

**Version No. 003**  
**Crown Proceedings Regulations 2002**  
**S.R. No. 2/2002**

Version incorporating amendments as at 1 January 2010

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**Version No. 003**  
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Version incorporating amendments as at 1 January 2010

**1 Objective**

The objective of these Regulations is to prescribe forms to be used under the **Crown Proceedings Act 1958**.

**2 Authorising provisions**

These Regulations are made under sections 5 and 6 of the **Crown Proceedings Act 1958**.

**3 Revocation**

The Crown Proceedings Regulations 1992<sup>1</sup> are **revoked**.

**4 Definition**

In these Regulations, *the Act* means the **Crown Proceedings Act 1958**.

**5 Forfeited recognisances**

- (1) For the purposes of section 5(2) of the Act, Form 1 is prescribed.
- (2) For the purposes of section 5(2A) of the Act, Form 2 is prescribed.
- (3) For the purposes of section 5(3)(b) of the Act, Form 3 is prescribed.
- (4) For the purposes of section 5(3)(d) of the Act, Form 4 is prescribed.
- (5) For the purposes of section 5(4) of the Act, Form 5 is prescribed.

- (6) For the purposes of section 5(5) of the Act, Forms 6, 7 and 8 are prescribed.
- (7) For the purposes of section 5(9A) of the Act, Forms 9 and 10 are prescribed.

**6 Breach of bail**

- (1) For the purposes of section 6(2) of the Act, Form 11 is prescribed.
  - (2) For the purposes of section 6(3) of the Act, Form 12 is prescribed.
  - (3) For the purposes of section 6(5) of the Act, Form 13 is prescribed.
  - (4) For the purposes of section 6(7) of the Act, Form 14 is prescribed.
  - (5) For the purposes of section 6(9) of the Act, Forms 15, 16 and 17 are prescribed.
  - (6) For the purposes of section 6(10) of the Act, Forms 18 and 19 are prescribed.
-

**FORMS**

**FORM 1**

**Crown Proceedings Act 1958**

(section 5(2))

**ORDER FORFEITING A RECOGNISANCE**

In the \_\_\_\_\_ Court

at

Court Ref

Principal

Surety

On \_\_\_\_\_ the abovenamed Principal/\*and Surety entered a  
recognisance for \$ \_\_\_\_\_, the conditions of the recognisance being—

The Principal has failed to observe a condition of the recognisance.  
The Court therefore declares the recognisance forfeited and orders that—

\* the Principal pay the amount of \$ \_\_\_\_\_ to the proper officer of  
the Court at \_\_\_\_\_ \*forthwith/within  
\_\_\_\_\_ after the date of this order and that in default of payment  
of the amount in accordance with this order the Principal be  
imprisoned for the term of \_\_\_\_\_

\* the Surety pay the amount of \$ \_\_\_\_\_ to the proper officer of the  
Court at \_\_\_\_\_ \*forthwith/within  
\_\_\_\_\_ after the date of this order and that in default of payment  
of the amount in accordance with this order the amount be obtained by  
seizing and selling the property of the Surety and in default of seizure  
and sale of property, in whole or in part, that the Surety be imprisoned  
for the term of \_\_\_\_\_

Dated

\*Judge  
\*Magistrate

\*Delete if inapplicable.

**FORM 2**

**Crown Proceedings Act 1958**

(section 5(2A))

**NOTICE TO PRINCIPAL AND SURETY OF A RECOGNISANCE  
FORFEITED IN THE ABSENCE OF THE PRINCIPAL**

In the \_\_\_\_\_ Court  
at \_\_\_\_\_  
\_\_\_\_\_ Court Ref \_\_\_\_\_

Principal [name]  
[address]

Surety [name]  
[address]

To the abovenamed \*Principal/Surety.

