhere than at place of committal. Every deposition, undertaking as to bail and notice to witness delivered to justices in accordance with section 133 shall be deemed to have been taken, given or ordered to have been given in the case as if they had been</p>	

FIRST SCHEDULE—*continued*

[s. 4]

Act or Enactment and Amendment	New Title or Construction
<p>taken, given or ordered to have been given by or before the justices who commit the defendant to be tried or for sentence or pursuant to their order and shall, together with such depositions, undertakings as to bail and notices to witnesses as are taken, given or ordered to be given in the matter of the charge against the defendant by or before such lastmentioned justices or pursuant to their order, be transmitted to the proper officer at the time and in the manner provided by this Act where the defendant is committed for trial or for sentence on a charge of an indictable offence.</p> <p>Notwithstanding this subsection, if such lastmentioned justices are of opinion that the evidence is not sufficient on which to commit the defendant to be tried or for sentence and order that he be discharged as to the charge the subject matter of the examination, then every undertaking as to bail and notice to witness so taken or given and delivered shall be of no force or effect.”</p> <p>In section 139, in subsection (2), omit from paragraph (b) the words “ discharge him upon recognizances conditioned for his appearance at the time and place to which the hearing is adjourned ” and substitute the words “ admit him to bail ”.</p> <p>In section 140,</p> <p>(a) in subsection (1),</p> <p>(i) omit the words “ Courts of Petty Sessions ” and substitute the words “ Magistrates Courts ”;</p> <p>(ii) omit the words “ discharge him upon recognizances conditioned for his appearance at the time and place to which the hearing or, as the case may be, the giving of the decision is so adjourned ” and substitute the words “ admit him to bail ”.</p> <p>In section 141, omit the words “ discharge him upon recognizances conditioned for his appearance at the time and place to which the hearing is so adjourned ” and substitute the words “ admit him to bail ”.</p>	

FIRST SCHEDULE—*continued*

[s. 4]

Act or Enactment and Amendment	New Title or Construction
<p>In section 237, omit the words “ discharge the person upon his recognizance with or without sureties for his appearance at such time and place, and upon such conditions, as the Court or Judge may appoint ” and substitute the words “ admit the person to bail ”.</p> <p><i>Offenders Probation and Parole Act 1959-1974</i></p> <p>In section 15, in subsection (3), omit from paragraph (c) the words “ release him on bail (with or without sureties) ” and substitute the words “ grant bail to him ”.</p> <p>In section 16,</p> <p>(a) in subsection (2), omit from paragraph (b) the words “ release him on bail, with or without sureties,” and substitute the words “ grant bail to him ”;</p> <p>(b) in subsection (3), omit the words “ release him on bail, with or without sureties,” and substitute the words “ grant bail to him ”.</p> <p>In section 18, omit subsection (2).</p> <p>In section 36G,</p> <p>(a) in subsection (3), omit from paragraph (c) the words “ release him on bail (with or without sureties) ” and substitute the words “ grant bail to him.”;</p> <p>(b) in subsection (7), omit the words “, warrants and admission to bail ” and substitute the words “ and warrants ”.</p> <p>In section 36J, in subsection (4), omit the words “ release him on bail, with or without sureties,” and substitute the words “ grant bail to him ”.</p> <p>In section. 36K, in subsection (6), omit the words “ admit him to bail on such conditions and recognizances as it deems fit ” and substitute the words “ grant bail to him ”.</p>	<p><i>Offenders Probation and Parole Act 1959-1980</i></p>

FIRST SCHEDULE—*continued*

[s. 4]

Act or Enactment and Amendment	New Title or Construction
<p><i>Racing and Betting Act 1954–1978</i> In section 126, in subsection (1), omit paragraph (i) and substitute the following paragraph:— “(i) If that person has been released on bail, declare the undertaking as to bail to be forfeited;”.</p>	<p><i>Racing and Betting Act 1954–1980</i></p>
<p><i>Traffic Act 1949–1977</i> In section 16, in subsection (9), in paragraph (a), (a) omit from subparagraph (i) where it occurs in the first paragraph the words “by recognizance or on deposit of money by way of bail”; (b) omit subparagraph (i) where it occurs in the second paragraph and substitute the following subparagraph:— “(i) if that person has been released on bail, declare the undertaking as to bail to be forfeited;”.</p>	<p><i>Traffic Act 1949–1980</i></p>
<p><i>The Criminal Code</i> Section 555 and the heading immediately preceding that section are repealed. Section 555A is repealed. In section 559, omit the words “recognizances of” and substitute the words “undertakings as to”. In section 562, omit the words “with sufficient sureties to attend to be tried on the indictment”. Section 593A is repealed and the following heading and section substituted:— “<i>Enlargement of Notices to Witnesses on Adjournment of Trial.</i> 593A. (1) Where the trial of a person charged or to be charged with an offence on indictment is adjourned, the Court may enlarge the notice given to any witness.</p>	<p>These amendments shall be read as one with <i>The Criminal Code</i></p>

FIRST SCHEDULE—*continued*

[s. 4]

Act or Enactment and Amendment	New Title or Construction
<p>(2) Where a notice to witness is enlarged in accordance with subsection (1), the witness is bound to attend to give evidence at the time and place to which the trial is adjourned in the same manner as if he had been given a fresh notice.”.</p> <p>Section 593B is repealed.</p> <p>In section 597A, in subsection (3),</p> <p>(a) omit the words “ admitting him to ”;</p> <p>(b) omit the word “ recognizances ” and substitute the words “ notices to witnesses ”.</p> <p>In section 650, omit from the fourth paragraph the words “ and the recognizance of his bail, if any,”.</p> <p>In section 668B, omit from the second paragraph the words “ on recognizance, with or without sureties, and in such sum as the court of trial thinks fit,”.</p> <p>In section 671G,</p> <p>(a) omit subsection (2);</p> <p>(b) in subsection (3), omit the words “ liberated on bail or recognizances ” and substitute the words “ released on bail ”.</p> <p>In section 671L,</p> <p>(a) omit the word “ given,” and substitute the words “ given and ”;</p> <p>(b) omit the words “, and to admit an appellant to bail,”.</p> <p>In section 672,</p> <p>(a) in subsection (1), omit the words “ liberating him on bail or recognizance ” and substitute the words “ his admission to bail ”;</p> <p>(b) in subsection (2), omit the words “ liberating him on bail or recognizance ” and substitute the words “ his admission to bail ”.</p> <p>In section 697, in the third paragraph, omit the words “ require any person to enter into a recognizance conditioned ” and substitute the words “ order that any person be given a notice ”.</p> <p>In section 698, omit the word “ hold ” and substitute the word “ admit ”.</p> <p>In section 705, omit the word “ held ” where twice occurring and substitute in each case the word “ admitted ”.</p> <p>In section 707, in subsection (2), in paragraph (d), omit the words “ admission to bail or ”.</p>	

SECOND SCHEDULE

[s. 14]

OFFENCES IN RESPECT OF WHICH BAIL BY WAY OF
DEPOSIT OF MONEY SHALL NOT BE GRANTED

OFFENCES DEFINED IN—

Section 16 of the *Traffic Act 1949–1980*;

First section of *The Gaming Act of 1850* of New South Wales as amended for the purpose of its application in Queensland by the *Gaming Act 1972*;

Sections 106, 108 and 110 of the *Racing and Betting Act 1954–1980*.