STATUTORY INSTRUMENTS

1978 No. 1118

CRIMINAL LAW, ENGLAND AND WALES

The Criminal Appeal (Amendment) Rules 1978

Made - - - -	*28th July* 1978
Laid before Parliament	*9th August* 1978
Coming into Operation	*2nd October* 1978

We, the Crown Court Rule Committee, in exercise of the powers conferred upon us by section 99 of the Supreme Court of Judicature (Consolidation) Act 1925**(a)**, section 46 of the Criminal Appeal Act 1968**(b)** as amended by section 56(1) of and paragraph 57(2) of Schedule 8 to the Courts Act 1971**(c)** and sections 5(1) and 8(4) of the Bail Act 1976**(d)**, hereby make the following Rules:—

1.—(1) These Rules may be cited as the Criminal Appeal (Amendment) Rules 1978 and shall come into operation on 2nd October 1978.

(2) In these Rules any reference to the principal Rules is a reference to the Criminal Appeal Rules 1968**(e)**.

(3) These Rules shall not apply in relation to bail granted before 17th April 1978 (the date on which the Bail Act 1976 came into force) and, accordingly, the said Rules of 1968 shall have effect in relation to bail so granted as if these Rules had not been made.

2. In Rule 3 of the principal Rules (Application for bail, etc.)—

(*a*) in the heading for the word "for" there shall be substituted the words "relating to";

(*b*) in paragraph (1) for the words "admitted to" there shall be substituted the word "granted";

(*c*) after paragraph (2) there shall be inserted the following paragraph:—

"(3) Notice in writing of intention to make an application relating to bail to the court shall, unless the court or a judge thereof otherwise directs, at least 24 hours before it is made be served on the prosecutor and on the Director of Public Prosecutions, if the prosecution was carried on by him or, if the application is to be made by the prosecutor or a constable under section 3(8) of the Bail Act 1976, on the appellant.".

(a) 1925 c. 49.
(b) 1968 c. 19.
(c) 1971 c. 23.
(d) 1976 c. 63.
(e) S.I. 1968/1262.

3. For Rule 4 of the Principal Rules there shall be substituted the following Rule:—

"*Bail*

4.—(1) Where the court grants bail to the appellant, the recognizance of any surety required as a condition of bail may be entered into before the Registrar or, where the person who has been granted bail is in a prison or other place of detention, 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.

(2) The recognizance of a surety shall be in Form 8, except that in relation to an appellant granted bail pending his retrial or on the issue of a writ of *venire de novo* being ordered the recognizance of a surety shall be in Form 10.

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

(4) A person who, in pursuance of an order for the grant of bail made by the court, proposes to enter into a recognizance as a surety or give security shall, unless the court or a judge thereof otherwise directs, give notice to the prosecutor at least 24 hours before he enters into the recognizance or gives security as aforesaid.

(5) Where the court has fixed the amount in which a surety is to be bound by a recognizance or, under section 3(5) or (6) of the Bail Act 1976, has imposed any requirement to be complied with before the appellant's release on bail, the Registrar shall issue a certificate in Form 11 showing the amount and conditions, if any, of the recognizance or, as the case may be, containing a statement of the requirement; and a person authorised to take the recognizance or do anything in relation to the compliance with such requirement shall not be required to take or do it without production of such a certificate as aforesaid.

(6) Where, in pursuance of an order for the grant of bail made by the court, 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 that the requirement has been complied with, to be transmitted forthwith to the Registrar; 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 was entered into or the requirement complied with before such governor or keeper.

(7) A person taking a recognizance in pursuance of such an order shall give a copy thereof to the person entering into the recognizance.

(8) Where the court has fixed the amount in which a surety is to be bound by a recognizance or, under section 3(5) or (6) of the Bail Act 1976, has imposed any requirement to be complied with before the appellant's release on bail, the governor or keeper of the prison or other place of detention in which the appellant is detained shall, on receipt of a certificate in Form 11 stating that the recognizances of all sureties required have been taken and that all such requirements have been complied with or on being otherwise so satisfied, release the appellant.

(9) Where the court has granted bail pending retrial or on ordering the issue of a writ of *venire de novo*, the Registrar shall forward to the appropriate officer of the Crown Court a copy of any record made in pursuance of section 5 of the Bail Act 1976 relating to such bail and also all recognizances and statements sent to the Registrar under paragraph (6) of this Rule.

(10) Any record required by section 5 of the Bail Act 1976 shall be made by including in the file relating to the case in question—

(*a*) where bail is granted, a copy of Form 11 issued under paragraph (5) of this Rule and a statement of the day on which, and the time and place at which, the appellant is notified to surrender to custody;

(*b*) in any other case, a copy of the notice served under Rule 15(1).".

4. Rule 5 of the principal Rules (Variation or revocation of bail) shall be omitted.

5. For Rule 6 of the principal Rules there shall be substituted the following Rule:—

"*Forfeiture of recognizances*

6.—(1) Where a recognizance has been entered into in respect of an appellant and it appears to the court that a default has been made in performing the conditions of the recognizance, the court may order the recognizance to be forfeited and such an order may—

(*a*) allow time for the payment of the amount due under the recognizance;

(*b*) direct payment of that amount by instalments of such amounts and on such dates respectively as may be specified in the order;

(*c*) discharge the recognizance or reduce the amount due thereunder.

