

222 - Bail pending Appeal

Notebook: Hive Mind

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Author: James Torcetti

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Bail pending 222 appeal - Appeal is to the DC, application for bail is considered by a Magistrate.

What you will need:

- Bail appeal outline of submissions (likey to reflect 222 submissions)
- VJR from Mags Result
- 222 Notice Filed

A Magistrates Court may also grant bail to a person awaiting an appeal to the District Court under s.222 of the [Justices Act 1886 \(Qld\)](#)

Justices Act 222 (Appeal to a District Court Judge)

[Bail Act](#), s 8 Power of court as to bail

(ia) the court is a Magistrates Court and the person is awaiting an appeal under the [Justices Act 1886](#), [section 222](#) to be held in the District Court

Steps - Lodge and comply with filing requirements of 222

Considerations -

- The period of custody you have been sentenced to is so short that there is a risk you will have served it all before your appeal is determined;

- Your prospects of success in regards to your appeal are good because of some weakness, or clear error, in the proceeding in the court below.

8 Power of court as to bail

(1) A court, subject to this Act—

(a) may grant bail to a person held in custody on a charge of or in connection with an offence if—

(i) the person is awaiting a criminal proceeding to be held by that court in relation to that offence; or

(ii) the court is a Magistrates' Court and the person is awaiting an appeal under the *Justices Act 1956*, section 222 to be held in the District Court; or

(iii) the court has adjourned the criminal proceeding; or

(iv) the court has committed or remanded the person in the course of or in connection with a criminal proceeding to be held by that court or another court in relation to that offence; and

(b) may enlarge, vary or revoke bail so granted.

Non—

1 If the court is a Magistrates' Court, see the *Justices Act 1956*, part 6A, for provisions about the use of video link facilities or audio link facilities for proceedings, including bail proceedings.

2 The provisions about the sexual assault counselling privilege in the *Evidence Act 1977*, part 2, division 2A apply in relation to bail proceedings.

(2) A person in custody on a charge of or in connection with an offence who is not granted bail or released under section 11A must, unless the person has been sentenced for that offence, be remanded in custody.

(3) Save where this Act or any other Act otherwise provides, an enlargement of bail may, if the court thinks fit, be granted in the absence of the defendant.

(4) A person to whom bail is granted shall not be released from custody while the person is, for any other cause, being lawfully held in custody.

(5) The powers of the Court of Appeal with respect to bail may be exercised by a judge of the Supreme Court in the same manner as they may be exercised by the Court of Appeal, but, if the judge refuses an application with respect to bail, the person making the application may apply to the Court of Appeal and that court shall hear and determine the application.

