
 STATUTORY INSTRUMENTS

1978 No. 251 (L.4)

SUPREME COURT OF JUDICATURE, ENGLAND
PROCEDURE

The Rules of the Supreme Court (Amendment) (Bail) 1978

Made - - - - 23rd February 1978

Laid before Parliament 3rd March 1978

Coming into Operation 17th April 1978

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under section 99(4) of the Supreme Court of Judicature (Consolidation) Act 1925(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature, hereby exercise those powers, the powers conferred on us by sections 5(1) and 8(4) of the Bail Act 1976(b) and all other powers enabling us in that behalf as follows:—

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment) (Bail) 1978 and shall come into operation on 17th April 1978.

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(c), as amended(d), Appendix A means Appendix A to those Rules and a form referred to by number means the form so numbered in that Appendix.

(3) The Interpretation Act 1889(e) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(4) These Rules shall not apply in relation to bail granted before 17th April 1978 (the date on which the Bail Act 1976 comes into force) and, accordingly, the said Rules of 1965 shall have effect in relation to bail so granted as if these Rules had not been made.

2. Order 59, rule 20, shall be amended as follows:—

(1) In paragraph (4) for the words “Order 79, rule 9(6) and (8)” there shall be substituted the words “Order 79, rule 9(6), (6A), (6B) and (8)” and after the words “Court of Appeal” where they first appear there shall be inserted the words “in a case of criminal contempt of court”.

(2) At the end there shall be inserted the following paragraphs:—

“(5) When granting bail under this Rule in a case of civil contempt of court, the Court of Appeal may order that the recognizance or other security to be given by the appellant or the recognizance of any surety shall be given before any person authorised by virtue of section 95(1)

(a) 1925 c. 49

(b) 1976 c. 63.

(c) S.I. 1965/1776.

(d) The relevant amending instruments are S.I. 1967/1809, 1971/1955.

(e) 1889 c. 63.

of the Magistrates' Courts Act 1952 to take a recognizance where a magistrates' court having power to take it has, instead of taking it, fixed the amount in which the principal and his sureties, if any, are to be bound.

An order by the Court of Appeal granting bail as aforesaid must be in Form 98 in Appendix A with the necessary adaptations.

(6) Where in pursuance of an order of the Court of Appeal under paragraph (5) of this Rule a recognizance is entered into or other security given before any person, it shall be the duty of that person to cause the recognizance of the appellant or any surety or, as the case may be, a statement of the other security given, to be transmitted forthwith to the clerk of the court which committed the appellant; and a copy of such recognizance or statement shall at the same time be sent to the governor or keeper of the prison or other place of detention in which the appellant is detained, unless the recognizance or security was given before such governor or keeper.

(7) The jurisdiction of the Court of Appeal under section 13 of the Administration of Justice Act 1960 to hear and determine any appeal from an order or decision of the Crown Court dealing with an offence under section 6 of the Bail Act 1976 as if it were a contempt of court shall be exercised by the criminal division of the Court of Appeal."

3. Order 79, rule 9, shall be amended as follows:—

(1) In paragraph (1)—

(a) for the words "admitted to" wherever they appear there shall be substituted the word "granted";

(b) for the words "by the defendant" in sub-paragraph (b) there shall be substituted the words "by the applicant".

(2) For paragraph (2) there shall be substituted the following paragraph:—

"(2) Subject to paragraph (5), the summons (in Form No. 97 or 97A in Appendix A) must, at least 24 hours before the day named therein for the hearing, be served—

(a) where the application was made by the defendant, on the prosecutor and on the Director of Public Prosecutions, if the prosecution is being carried on by him;

(b) where the application was made by the prosecutor or a constable under section 3(8) of the Bail Act 1976, on the defendant;

and Order 32, rule 5, shall apply in relation to the summons."

(3) For paragraph (6) there shall be substituted the following paragraphs:—

"(6) Where the judge in chambers by whom an application for bail in criminal proceedings is heard grants the defendant bail, the order must be in Form No. 98 in Appendix A and a copy of the order shall be transmitted forthwith—

(a) where the defendant has been committed to the Crown Court for trial or to be sentenced or otherwise dealt with, to the appropriate officer of the Crown Court;

(b) in any other case, to the clerk of the court which committed the defendant.

(6A) The recognizance of any surety required as a condition of bail granted as aforesaid may, where the defendant is in a prison or other place of detention, be entered into before the governor or keeper of the prison or place as well as before the persons specified in section 8(4) of the Bail Act 1976.

(6B) Where under section 3(5) or (6) of the Bail Act 1976 a judge in chambers imposes a requirement to be complied with before a person's release on bail, the judge may give directions as to the manner in which and the person or persons before whom the requirement may be complied with."

(4) For paragraph (7) there shall be substituted the following paragraph:—

"(7) A person who in pursuance of an order for the grant of bail made by a judge under this rule proposes to enter into a recognizance or give security must, unless the judge otherwise directs, give notice (in Form No. 100 in Appendix A) to the prosecutor at least 24 hours before he enters into the recognizance or complies with the requirement as aforesaid."

(5) For paragraph (8) there shall be substituted the following paragraph:—

"(8) Where in pursuance of such an order as aforesaid a recognizance is entered into or requirement complied with before any person, it shall be the duty of that person to cause the recognizance or, as the case may be, a statement of the requirement complied with to be transmitted forthwith—

(a) where the defendant has been committed to the Crown Court for trial or to be sentenced or otherwise dealt with, to the appropriate officer of the Crown Court;

(b) in any other case, to the clerk of the court which committed the defendant;

and a copy of such recognizance or statement shall at the same time be sent to the governor or keeper of the prison or other place of detention in which the defendant is detained, unless the recognizance was entered into or the requirement complied with before such governor or keeper."

(6) Paragraph (9) shall be omitted.

(7) In paragraph (10)—

(a) for the words "released on" there shall be substituted the word "granted";

(b) for the words "in the case of a committal for trial" there shall be substituted the words "where the defendant has been committed to the Crown Court for trial or to be sentenced or otherwise dealt with".

(8) At the end there shall be added the following paragraph:—

"(13) The record required by section 5 of the Bail Act 1976 to be made by the High Court shall be made by including in the file relating to the case in question a copy of the relevant order of the Court and

shall contain the particulars set out in Form No. 98 or 98A in Appendix A, whichever is appropriate, except that in the case of a decision to withhold bail the record shall be made by inserting a statement of the decision on the Court's copy of the relevant summons and including it in the file relating to the case in question."

4. For Form 97 there shall be substituted the following form:—

"No. 97
Summons to grant bail
(0.79, r.9)

In the High Court of Justice,
Queen's Bench Division.

Let all parties concerned attend the judge in chambers on the
day of 19 at o'clock on the hearing
of an application on behalf of A.B. to be granted bail as to his commit-
ment on the day of by a magistrates'
court sitting at [or by the Crown Court at]
[or by the High Court].

Dated the day of 19 .

This summons was taken out by of
[agent for of] solicitor for the said A.B."

5. For Form 97A there shall be substituted the following form:—

"No. 97A
Summons to vary arrangements for bail in a criminal proceeding
(0.79, r.9)

In the High Court of Justice,
Queen's Bench Division.

Let all parties concerned attend the judge in chambers on the
day of 19 at o'clock on the hearing
of an application [on behalf of A.B.] [by] that the terms
on which A.B. was granted bail by on
should be varied as follows—

Terms on which A.B. was granted bail—

Proposed variation—

Dated the day of 19 .

This summons was taken out by [of
[agent for of] solicitor for the said A.B.]
[[as prosecutor] [a constable of Police
Force]]."

6. For Form 98 there shall be substituted the following form:—

"No. 98
Order of judge in chambers to release prisoner on bail
(0.79, r.9)

In the High Court of Justice,
Queen's Bench Division.

The Honourable Mr Justice Judge in chambers.

Whereas on the day of 19 A.B. [state the circumstances in which the applicant was committed as, for example, was remanded in custody or was committed in custody by a magistrates' court sitting at for trial at the Crown Court at on a charge of or was convicted by a magistrates' court sitting at of and sentenced to and the said A.B. has given notice of appeal to the Crown Court against such conviction or sentence]:

And whereas the said A.B. is in the custody of the Governor of Her Majesty's prison at and has applied to the judge in chambers to be granted bail:

Upon hearing counsel [or the solicitor] for the said A.B. and upon reading the affidavit of filed the day of 19 :

It is ordered that the said A.B., after complying with the condition(s) specified in Schedule I hereto, shall be released on bail, subject to the condition(s) specified in Schedule II hereto, and with a duty to surrender to the custody of [the magistrates' court at on the day of 19 at a.m./p.m.] [the Crown Court on such day and at such time and place as may be notified to the said A.B. by the appropriate officer of that court].

Dated the day of 19 .

SCHEDULE I

Conditions to be complied with before release on bail

To provide suret[y][ies] in the sum of £ [each] before a justice of the peace [or as may be] to secure A.B.'s surrender to custody at the time and place appointed.

†

SCHEDULE II

Conditions to be complied with after release on bail

†

†Insert condition(s) as appropriate (including in Schedule I directions under 0.79, r.9(6B), in respect of any pre-release conditions)."

7. For Form 98A there shall be substituted the following form:—

“No. 98A

Order of judge in chambers varying arrangements for bail

(0.79, r.9)

In the High Court of Justice,
Queen’s Bench Division.

The Honourable Mr Justice Judge in chambers.

Whereas on the day of 19
[state the circumstances in which the committal was made as, for
example, A.B. was remanded in custody or was committed in custody by a
magistrates’ court sitting at for trial at the Crown Court
at on a charge of or was convicted by a
magistrates’ court sitting at of and
sentenced to and the said A.B. has given notice of appeal
to the Crown Court against such conviction or sentence]:

And whereas the said A.B. was granted bail with a duty to surrender to
the custody of [the magistrates’ court at on
at a.m./p.m.] [the Crown Court on a day and at a time and
place to be notified by the appropriate officer of that court] and subject to
the following conditions—[state conditions imposed on the grant of bail]

And whereas [the said A.B.] [[as prosecutor] [a
constable of Police Force]] has applied to the judge in
chambers for a variation in the said arrangements for bail:

Upon hearing counsel [or the solicitor] for the applicant and upon
reading the affidavit of filed the day
of 19 :

It is ordered that the said arrangements for bail be varied as follows—

Dated the day of 19 .”

8. For Form 100 there shall be substituted the following form:—

“No. 100

Notice of bail

(0.79, r.9)

Whereas on the day of 19 A.B. was
[state circumstances in which A.B. was committed, as in No. 98 or 99]:

And whereas the Honourable Mr Justice [or the Court
of Appeal] has made an order dated the day of
19 that [recite order for bail]

Take notice that in pursuance of the said order [sufficient suret[y][ies] will enter into such recognizance] [will give security] as aforesaid before at
on the day of 19 at
a.m./p.m. [And that the names and descriptions of such suret[y][ies]
are—]

Dated the day of 19 .

(Signed)

Solicitor for the said A.B.”.

Dated 23rd February 1978.

*Elwyn-Jones, C.
Widgery, C.J.
Denning, M.R.
George Baker, P.
R. E. Megarry V-C
Eustace Roskill, L.J.
Ralph Cusack, J.
Hilary Talbot, J.
J. Maurice Price
John Toulmin
H. Montgomery-Campbell
Harold Hewitt*

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend Order 79, rule 9, of the Rules of the Supreme Court and the related forms in Appendix A in consequence of the Bail Act 1976, which comes into force on 17th April 1978. In particular, the manner in which records of bail decisions are to be made under section 5 of that Act and the particulars to be contained in them are prescribed (rules 3(8), 6 and 7).

Minor consequential amendments are made in the provisions of Order 59, rule 20, dealing with appeals to the Court of Appeal in cases of contempt of court, and jurisdiction in respect of appeals against conviction or sentence by the Crown Court for absconding bail is assigned to the criminal division of the Court of Appeal (rule 2).

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