(2) Where the court is to consider making an order under paragraph (1) of this Rule for a recognizance to be forfeited, the Registrar shall give notice to that effect to the person by whom the recognizance was entered into indicating the time and place at which the matter will be considered; and no such order shall be made before the expiry of 7 days after the notice required by this paragraph has been given.".

6. In Rule 23 of the principal Rules (Appeal to the House of Lords)—

(*a*) in paragraph (1)(*d*) for the words "admitted to" there shall be substituted the word "granted";

(*b*) paragraph (2) shall be omitted;

(*c*) for paragraphs (3) and (4) there shall be substituted the following paragraphs:—

"(3) The recognizance of a surety shall be in Form 19.

(4) Rules 4 and 6 of these Rules shall apply with respect to a defendant pending his appeal to the House of Lords as they apply with respect to an appellant with the necessary modifications.".

7. Schedule 1 to the principal Rules (Forms) shall be amended as follows:—

(*a*) Forms 7, 9, 12 and 18 shall be omitted;

(*b*) for Forms 4 and 11 there shall be substituted the Forms set out in the Schedule to these Rules;

(*c*) in Form 10 for the condition of the recognizance there shall be substituted the following condition:—

"*Condition*

The condition of this recognizance is that if the said..... surrenders to the custody of the Crown Court at such day and at such time and place as may be notified to him by the appropriate officer of that court, then this recognizance shall be void, but otherwise shall remain in full force.";

(*d*) in Forms 16 and 17 for the words "admitted to" there shall be substituted the word "granted";

(*e*) In Form 19 (in the condition of the recognizance) for the words "Criminal Division of the Court of Appeal" there shall be substituted the words "Registrar of the Criminal Division of the Court of Appeal or the appropriate officer of the House of Lords".

Dated 28th July 1978

Elwyn-Jones, C.
Widgery, C. J.
Geoffrey Lane, L. J.
Hugh Griffiths, J.
Bernard B. Gillis.
John Rutter.
Wigoder.
D. R. Thompson.
Geoffrey Powell-Davis.
Norman Cooper.
M. D. L. Worsley.
R. K. H. Gaskell.

SCHEDULE Rule 7

FORMS TO BE SUBSTITUTED IN SCHEDULE 1 TO THE CRIMINAL APPEAL RULES 1968

FORM 4 R.3(1)(*a*)

CRIMINAL APPEAL ACT 1968

Notice of application for bail

To the Registrar,
Criminal Appeal Office,
Royal Courts of Justice,
Strand, London, W.C.2.

Criminal Appeal Office

Reference number

Particulars of appellant:

	Forenames	Surname
Full names: (Block letters)		

Address:
(Where detained and, if detained in prison, give prison number)

Give the appellant's address if bail were granted

Address if granted bail

Give the names, addresses and occupations of two persons who might act as sureties if bail were granted and the amounts of the recognizances in which they might agree to be bound.

1st Surety:
Name, address, occupation
Amount of recognizance offered £.....

2nd Surety:
Name, address, occupation
Amount of recognizance offered £.....

If bail was granted before trial or sentence subject to the finding of sureties state:—
Amount of recognizances:

£..... and £..... .....

Were the sureties the persons named above?
What, if any, conditions were imposed?

The appellant applies for bail pending, appeal (retrial) on the following grounds:—

Signed ..... (Appellant)

Date .....

For use in the Criminal Appeal Office

Received

Notes

1. This form must accompany or follow Form 2. If this form follows Form 2 the Criminal Appeal reference number must be given. An application for bail may be made whether or not Form 2 contained an application for bail.
2. An application for bail pending appeal will be considered in the light of the grounds of appeal or application for leave to appeal. Accordingly, it is usual for the application for bail to be submitted to the court or judge together with the other applications and the transcript of the proceedings at the trial. This imposes some delay. Generally, strong grounds of appeal or application for leave to appeal have to be shown before bail is granted.
3. Do not repeat the grounds of appeal or application for leave to appeal as the grounds for bail pending appeal. Mention any special other grounds which the judge or court might consider, e.g., medical reasons.
4. Time spent on bail does not count towards sentence.
5. This form must be signed by, or on behalf of, the appellant.

R.4(5) and (8)

FORM 11

CRIMINAL APPEAL ACT 1968

Certificate by Registrar of grant and of conditions of bail

R. v.

*Bail pending appeal to the Court of Appeal

*Bail pending appeal to the House of Lords

*Bail pending retrial or on order *venire de novo*.

I certify that on.....the appellant was granted bail by ....subject to the condition(s) specified in Schedules I and II hereto and with a duty to surrender to custody on such day and at such time and place as may be notified to him by [the Registrar] [or the appropriate officer of the House of Lords] [or the appropriate officer of the Crown Court].

Signed .....
Registrar of Criminal Appeals

Dated .....

Schedule I

Requirements to be complied with before release on bail.

Requirement	Signature of person (with description and date) before whom complied with
To provide [name] as surety in the sum of £x	
To provide [name] as surety in the sum of £y	
etc.	

*Delete as appropriate.

Schedule II

Requirements to be complied with after release on bail.

[Leave space to provide for particulars of any subsequent variation of bail]

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules amend the Criminal Appeal Rules 1968 in consequence of the Bail Act 1976, which came 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 are prescribed (new Rule 4(10) in Rule 3).

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