On \_\_\_\_\_ in the  
\*Supreme/County/Magistrates' Court at  
the \*Principal/Surety entered a recognisance in the amount of \$ \_\_\_\_\_, the  
conditions of the recognisance being—

The recognisance was respited to

As the Principal failed to observe a condition of the recognisance the Court  
on \_\_\_\_\_ declared the recognisance forfeited and ordered  
that—

\* the Principal pay the amount of \$ \_\_\_\_\_ to the proper officer of  
the Court \*forthwith/within \_\_\_\_\_ after the date of the order and  
that in default of payment of the amount in accordance with the order  
the Principal be imprisoned for the term of \_\_\_\_\_

\* the Surety pay the amount of \$ \_\_\_\_\_ to the proper officer of the  
Court \*forthwith/within \_\_\_\_\_ after the date of the order and  
that in default of payment of the amount in accordance with the order  
the amount be obtained by seizing and selling the property of the  
Surety and in default of seizure and sale of property, in whole or in  
part, that the Surety be imprisoned for the term of \_\_\_\_\_

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**Form 2**

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Take notice—

\*a warrant to imprison

\*a warrant of seizure and sale

\*a warrant to seize property

will issue after the expiration of 28 days after the date of the order  
unless—

- (a) the amount due under the order is paid; or
- (b) an order is made for the payment of the amount by instalments; or
- (c) within 28 days from receipt of this notice application to vary or rescind  
the order is made to the court where the recognisance was forfeited.

Dated

[*Signed*]

Proper officer of the Court

\*Delete if inapplicable.

---

**FORM 3**

**Crown Proceedings Act 1958**

(section 5(3))

**APPLICATION TO VARY OR RESCIND ORDER IN RESPECT OF FORFEITED RECOGNISANCE**

In the Court

at

Court Ref

Principal

Surety

On the abovenamed Principal/\*and Surety entered a recognisance in the amount of \$ , the conditions of the recognisance being—

As the Principal failed to observe a condition of the recognisance the Court on declared the recognisance forfeited and ordered that—

\* I, [name of Principal] of [address] pay the amount of \$ to the proper officer of the Court \*forthwith/within after the date of the order and in default to be imprisoned for the term of

\* I, [name of Surety] of [address] pay the amount of \$ to the proper officer of the Court \*forthwith/within after the date of the order and in default the amount be obtained by seizure and sale of any property and in default of the amount being obtained by seizure and sale of any property I be imprisoned for the term of

Under section 5(3)(a) of the **Crown Proceedings Act 1958** I apply for an order to vary or rescind the order on the ground that it would be unjust to require me to pay the amount of the recognisance, and I give notice that I shall apply to the Court on at \*a.m/p.m.

Particulars of such ground are—



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**Form 3**

Dated

[*Signed*]

Applicant

To the proper officer of the court at  
and to

\*the Director of Public Prosecutions

\*the informant or complainant

\*Delete if inapplicable.

---

**FORM 4**

**Crown Proceedings Act 1958**

(section 5(3)(d))

**EX PARTE APPLICATION FOR A STAY OF PROCEEDINGS IN  
RESPECT OF A FORFEITED RECOGNISANCE**

Principal

Surety

I,

of

apply to                   \*the Supreme Court                   at  
                                  \*the County Court  
                                  \*the Magistrates' Court

for a stay of proceedings pending the hearing of my application to vary or rescind the order which declared a recognisance forfeited.

The order declaring the recognisance forfeited was made at the Court at                   on

The application to vary or rescind the order was lodged with the \*Supreme Court/\*County Court/\*Magistrates' Court at                   on

[Signed]

Applicant

**ORDER**

Pending determination of the application of the \*Principal/\*Surety to vary or rescind the order declaring the recognisance forfeited, it is ordered that proceedings against the \*Principal/\*Surety be stayed and it is directed that

- \* any warrant issued in the case must be returned unexecuted
- \* the issue or execution of any warrant be stayed pending the determination of the application.

Crown Proceedings Regulations 2002

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**Form 4**

---

Dated

\*Judge  
\*Magistrate

This document is to be filed with the court which declared the recognisance forfeited immediately after the order has been signed.

\*Delete if inapplicable.

---

**FORM 5**

**Crown Proceedings Act 1958**

(section 5(4))

**WARRANT TO IMPRISON FOR NON-PAYMENT OF MONEY DUE  
UNDER A FORFEITED RECOGNISANCE**

In the \_\_\_\_\_ Court  
at \_\_\_\_\_

Court Ref \_\_\_\_\_

Principal \_\_\_\_\_

Surety \_\_\_\_\_

of \_\_\_\_\_

To all members of the police force of the State of Victoria and to the officer in charge of the prison at \_\_\_\_\_ or any other prison which is more accessible or more convenient.

On \_\_\_\_\_ the abovenamed Principal/\*and Surety entered into a recognisance in the amount of \$ \_\_\_\_\_, the conditions of the recognisance being—

As the Principal failed to observe a condition of the recognisance the \_\_\_\_\_ Court at \_\_\_\_\_ on \_\_\_\_\_ declared the recognisance forfeited and ordered the Principal to pay the amount of \$ \_\_\_\_\_. The Principal not having paid the amount as ordered—

You the member of the police force executing this warrant are authorised to break, enter and search any place where the Principal is suspected to be and are directed and authorised, unless the amount is sooner paid to you, to take and safely convey the Principal to the prison at \_\_\_\_\_ or any other prison which is more accessible or more convenient and there deliver the Principal to the officer in charge with this warrant.

And you the officer in charge are directed and authorised to receive the Principal into your custody and safely keep him or her in prison for \_\_\_\_\_ unless the amount of \$ \_\_\_\_\_ is paid to you sooner or unless the Principal is otherwise removed or discharged from custody by due course of law.

Crown Proceedings Regulations 2002

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**Form 5**

Dated

\*Prothonotary

\*Registrar of the County Court

\*Registrar of the Magistrates' Court

\*Delete if inapplicable.

---

**FORM 6**

**Crown Proceedings Act 1958**

(section 5(5))

**WARRANT OF SEIZURE AND SALE FOR MONEY DUE UNDER A  
FORFEITED RECOGNISANCE**

In the Court

at

Court Ref

Principal

Surety

of

To \*the Sheriff/all members of the police force:

On the abovenamed Principal and Surety  
entered a recognisance in the amount of \$ , the conditions of the  
recognisance being—

The Principal failed to observe a condition of the recognisance and the  
Court at declared the recognisance forfeited  
and ordered on that the Surety pay the amount of \$ .  
As the Surety has not paid the amount as ordered—

You are directed and authorised to seize the personal property of the Surety.  
If the amount together with all lawful costs of execution are not paid, you are  
to sell the property and pay the amount to the \*Prothonotary of the Supreme  
Court/\*Registrar of the County Court.

You or your officers must indorse details of execution on this warrant.

Dated

Issued at

Issued by

\*Prothonotary

\*Registrar of the County Court

\*Delete if inapplicable.

---

**FORM 7**

**Crown Proceedings Act 1958**

(section 5(5))

**WARRANT TO SEIZE PROPERTY FOR MONEY DUE UNDER A  
FORFEITED RECOGNISANCE**

In the Court

at

Court Ref

Principal

Surety

of

To \*the Sheriff/all members of the police force:

On the abovenamed Principal and Surety  
entered a recognisance in the amount of \$ , the conditions of the  
recognisance being—

The Principal failed to observe a condition of the recognisance and the  
Magistrates' Court at declared the recognisance forfeited and  
ordered on that the Surety pay the amount of \$ .  
As the Surety has not paid the amount as ordered—

You are directed and authorised to seize the personal property of the Surety.  
If the amount together with all lawful costs of execution are not paid, you are  
to sell the property and pay the amount to the Registrar of the Magistrates'  
Court at

You or your officers must indorse details of execution on this warrant.

Dated

Issued at

Issued by

Registrar of the Magistrates' Court

\*Delete if inapplicable.

**FORM 8**

**Crown Proceedings Act 1958**

(section 5(5))

**WARRANT TO IMPRISON FOR WANT OF SEIZURE AND SALE  
OF PROPERTY DUE UNDER A FORFEITED RECOGNISANCE**

In the Court  
at

Court Ref

Principal

Surety

of

To all members of the police force of the State of Victoria and to the officer in charge of the prison at or any other prison which is more accessible or more convenient.

On the abovenamed Principal and Surety entered a recognisance in the amount of \$ , the conditions of the recognisance being—

As the Principal failed to observe a condition of the recognisance, the Court at on declared the recognisance forfeited and ordered the Surety to pay the amount of \$ . The Surety not having paid the amount as ordered and no sufficient property having been obtained by seizing and selling property—

You the member of the police force executing this warrant are authorised to break, enter and search any place where the Surety is suspected to be and are directed and authorised, unless the amount is sooner paid to you, to take and safely convey the Surety to the prison at or any other prison which is more accessible or more convenient and there deliver the Surety to the officer in charge with this warrant.

And you the officer in charge are directed and authorised to receive the Surety into your custody and safely keep him or her in prison for unless the amount of \$ is paid to you sooner or unless the Surety is otherwise removed or discharged from custody by due course of law.



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**Form 8**

Dated

\*Prothonotary

\*Registrar of the County Court

\*Registrar of the Magistrates' Court

\*Delete if inapplicable.

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**FORM 9**

**Crown Proceedings Act 1958**

(section 5(9A))

**(FORFEITED RECOGNISANCE)**

**NOTICE TO MEMBER OF POLICE FORCE EXECUTING  
WARRANT TO IMPRISON AGAINST PRINCIPAL OR SURETY**

To the member of the police force in the State of Victoria executing the attached warrant to imprison.

Take notice—

Before the execution of this warrant you are required to deliver to the person liable to be imprisoned the attached "Statement under section 5(9A) of the **Crown Proceedings Act 1958** in respect of a forfeited recognisance".

You shall allow the person reasonable time and opportunity to make application to vary or rescind the order of forfeiture should he or she so desire.

Dated

\*Prothonotary

\*Registrar of the County Court

\*Registrar of the Magistrates' Court

\*Delete if inapplicable.

---

FORM 10

STATEMENT UNDER SECTION 5(9A) OF THE CROWN  
PROCEEDINGS ACT 1958 IN RESPECT OF A FORFEITED  
RECOGNISANCE

Form 10  
amended by  
S.R. No.  
171/2009  
reg. 5(1).

Principal

Surety

To the \*Principal/Surety

On \_\_\_\_\_ the \_\_\_\_\_ Court at \_\_\_\_\_  
declared forfeited the recognisance entered by you and ordered that you pay  
the amount of \$ \_\_\_\_\_ to the proper officer of the Court at \_\_\_\_\_  
\*forthwith/within \_\_\_\_\_

You have failed to comply with the order and a warrant to imprison is in the possession of the member of the police force who has delivered this statement to you. The warrant requires that you go to prison unless you pay the amount specified in the warrant. However, the member of the police force will give you reasonable time and opportunity, should you so desire, to make an application to vary or rescind the order.

Take notice—

The provisions relating to the application to vary or rescind the forfeiture order are contained in section 5(3) of the **Crown Proceedings Act 1958**, which provides—

1. Where a recognisance has been forfeited any Principal or Surety may apply to vary or rescind the forfeiture order—
  - (a) *if you were present in court* when the order was made—within 28 days after the making of the order;
  - (b) *if you were not present in court* when the order was made—within 28 days after the order first comes to your notice.
2. An application to vary or rescind a forfeiture order shall be made to the court that made the order.
3. Every application referred to in paragraph 1 must be in writing in the prescribed form and signed by the applicant and must set out the grounds. The application is to be lodged with the proper officer of the court where the application is to be heard within a reasonable time before the hearing.

Crown Proceedings Regulations 2002

**Form 10**

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4. Not less than 28 days before the hearing the applicant must serve or cause to be served personally or by post a true copy of the application—
  - (a) on the informant or complainant; or
  - (b) in the case of an indictment—on the Director of Public Prosecutions.
5. At any time after the lodging of the application, the applicant may apply ex parte to a court for a stay of proceedings in the matter and the court may direct the return of any warrant unexecuted or may stay the issue or execution of any warrant pending the determination of the application.

\*Delete if inapplicable.

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**FORM 11**

**Crown Proceedings Act 1958**

(section 6(1), (1A), (2))

**Form 11  
amended by  
S.R. No.  
171/2009  
reg. 5(2).**

**ORDER FORFEITING AN UNDERTAKING OF BAIL**

In the Court  
at

Court Ref

Principal

Surety

On the abovenamed Principal/\*and Surety  
signed an undertaking of bail conditioned for the attendance of the Principal  
at the Court at on

The undertaking was extended to

The Principal has failed to observe a condition of the undertaking.

The Court therefore declares bail forfeited and orders that—

- \* the money or other security deposited by the Principal be forfeited and the amount of the bail, being \$ , be paid to the proper officer of the Court at
- \* (a) the Surety pay the amount of \$ to the proper officer of the Court at \*forthwith/within after the date of this order; and
- (b) in default of payment of the amount in accordance with this order the amount be obtained by seizing and selling the property of the Surety; and
- (c) in default of seizure and sale of property, in whole or in part, the Surety be imprisoned for the term of

Dated

\*Judge

\*Magistrate

\*Delete if inapplicable.

**\* FURTHER ORDER WHERE SURETY HAS LODGED CASH OR OTHER SECURITY**

In accordance with section 9(3)(a) of the **Bail Act 1977**—

- \* the Surety has lodged in cash the amount of the bail, being \$
- \* the Surety has lodged by way of security [*state nature of document, eg. pass-book, for operating account*] for operating the account [*full description of account including name and address of bank etc. where account is held*]

The Court further orders that—

- \* the cash lodged be forfeited
- \* the amount of the bail, being \$ \_\_\_\_\_, be withdrawn from the above account

and the amount of the bail be paid to the proper officer of the Court at

Dated

\*Judge

\*Magistrate

\*Delete if inapplicable.

---

**FORM 12**

**Crown Proceedings Act 1958**

(section 6(3))

Form 12  
amended by  
S.R. No.  
171/2009  
reg. 5(3).

**NOTICE TO SURETY OF AN UNDERTAKING OF BAIL  
FORFEITED IN HIS OR HER ABSENCE**

In the Court  
at  
Court Ref

Principal [name]  
[address]

Surety [name]  
[address]

To the abovenamed Surety.

On you signed an undertaking of bail conditioned for  
the attendance of the Principal at the Court at  
on

The undertaking was extended to

\* You lodged in cash the amount of the bail, being \$

\* You lodged by way of security [*state nature of document, eg. pass-book,  
for operating account*] for operating the account [*full description of  
account including name and address of bank etc. where account is held*]

As the Principal failed to observe a condition of the undertaking the Court  
on declared bail forfeited and ordered that—

(a) you as Surety pay the amount of \$ to the proper officer of  
the Court at \*forthwith/within  
after the date of this order; and

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**Form 12**

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- (b) in default of payment of the amount in accordance with the order, the amount be obtained by seizure and sale of your property; and
- (c) in default of seizure and sale, in whole or in part, you be imprisoned for the term of

\*The Court further ordered that—

\* the cash lodged by you be forfeited

\* the amount of the bail, being \$ \_\_\_\_\_, be withdrawn from the above account

and the amount of the bail be paid to the proper officer of the Court at

Take notice—

\* a warrant of seizure and sale

\* a warrant to seize property

will issue after the expiration of 28 days after the date of the order unless—

- (a) the amount due under the order is paid; or
- (b) an order is made for the payment of the amount by instalments; or
- (c) within 28 days from receipt of this notice application to vary or rescind the order is made to the court where bail was forfeited.

Dated

[Signed]

Proper officer of the Court

\*Delete if inapplicable.

---



**FORM 13**

**Crown Proceedings Act 1958**

(section 6(4), (5), (6))

Form 13  
amended by  
S.R. No.  
171/2009  
reg. 5(4).

**APPLICATION TO VARY OR RESCIND ORDER IN RESPECT OF  
FORFEITED UNDERTAKING**

In the Court

at

Court Ref

Principal

Surety

On the abovenamed Principal and Surety signed an undertaking of bail conditioned for the attendance of the Principal at the \*Supreme/\*County Court at the sittings commencing on \*Magistrates' Court at on

As the Principal failed to observe a condition of the undertaking the Court on declared bail forfeited and ordered that I, the abovenamed Surety, pay the amount of \$ to the proper officer of the Court at \*forthwith/within after the date of the order and in default the amount be obtained by seizure and sale of my property and that in default of the amount being obtained by seizure and sale, I be imprisoned for the term of

Under section 6(4) of the **Crown Proceedings Act 1958** I apply for an order to vary or rescind the order on the ground that it would be unjust to require me to pay the amount undertaken to be paid. I give notice that I shall apply to the Court on at \*a.m/p.m.

Particulars of such ground are—

Dated

[Signed]

Applicant

Crown Proceedings Regulations 2002

**Form 13**

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To the proper officer of the Court at  
and to

\*the Director of Public Prosecutions

\*the informant or complainant

\*the officer in charge of the police station at

\*Delete if inapplicable.

---

**FORM 14**

**Crown Proceedings Act 1958**

(section 6(7))

**EX PARTE APPLICATION FOR A STAY OF PROCEEDINGS IN  
RESPECT OF A FORFEITED UNDERTAKING**

Principal

Surety

I, the abovenamed Surety

of

apply to                   \*the Supreme Court  
                                  \*the County Court                   at  
                                  \*the Magistrates' Court

for a stay of proceedings pending the hearing of my application to vary or rescind the order which declared the undertaking forfeited.

The order declaring the undertaking forfeited was made by the Court at                   on

The application to vary or rescind the order was lodged with the \*Supreme Court/\*County Court/\*Magistrates' Court at                   on

[Signed]

Surety

**ORDER**

Pending determination of the application of the Surety to vary or rescind the order declaring the undertaking forfeited, it is ordered that proceedings against the Surety be stayed and it is directed that

- \* any warrant issued in the case must be returned unexecuted
- \* the issue or execution of any warrant be stayed pending the determination of the application.

Crown Proceedings Regulations 2002

**Form 14**

S.R. No. 2/2002

---

Dated

\*Judge  
\*Magistrate

This document is to be filed with the court which declared the undertaking forfeited immediately after the order has been signed.

\*Delete if inapplicable.

---

**FORM 15**

**Crown Proceedings Act 1958**

(section 6(9))

**WARRANT OF SEIZURE AND SALE FOR MONEYS DUE UNDER A  
FORFEITED UNDERTAKING OF BAIL**

In the Court

at

Court Ref

Principal

Surety

of

To \*the Sheriff/all members of the police force:

On the abovenamed Principal and Surety signed  
an undertaking of bail, the conditions of the undertaking being—

The Principal failed to observe a condition of the undertaking and the  
Court at declared the bail forfeited  
and ordered on that the Surety pay the amount of \$  
As the Surety has not paid the amount as ordered—

You are directed and authorised to seize the personal property of the Surety.  
If the amount together with all lawful costs of execution are not paid, you are  
to sell the property and pay the amount to the \*Prothonotary of the Supreme  
Court/\*Registrar of the County Court.

You or your officers must indorse details of execution on this warrant.

Dated

Issued at

Issued by

\*Prothonotary

\*Registrar of the County Court

\*Delete if inapplicable.

**FORM 16**

**Crown Proceedings Act 1958**

(section 6(9))

**WARRANT TO SEIZE PROPERTY FOR MONEY DUE UNDER A  
FORFEITED UNDERTAKING OF BAIL**

In the Court

at

Court Ref

Principal

Surety

of

To \*the Sheriff/all members of the police force:

On the abovenamed Principal and Surety signed  
an undertaking of bail, the conditions of the undertaking being—

The Principal failed to observe a condition of the undertaking and the  
Magistrates' Court at declared the bail forfeited and ordered  
on that the Surety pay the amount of \$ . As the  
Surety has not paid the amount as ordered—

You are directed and authorised to seize the personal property of the Surety.  
If the amount together with all lawful costs of execution are not paid, you are  
to sell the property and pay the amount to the Registrar of the Magistrates'  
Court at

You or your officers must indorse details of execution on this warrant.

Dated

Issued at

Issued by

Registrar of the Magistrates' Court

\*Delete if inapplicable.

---

**FORM 17**

**Crown Proceedings Act 1958**

(section 6(9))

**WARRANT TO IMPRISON FOR WANT OF SEIZURE AND SALE  
OF PROPERTY DUE UNDER A FORFEITED UNDERTAKING**

In the Court  
at

Court Ref

Principal

Surety

of

To all members of the police force of the State of Victoria and to the officer in charge of the Prison at or any other prison which is more accessible or more convenient.

On the abovenamed Principal and Surety signed an undertaking of bail, the conditions of the undertaking being—

As the Principal failed to observe a condition of the undertaking, the Court at on declared bail forfeited and ordered the Surety to pay the amount of \$ . The Surety not having paid the amount as ordered and no sufficient property having been obtained by seizing and selling property—

You the member of the police force executing this warrant are authorised to break, enter and search any place where the Surety is suspected to be and are directed and authorised, unless the amount is sooner paid to you, to take and safely convey the Surety to the prison at or any other prison which is more accessible or more convenient and there deliver the Surety to the officer in charge with this warrant.

And you the officer in charge are directed and authorised to receive the Surety into your custody and safely keep him or her in prison for unless the amount of \$ is paid to you sooner or unless the Surety is otherwise removed or discharged from custody by due course of law.

