



STANDARD CONDITIONS OF BAIL

These draft conditions of bail that have been provided by the Court for the benefit of applicants and practitioners in preparing applications for bail. These draft conditions should not be taken as exhaustive or prescriptive. Applicants and practitioners should consider what conditions they propose to meet the identified bail risks including whether additional or differently worded conditions are appropriate. These draft conditions do not bind or limit the presiding judge who will determine the application and, if granted, will determine the precise conditions imposed, if any. Applicants and practitioners should not assume that the presiding judge will accept that any of the possible suggested exceptions to a bail condition will be allowed.

Division 3 *Bail Act 2013* (NSW)

A. Conditions pursuant to ss 25, 27 and 29: Conduct, Accommodation and Pre-release Conditions

Conduct, Accommodation and Curfew Conditions

- | | | |
|---|--|--------------------------|
| 1 | The applicant is to be of good behaviour. | <input type="checkbox"/> |
| 2 | The applicant is to appear at the [Children's / Local / District / Supreme] Court at [place] on [insert date/s] , and thereafter as directed. | <input type="checkbox"/> |
| 3 | The applicant is to live at [insert address] and nowhere else. | <input type="checkbox"/> |
| 4 | The applicant is to report to the Officer in Charge at [insert station] Police Station each:

a) Day
b) Monday
c) Tuesday
d) Wednesday
e) Thursday
f) Friday
g) Saturday
h) Sunday | <input type="checkbox"/> |

between the hours of **[insert time] am** and **[insert time] pm**.

5a The applicant is to comply with a curfew: not to leave the premises at which the applicant is required to live between the hours of **[insert time] pm** and **[insert time] am** except in the following circumstance(s) **[delete the following or insert conditions such as]:**

- when in the company of **[insert name/s]; AND / OR**
- for the purposes of reporting to the police; **AND / OR**
- to attend **[pre-arranged]** conferences with their legal representatives; **AND / OR**
- to attend court; **AND / OR**
- to obtain **[emergency]** medical treatment; **AND /OR**
- to attend their place of employment between **[am / pm]** and **[am / pm]**.

5b The applicant is to comply with a home detention condition: not to leave the premises at which the applicant is required to live except in the following circumstance(s) **[delete the following or insert conditions such as]:**

- when in the company of **[insert name/s]; AND / OR**
- for the purposes of reporting to the police; **AND / OR**
- to attend **[pre-arranged]** conferences with their legal representatives; **AND / OR**
- to attend court; **AND / OR**
- to obtain **[emergency]** medical treatment; **AND / OR**
- to attend their place of employment between **[am / pm]** and **[am / pm]**.

6 The applicant is not to be in the company of any person aged under 18 years **[unless in the company of [insert name/s].**

7 The applicant is to attend school at **[insert name of school and school's address]** on each school day, unless illness prevents it. In the event of non-attendance due to illness, a medical certificate must be provided to **[insert name of officer]** within 24 hours of the first day of such non-attendance.

8 The applicant is not to occupy the driver's seat of any motor vehicle / motorcycle.

- 9 The applicant is to comply with the terms of any apprehended domestic violence order or apprehended violence order made against them.
- 10 The applicant may only travel away from the **[Correctional Centre / Juvenile Detention]** Centre from which the applicant is to be released on bail when in the company of **[insert names]**. This is a pre-release condition and must be complied with before the applicant is released on bail.

Drug and Alcohol Abstention Conditions

- 11 The applicant is not to drink alcohol or enter any premises in which alcohol is sold, [other than a licensed restaurant].
- 12 The applicant is not to take any illegal or prescription drugs other than a drug prescribed for the applicant by a medical practitioner.

Witness Protection Conditions

- 13 The applicant is not to approach or communicate with, or attempt to make contact with, **[insert name/s of person/s]** by any means, including telephone and internet social media platforms, or through another person, other than a legal representative.
- 14 The applicant is not to approach or communicate with, or attempt to make contact with, any prosecution witness [any person who the applicant has been notified as a prosecution witness] other than a serving police officer, by any means, including telephone and internet social media platforms, or through a third party, other than a legal representative.
- 15 The applicant is not to go within **[insert distance]** of **[insert place]**.

Attendance at Rehabilitation Facility

- 16 The applicant is to undertake a course of rehabilitation at **[insert name of facility]**. The applicant is not to leave that institution until the rehabilitation programme is completed, other than for the purpose of complying with reporting conditions, for pre-arranged conferences with lawyers, or attending court.
- 17 If the applicant is refused admission, leaves, or is expelled from the rehabilitation centre at which the applicant is to reside, **s/he** is to travel directly to the nearest police station and surrender **herself / himself** as being unable to comply with bail.

