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STATUTORY INSTRUMENTS

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**1994 No. 1481 (L.10)**

**MAGISTRATES' COURTS**

**PROCEDURE**

**The Magistrates' Courts (Bail) (Amendment) Rules 1994**

<i>Made</i>	- - - -	<i>26th May 1994</i>
<i>Laid before Parliament</i>		<i>6th June 1994</i>
<i>Coming into force</i>	- -	<i>27th June 1994</i>

The Lord Chancellor, in exercise of the powers conferred upon him by section 144 of the Magistrates' Courts Act 1980(1), after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

**Citation and commencement**

1. These Rules may be cited as the Magistrates' Courts (Bail) (Amendment) Rules 1994 and shall come into force on 27th June 1994.

**The Justices' Clerks Rules 1970**

2. The Justices' Clerks Rules 1970(2) shall be amended by the insertion, after paragraph 17 of the Schedule, of the following paragraph—

“18. The making of a direction in accordance with rule 93A(7) or 93A(8) of the Magistrates' Courts Rules 1981.”.

**The Magistrates' Courts Rules 1981**

3. The Magistrates' Courts Rules 1981(3) shall be amended as follows—

(a) in rule 11, at the end of paragraph (2) there shall be added the following sub-paragraph—

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(1) 1980 c. 43; section 144 is extended by section 145 of that Act, by section 28(1) and (1A) of the Justices of the Peace Act 1979 (c. 55) and by section 34B(6) and (7) of the Road Traffic Offenders Act 1988 (c. 53). Section 28(1) of the 1979 Act was amended by the Magistrates' Court Act 1980, Schedule 7, paragraph 194. Subsection (1A) of that section was inserted by section 117 of the Courts and Legal Services Act 1990 (c. 41). Section 34B of the 1988 Act was inserted by section 30 of the Road Traffic Act 1991 (c. 40).

(2) S.I. 1970/231, amended by S.I. 1975/300, 1976/1767, 1978/754, 1983/527, 1992/1991, 1993/1183.

(3) S.I. 1981/552; relevant amending instruments are S.I. 1983/523, 1988/2132, 1989/1552, 1992/729, 1992/2072, 1993/1183.

- “(r) any documents relating to an appeal by the prosecution against the granting of bail.”;
- (b) in rule 17, at the end of paragraph (1) there shall be added the following sub-paragraph—
  - “(i) any documents relating to an appeal by the prosecution against the granting of bail.”;
- (c) after rule 93, there shall be inserted the following rule—

**“Procedure where prosecution appeals against a decision to grant bail**

**93A.**—(1) Where the prosecution wishes to exercise the right of appeal, under section 1 of the Bail (Amendment) Act 1993(4) (hereafter in this rule referred to as “the 1993 Act”), to a judge of the Crown Court against a decision to grant bail, the oral notice of appeal must be given to the clerk of the magistrates' court and to the person concerned, at the conclusion of the proceedings in which such bail was granted and before the release of the person concerned.

(2) When oral notice of appeal is given, the clerk of the magistrates' court shall announce in open court the time at which such notice was given.

(3) A record of the prosecution's decision to appeal and the time the oral notice of appeal was given shall be made in the register and shall contain the particulars set out in the appropriate form prescribed for the purpose.

(4) Where an oral notice of appeal has been given the court shall remand the person concerned in custody by a warrant of commitment in the appropriate form prescribed for the purpose.

(5) On receipt of the written notice of appeal required by section 1(5) of the 1993 Act, the court shall remand the person concerned in custody by a warrant of commitment in the appropriate form prescribed for the purpose, until the appeal is determined or otherwise disposed of.

(6) A record of the receipt of the written notice of appeal shall be made in the same manner as that of the oral notice of appeal under paragraph (3) above.

(7) If, having given oral notice of appeal, the prosecution fails to serve a written notice of appeal within the two hour period referred to in section 1(5) of the 1993 Act the clerk of the magistrates' court shall, as soon as practicable, by way of written notice to the persons in whose custody the person concerned is, direct the release of the person concerned on bail as granted by the magistrates' court and subject to any conditions which it imposed.

(8) If the prosecution serves notice of abandonment of appeal on the clerk of the magistrates' court, the clerk shall, forthwith, by way of written notice to the Governor of the prison where the person concerned is being held, or the person responsible for any other establishment where such a person is being held, direct his release on bail as granted by the magistrates' court and subject to any conditions which it imposed.

(9) The clerk of the magistrates' court shall record the prosecution's failure to serve a written notice of appeal, or its service of a notice of abandonment, in the appropriate form prescribed for the purpose.