Crown Proceedings Regulations 2002

**Form 17**

S.R. No. 2/2002

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Dated

\*Prothonotary

\*Registrar of the County Court

\*Registrar of the Magistrates' Court

\*Delete if inapplicable.

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**FORM 18**

**Crown Proceedings Act 1958**

(section 6(10))

**(FORFEITED UNDERTAKING)**

**NOTICE TO MEMBER OF THE POLICE FORCE EXECUTING  
WARRANT TO IMPRISON AGAINST SURETY**

To the member of the police force in the State of Victoria executing the attached warrant to imprison.

Take notice—

Before the execution of this warrant you are required to deliver to the person liable to be imprisoned the attached "Statement under section 6(10) of the **Crown Proceedings Act 1958** in respect of a forfeited undertaking".

You shall allow the person reasonable time and opportunity to make application to vary or rescind the order of forfeiture should he or she so desire.

Dated

\*Prothonotary

\*Registrar of the County Court

\*Registrar of the Magistrates' Court

\*Delete if inapplicable.

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Form 19  
amended by  
S.R. No.  
171/2009  
reg. 5(5).

**FORM 19**

**STATEMENT UNDER SECTION 6(10) OF THE CROWN  
PROCEEDINGS ACT 1958 IN RESPECT OF A FORFEITED  
UNDERTAKING**

Principal

Surety

To the abovenamed Surety

On \_\_\_\_\_ the \_\_\_\_\_ Court at \_\_\_\_\_  
declared forfeited the undertaking of bail signed by you and ordered that you  
pay the amount of \$ \_\_\_\_\_ to the proper officer of the Court at  
\*forthwith/within \_\_\_\_\_

You have failed to comply with the order and a warrant to imprison is in the  
possession of the member of the police force who has delivered this  
statement to you. The warrant requires that you go to prison unless you pay  
the amount specified in the warrant. However, the member of the police force  
will give you reasonable time and opportunity, should you so desire, to make  
an application to vary or rescind the order.

Take notice—

The provisions relating to the application to vary or rescind the forfeiture  
order are contained in section 6(4) to (7) of the **Crown Proceedings Act  
1958**, which provides—

1. Where bail is declared to be forfeited any Surety may apply to vary or  
rescind the forfeiture order—
  - (a) *if you were present in court* when the order was made—within  
28 days after the making of the order;
  - (b) *if you were not present in court* when the order was made—within  
28 days after the order first comes to your notice.
2. An application to vary or rescind a forfeiture order shall be made to the  
court that made the order.
3. Every application referred to in paragraph 1 must be in writing in the  
prescribed form signed by the applicant and must set out the grounds.  
The application is to be lodged with the proper officer of the court  
where the application is to be heard within a reasonable time before the  
hearing.

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4. Not less than 28 days before the hearing the applicant must serve or cause to be served personally or by post a true copy of the application—
    - (a) on the informant or complainant; or
    - (b) where the informant is a member of the police force—on the officer in charge of the police station nearest to the court where the application is to be heard; or
    - (c) in the case of an indictment or an appeal—on the Director of Public Prosecutions.
  5. At any time after the lodging of the application, the applicant may apply ex parte to a court for a stay of proceedings in the matter and the court may direct the return of any warrant unexecuted or may stay the issue or execution of a warrant pending the determination of the application.

\*Delete if inapplicable.

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## ENDNOTES

### 1. General Information

The Crown Proceedings Regulations 2002, S.R. No. 2/2002 were made on 22 January 2002 by the Governor in Council under sections 5 and 6 of the **Crown Proceedings Act 1958**, No. 6232/1958 and came into operation on 22 January 2002.

The Crown Proceedings Regulations 2002 will sunset 10 years after the day of making on 22 January 2012 (see section 5 of the **Subordinate Legislation Act 1994**).

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## 2. Table of Amendments

This Version incorporates amendments made to the Crown Proceedings Regulations 2002 by statutory rules, subordinate instruments and Acts.

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Crown Proceedings Amendment Regulations 2009, S.R. No. 171/2009

*Date of Making:* 15.12.09

*Date of Commencement:* 1.1.10: reg. 3

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**3. Explanatory Details**

<sup>1</sup> Reg. 3: S.R. No. 131/1992.