



PRACTICE NOTE SC CL 11

Supreme Court Common Law Division – Bail

1. Commencement

- 1.1. This Practice Note was issued on 4 February 2016 and commences on 7 March 2016.

2. Application

- 2.1. This Practice Note applies to applications made under the *Bail Act 2013* (NSW) in the Supreme Court.

3. Purpose

- 3.1. The purpose of this Practice Note is to establish the procedures to be followed when filing an application under the *Bail Act 2013* (NSW) in the Supreme Court.

4. Definitions

- 4.1. In this Practice Note:

- 4.1.1. **Bail Application** means a detention application, release application, variation application, or any other application made under the *Bail Act 2013* (NSW) in the Supreme Court.

- 4.1.2. **Notice of Readiness to Proceed** means the form set out in the appendix to this Practice Note.

5. Filing a Bail Application in the Supreme Court

- 5.1. A party seeking to have a Bail Application listed before the Supreme Court must file a 'Release or Variation Application to the Supreme Court of NSW' form or 'Detention Application to the Supreme Court of NSW' form (as the case may be) with the Supreme Court.

- 5.2. The approved forms can be found using the following link:

www.supremecourt.justice.nsw.gov.au/Pages/SCO2_formsfees/SCO2_forms/SCO2_forms_subject/crime_bail_forms.aspx

- 5.3. The applicable form can be filed in the following ways:
 - 5.3.1. over the counter at the Supreme Court Registry;
 - 5.3.2. via e-mail to the e-mail address supremecourt.bails@courts.nsw.gov.au;
 - 5.3.3. by facsimile to (02) 9230 8628; or
 - 5.3.4. by post.
- 5.4. If a Bail Application is not completed in its entirety, the application will not be accepted for filing.
- 5.5. Once a Bail Application has been filed, the matter will be allocated a hearing date, and a date for call-over before the Registrar. The call-over date allocated will be the Monday the week before the hearing date.
- 5.6. The Supreme Court Registry will provide notification of the Bail Application, the call-over date and the hearing date to the applicant, the applicant's legal representative and the prosecuting authority within one business day of the application being filed.
- 5.7. On request from the applicant's legal representative, the relevant prosecuting authority will provide to the applicant's legal representative a copy of the Court Attendance Notice, statement of facts and the applicant's criminal record. Such documents must be provided within seven days of receiving the request.
- 5.8. When allocating a hearing date, the convenience of counsel will only be taken into consideration in exceptional circumstances.

6. Call-over

- 6.1. The purpose of the call-over before the Registrar is to ascertain:
 - 6.1.1. whether the Bail Application will proceed on the hearing date;
 - 6.1.2. whether an adjournment of the hearing date is required; or
 - 6.1.3. whether the Bail Application is to be withdrawn.
- 6.2. Prior to the call-over or at the call-over, the Applicant's legal representative must file a Notice of Readiness to Proceed that certifies that the matter is ready to proceed on the allocated hearing date. If a Notice of Readiness to Proceed is not filed before or during the call-over, the hearing date may be vacated.
- 6.3. If a Bail Application is to be withdrawn and notification of the withdrawal is sent to the Registrar prior to 2pm on the Friday before the call-over, no appearance is required at the call-over. The withdrawal of the Bail Application will be processed in chambers.
- 6.4. If the Notice of Readiness to Proceed is filed before 2:00 pm on the Friday before the call-over, the Registrar will notify the parties by e-mail if an appearance is not required.
- 6.5. If an adjournment application is to be made, an appearance by the parties is required at the call-over.

- 6.6. Self-represented litigants are not required to complete a Notice of Readiness to Proceed and their matters will not be listed in the call-over.

7. Application for adjournment of matter made after the call-over

- 7.1. If a party wishes to make an application for an adjournment after the Notice of Readiness to Proceed has been filed and the party's legal representative has not changed since filing the Notice of Readiness to proceed, an affidavit from the lawyer who signed the Notice of Readiness to Proceed must be filed that sets out why the matter is not ready to proceed and why the Notice of Readiness was signed.
- 7.2. If the applicant has changed or retained new legal representation after the filing of a Notice of Readiness to Proceed and wishes to make an application for an adjournment, an affidavit must be filed by the new legal representative that sets out why the matter is not ready to proceed.
- 7.3. If such an adjournment application is granted, the matter will be listed in the Registrar's call-over on the following Monday to set a new hearing date.

8. Application for expedition

- 8.1. Should a party wish to request a date that is sooner than the date allocated, that party must send to the Registry an Application for Expedition form in any of the ways listed at 5.3 above.
- 8.2. The Registrar will determine the expedition request in chambers.
- 8.3. If an expedition request is granted, the convenience of counsel will not be taken into consideration when determining the date on which the application will be listed.

9. Requesting a drug and alcohol report

- 9.1. If a legal representative is of the view that a drug and alcohol report would assist their client's Bail Application, such a report can be requested by sending the Registry an Application for a Drug and Alcohol Report form in any of the ways listed at 5.3 above.
- 9.2. The Registrar will consider the merit of ordering such a report and determine the request in chambers.

10. Applications involving juveniles and detention applications

- 10.1. Matters involving juveniles and detention applications will be given expedited hearing dates. The procedures outlined at clauses 6, 7 and 8 do not apply to matters involving juveniles and detention applications.

11. Material to be filed in a Bail Application


- 11.1. Any material on which a party intends to rely in a Bail Application must be filed with the Registry and served no later than 4:00 pm the day preceding the day before the hearing.
- 11.2. Such material may be filed in any of the ways listed in clause 5.3 above.
- 11.3. Material provided to the Court after 4:00 pm the day preceding the day before the hearing will be accepted at the discretion of the presiding Judge.



T F Bathurst AC
Chief Justice of New South Wales
4 February 2016

Related Information:
Bail Act 2013 (NSW)

Appendix

 Supreme Court of New South Wales	<h3>Notice of Readiness to Proceed</h3>
<p>This form is required to be completed by the Solicitor on record for the Applicant seeking to confirm the hearing date of a bail application in accordance with Practice Note SC CL 11.</p> <p>Self-represented litigants and juvenile applicants are <u>not</u> required to complete this form.</p> <p>This form must be filed before 2pm on the Friday before the Call Over or at the Call Over. If filed prior to the Call Over, the Registrar will advise the parties by e-mail if an appearance is not required at the Call Over.</p> <p>Send your completed form by email (supremecourt.bails@courts.nsw.gov.au), fax (9230 8628) or post.</p>	
Court file details	
Case number:	
Applicant name:	
Date of bail hearing:	
Estimate for hearing of bail application:	
Undertaking	
I undertake that:	
<ul style="list-style-type: none">• For legally aided matters, a merit advice has been completed and the bail application found to have merit;• A conference has been held with the applicant;• If a drug and alcohol report is required, it has been requested and has either been received, or it is anticipated that it will be received, prior to the hearing of the bail application;• There has been a previous refusal of bail after a hearing on the merits;• For variations of a bail order, existing sureties have been notified of the bail hearing date and the need to consent to variations in person at the hearing or in writing;• Enquiries have been made as to the availability of a suitable residence for the applicant and there is evidence available of consent to the applicant being bailed to reside there, from those with whom it is proposed that he or she should live; and• Enquiries have been made to ensure that sufficient sureties have been located and are willing to provide written or oral evidence of their willingness and capacity to provide security.	
Signed:	Dated:
Name:	Role: Solicitor for the Applicant
Contact telephone number:	Contact email address:

