

1992

LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY

BAIL REGULATIONS

EXPLANATORY MEMORANDUM

**(Circulated by the Authority of
Mr Terence Connolly MLA
Attorney-General)**

BAIL REGULATIONS

Outline

Section 58 of the *Bail Act 1992* empowers the Executive to make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

These regulations have been made, pursuant to that power, to facilitate the implementation of the *Bail Act*, which is due to commence operation on 28 November 1992.

The matters which have been prescribed under the *Bail Regulations* are:

- . the particulars to be stated by an acceptable person when making an acknowledgment.
- . the method of service of a notice of continuance.
- . the manner of making a request for internal review of police bail.
- . limitations on applications for review of police bail.
- . the form of notice that a bail condition has not been satisfied required to be completed by a gaoler.

Notes

Regulations 1 and 2 are formal. They contain the citation and a short form reference to the principal Act.

Regulation 3 prescribes particulars to be included in a written acknowledgment made under paragraph 25(1)(b) of the Act. Subsection 32(3) of the *Bail Act* permits the prescription of particulars for this purpose. The regulation requires the stating of the name and address of the person making the acknowledgment and of the accused, and the period and nature of the person's acquaintance with the accused.

Regulation 4 prescribes the method of service of a notice of continuance where bail is continued to a date to be notified. Paragraph 34(4)(c) requires that in such circumstances the accused be given or sent a notice of the place, date and time in a manner prescribed. The regulation provides for personal service or by leaving the notice with a person over the age of 16 years resident or employed at the accused's last known or usual place of residence or business.

Regulation 5 prescribes the manner of making a request for internal review of police bail under section 38 of the Bail Act. Paragraph 39(5) (a) permits this to be prescribed. The regulation provides that the request may be made by the accused or a representative and either orally or in writing.

Regulation 6 prescribes limitations on applications for internal review of police bail. It has been made in accordance with paragraphs 39(5) (c) and 39(5) (d).

Subregulation (1) prohibits the accused from making more than 1 application for review on the same grounds.

Subregulation (2) prohibits the accused from making an application for review where the conducting of the review would prevent the accused from attending court as required in relation to a charge. The purpose of the regulation is to prevent the obstruction of justice by a review being sought when the accused is about to be taken before a court.

Regulation 7 prescribes a form of notice for the purposes of subsection 48(2) of the Bail Act. That subsection requires a gaoler to send the court a notice when an accused cannot be released on bail because a condition of bail cannot be met. The court is empowered in those circumstances to review the harshness of the condition. Subsection 48(5) permits the prescription of a notice for this purpose. The regulation prescribes the form contained in the Schedule to the Regulations.