- 18 The applicant is to obey any reasonable direction given to **her / him** by:
- a) the person in charge from time to time of the rehabilitation facility at which the applicant is to reside
 - b) the applicant's parents
 - c) guardian
 - d) case worker
 - e) an officer of the Community Corrections Office
 - f) an officer of the Juvenile Justice Office
- 19 The applicant is to comply with any regime of medical treatment recommended by a medical practitioner, namely **[insert name]**, including taking medication as prescribed.

Travel and Passport Conditions

- 20 The applicant is not to go within 500 metres of any point of international departure from the Commonwealth of Australia.
- 21 The applicant is to surrender any passport to **[insert name and station of police officer / court]** within **[insert number]** hours following release to bail and is not to apply for a new passport or other travel document. This is a post-release condition. ***[if not intended as post release then use condition 22]***

Pre-Release Condition – Passport

- 22 The applicant is to cause his/her passport to be surrendered to **[insert name and station of police officer / court]** prior to being released to bail, and is not to apply for a new passport or other travel document. This is a pre-release condition. ***[if not intended as pre release then use condition 21]***

Conditions Restricting Access to Technology

- 23 The applicant is to not to use or be in possession of more than one mobile telephone service and SIM card, and is to provide the password or PIN code, service and IMEI numbers of that telephone to **[insert officer's name]** within ____ hours of taking or resuming possession of any such service.
- 24 The applicant is not to use or be in possession of any mobile telephone which is a SMART telephone or is otherwise an internet capable mobile device.

- 25 The applicant is not to use or possess any encrypted device or any means of communicating via encrypted applications, including but not limited to WhatsApp, Snapchat, Wickr, Viber, KIK Messenger, Zoom, Discord, WeChat or Telegram.
- 26 The applicant is to provide access to any internet capable device in the applicant's possession to **[insert officer's name]** on demand and provide any password or PIN code for the device to that person to facilitate access to it.

B. Conditions pursuant to s 26: Security Requirements

Security and Involvement of Acceptable Person

- 27 The applicant is to enter into an agreement under which the applicant agrees to forfeit the sum of **[\$insert amount]** if **s/he** fails to appear before court in accordance with the bail acknowledgment. This **is / is not [cross out whichever is inapplicable]** a pre-release condition.
- 28 The applicant is to deposit cash / security **[cross out whichever is inapplicable]** in the amount of **[\$insert amount]** and agree to forfeit that sum if the applicant fails to appear before court in accordance with the bail acknowledgement. This **is / is not [cross out whichever is inapplicable]** a pre-release condition.
- 29 **[Either say "An" or specify number]** acceptable person[s] is/are to enter into an agreement under which that person(s) agrees to forfeit the sum of **[\$insert amount]** if the applicant fails to appear before court in accordance with the bail acknowledgment. This **is / is not [cross out whichever is inapplicable]** a pre-release condition.
- 30 **[Either say "An" or specify number]** acceptable person[s] is/are to deposit cash / security **[cross out whichever is inapplicable]** in the sum of **[\$insert amount]** and agree to forfeit that sum if the applicant fails to appear before court in accordance with the bail acknowledgment. This **is / is not [cross out whichever is inapplicable]** a pre-release condition.

C. Conditions pursuant to s 27: Character Acknowledgments

Character Acknowledgment

- 31 An acceptable person is to provide a character acknowledgment which complies with the *Bail Act 2013* (NSW), and the *Bail Regulations 2014* (NSW). This **is / is not [cross out whichever is inapplicable]** a pre-release condition.

Note: see s 27(4) - not to be imposed unless of the opinion that the purpose for which the acknowledgment is required is not likely to be achieved by imposing one or more conduct requirements.

D. Conditions pursuant to s 30: Enforcement Conditions

Enforcement Conditions

Note: See s 30(3)(b) – such conditions can only be imposed at the request of the prosecutor and must make clear the “underlying bail condition”, and s 30(4)(b) – the condition must specify the circumstances in which each kind of direction may be given ensuring that compliance is not unduly onerous, and making clear the “underlying bail condition”

- 32 The applicant is to present **herself / himself** at the front door of the address where the applicant will reside at the direction of any police officer who believes on reasonable grounds that the direction is necessary to confirm compliance with the:

- a) curfew condition
- b) drug abstention condition
- c) alcohol abstention condition

- 33 The applicant is to undertake any non-invasive testing required of the applicant at the direction of any police officer who believes on reasonable grounds that the direction is necessary to confirm compliance with the:

- a) drug abstention condition
- b) alcohol abstention condition