(10) Where a written notice of appeal has been served on the clerk of the magistrates' court, he shall provide as soon as practicable to the appropriate officer of the Crown Court a copy of that written notice, together with—

- (a) the notes of argument made by the clerk of the court under rule 90A of these Rules, and
- (b) a note of the date, or dates, when the person concerned is next due to appear in the magistrates' court, whether he is released on bail or remanded in custody by the Crown Court.

(11) References in this rule to “the person concerned” are references to such a person within the meaning of section 1 of the 1993 Act.”.

### **Magistrates' Courts (Forms) Rules 1981**

4. Schedule 2 to the Magistrates' Courts (Forms) Rules 1981(5) shall be amended as follows—

- (a) after the form numbered 26, there shall be added the forms numbered 26A and
- (b) in the form numbered 150A—
  - (i) after the words

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“Reasons:	The above conditions were imposed for the grant of bail for the following reason(s):”
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there shall be inserted the words—

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“Prosecution notice of appeal:	The prosecution did/did not give oral notice of appeal**”; and
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(ii) in the footnotes to that form there shall be added—

“\*\*delete as appropriate”;

- (c) after the form numbered 150A, there shall be added the forms numbered 150B, 150C and 150D in the Schedule to these Rules.

Dated 26th May 1994

*Mackay of Clashfern, C.*

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Rule 4

MAGISTRATES' COURTS (FORMS) RULES 1981

Form 26A *Warrant of Commitment: following prosecution giving oral notice of appeal against grant of bail, Bail (Amendment) Act 1993, s.1; M.C. Rules, r. 93A*

..... Magistrates' Court (Code)

Date:

Accused:

Age:      years

Address:

Alleged offence:

Decision:

The accused is remanded in custody following the prosecution having given oral notice of appeal against the grant of bail by ..... Magistrates' Court.

Direction:

You, [the constable of ..... police force] [AB] are hereby required to detain the accused in your custody until you receive further instruction.

Justice of the Peace  
(or By Order of the Court  
Clerk of the Court)

Form 26B *Warrant of Commitment: pending hearing of prosecution appeal against grant of bail, Bail (Amendment) Act 1993, s.1; M.C. Rules, r. 93A*



**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

..... Magistrates' Court (Code)

Date:

Accused:

Date of Birth:

Alleged offence(s):

Date and time oral notice of appeal given: On ..... at ..... am/pm

\*Prosecution failed to serve written notice/  
Date and time written notice of appeal served: On ..... at ..... am/pm

The prosecution did/did not\* serve notice of abandonment of appeal

Signature .....  
Justice of the Peace  
(or By Order of the Court  
Clerk of the Court)

\*Delete as applicable.

Form 150C Notice of release on bail: prosecution's failure to serve written notice of appeal, Bail (Amendment) Act 1993, s.5; M.C. Rules 1981, r. 93A

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

..... Magistrates' Court (Code)

Date:

Accused:

Date of Birth:

Alleged offence(s):

Direction: The prosecution having given oral notice of appeal on ..... at ..... am/pm against the decision to grant bail to [ ], but having failed to serve written notice of appeal, I hereby direct that you, the person responsible for [ ], do release [ ] on bail subject to the conditions, if any, imposed by the magistrates' court\*, unless he/she is in custody for some other cause.

Signature .....  
Clerk of the Court

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\*A copy of the bail note should accompany this notice and be given to the accused prior to his release.

Form 150D Notice of release on bail: prosecution's abandonment of appeal, Bail (Amendment) Act 1993, s.6; M.C. Rules 1991, r. 93A

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

..... Magistrates' Court (Code)

Date:

Accused:

Date of Birth:

Alleged offence(s):

Direction: The prosecution having given notice on [ ] of its intention to abandon the appeal against the grant of bail to [ ], I hereby direct that you, [the Governor of] [prison] [remand centre] [person with custody of] , do release [ ] on bail\* subject to the conditions, if any, imposed by the magistrates' court, unless he/she is in custody for some other cause.

Signature .....  
Clerk of the Court

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\*A copy of the bail note should accompany this notice and be given to the accused prior to his release.

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### EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules make amendments to the Justices' Clerks Rules 1970, the Magistrates' Courts Rules 1981 and to the Magistrates' Courts (Forms) Rules 1981 to provide for the procedure to be followed where the prosecution appeals, under the Bail (Amendment) Act 1993, to the Crown Court against a decision of the magistrates' court to grant bail.