



ANALYSIS

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2007, No. 5

An Act to amend the Criminal Procedure Act 1980-81

(16 April 2007)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title and commencement – This Act may be cited as the Criminal Procedure Amendment Act 2007 and shall be read together with and deemed part of the Criminal Procedure Act 1980-81 (“the principal Act”).

2. Release of defendant granted bail - Section 87 of the principal Act is repealed and the following new section substituted –

“87. Release of defendant granted bail – (1) If a defendant is granted bail, the defendant must attend personally –

- (a) at the time and place to which the hearing is adjourned; and
- (b) at every time and place to which, during the course of the proceedings, the hearing may from time to time be adjourned.

(2) The Court may impose as a further condition of the defendant’s release, a condition that the defendant report to the Police at the time or times and at the place or places that the Court directs.

(3) Whether or not the Court imposes a condition under subsection (2), the Court may impose any other condition that the Court considers reasonably necessary to ensure that the defendant –

- (a) appears in Court on the date to which the defendant has been remanded; and
- (b) does not interfere with any witnesses or any evidence against the defendant; and
- (c) does not commit any offence whilst on bail.

(4) Without limiting the discretion of the Court under subsections (2) or (3), the Court may impose such further conditions as the Court considers reasonably necessary in the circumstances of a particular case, including conditions that the defendant must -

- (a) remain in the Cook Islands or on any specified island within the Cook Islands;
- (b) surrender his passport to the Registrar of the High Court to be held by the Registrar pending further order of the Court;
- (c) not purchase or consume alcohol, or enter licensed premises when alcohol is sold or consumed;
- (d) not be at large during such hours as the Court may specify;
- (e) reside where directed by the Court;
- (f) not associate with such persons as the Court may specify.

(5) Where a defendant who is remanded in custody is granted bail, the defendant shall if the defendant is in custody only under the warrant issued in pursuance of the remand, be released from custody upon entering with or without surety or sureties at the discretion of the Court, into a bail bond in such sum or sums as the Court fixes, subject to the provisions of subsection (1) and subject also to any condition or conditions imposed by the Court pursuant to subsections (2), (3) or (4).

(6) In this section, “Court” includes the Registrar where the Registrar has granted bail pursuant to section 83(3A).”

3. Defendant may be admitted to bail by constable in certain circumstances –
Section 95 of the principal Act is amended by –

- (a) deleting from subsection (1), the words “3 months” and substituting the words “5 years”; and
- (b) inserting after subsection (2), the following new subsection –

“(2A) When a person is granted bail under this section, the constable who takes the bail bond may in addition to the condition that may be imposed under subsection (2), also impose any condition that may be imposed by the Court or by the Registrar under section 87.”

4. Form of bail bond and notice – The First Schedule to the principal Act is amended by deleting Form 10 and substituting the form set out in the Schedule to this Act.

This Act is administered by the Ministry of Justice

SCHEDULE

BAIL BOND FOR THE ATTENDANCE OF THE DEFENDANT

(Section 89(1), Criminal Procedure Act 1980-81)

[Full name], Informant

[Full name], Defendant

[Full name] of [address, occupation] (hereinafter called "the Defendant") is charged with
and [Full names, addresses and occupations] has/have agreed to act as surety/sureties.

I, the defendant, bind myself to attend personally at the High Court at onday theday of 20.. at am/pm and to attend personally at every time and place to which the hearing may be adjourned, to answer further to the charge, and in the meantime to report at the Police Station at on everyday ata.m./p.m. and to comply with any conditions of my release imposed by the Court or the Registrar.

And I the defendant, acknowledge myself to be bound to forfeit to the Crown the sum of \$..... and I (we) the surety/sureties acknowledge myself/ourselves bound to forfeit to the Crown the sum of \$ (each) in the event that the defendant fails to attend or fails to perform any of his other obligations under this bond or any conditions imposed by the Court as conditions of the release of the defendant.

.....
Defendant

.....
Surety (or Sureties)

Taken before me at this day of 20..

.....
Judge, Justice of the Peace or Registrar,
Or Superintendent of the institution in
which the defendant is remanded.