1978 No. 439 (L.8)

SUPREME COURT OF JUDICATURE, ENGLAND

The Crown Court (Amendment) Rules 1978

Made - - - -	15*th March* 1978
Laid before Parliament	28*th March* 1978
Coming into Operation	17*th April* 1978

We, the Crown Court Rule Committee, in exercise of the powers conferred upon us by sections 13(5), 14(1) and (2) and 15 of the Courts Act 1971**(a)** and sections 5(1) and 8(4) of the Bail Act 1976**(b)**, hereby make the following Rules:—

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

(2) In these Rules any reference to the principal Rules is a reference to the Crown Court Rules 1971**(c)**, as amended **(d)**.

(3) 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 1971 shall have effect in relation to bail so granted as if these Rules had not been made.

2. For Rule 17 of the principal Rules (which relates to applications for bail) there shall be substituted the following Rule:—

"*Applications to Crown Court relating to bail*

17.—(1) This Rule applies where an application to the Crown Court relating to bail is made otherwise than during the hearing of proceedings in the Crown Court.

(2) Subject to paragraph (7), notice in writing of intention to make such an application to the Crown Court shall, at least 24 hours before it is made, be given to the prosecutor and to the Director of Public Prosecutions, if the prosecution is being 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, to the person to whom bail was granted.

(3) On receiving notice under paragraph (2), the prosecutor or Director of Public Prosecutions or, as the case may be, the person to whom bail was granted shall—

(*a*) notify the appropriate officer of the Crown Court and the applicant that he wishes to be represented at the hearing of the application; or

(a) 1971 c. 23.
(b) 1976 c. 63.
(c) S.I. 1971/1292.
(d) There are no relevant amendments.

(*b*) notify the appropriate officer and the applicant that he does not oppose the application; or

(*c*) give to the appropriate officer, for the consideration of the Crown Court, a written statement of his reasons for opposing the application, at the same time sending a copy of the statement to the applicant.

(4) A notice under paragraph (2) shall be in the form prescribed in Schedule 2 or a form to the like effect, and the applicant shall give a copy of the notice to the appropriate officer of the Crown Court.

(5) Except in the case of an application made by the prosecutor or a constable under section 3(8) of the Bail Act 1976 the applicant shall not be entitled to be present on the hearing of his application unless the Crown Court gives him leave to be present.

(6) Where a person who is in custody or has been released on bail desires to make an application relating to bail and has not been able to instruct a solicitor to apply on his behalf under the preceding paragraphs of this Rule, he may give notice in writing to the Crown Court of his desire to make an application relating to bail, requesting that the Official Solicitor shall act for him in the application, and the Court may, if it thinks fit, assign the Official Solicitor to act for the applicant accordingly.

(7) Where the Official Solicitor has been so assigned the Crown Court may, if it thinks fit, dispense with the requirements of paragraph (2) and deal with the application in a summary manner.

(8) Any record required by section 5 of the Bail Act 1976 (together with any note of reasons required by subsection (4) of that section to be included) shall be made by way of an entry in the file relating to the case in question and the record shall include the following particulars, namely—

(*a*) the effect of the decision;

(*b*) a statement of any condition imposed in respect of bail, indicating whether it is to be complied with before or after release on bail;

(*c*) where conditions of bail are varied a statement of the conditions as varied;

(*d*) where bail is withheld, a statement of the relevant exception to the right to bail (as provided in Schedule 1 to the said Act of 1976) on which the decision is based.".

3. For Rule 18 of the principal Rules (which contains supplementary provisions about bail) there shall be substituted the following Rule:—

"*Supplementary provisions about bail*

18.—(1) Every person who makes an application to the Crown Court relating to bail shall inform the Court of any earlier application to the High Court or the Crown Court relating to bail in the course of the same proceedings.

(2) Where the Crown Court grants bail in criminal proceedings, the recognizance of any surety required as a condition of bail may be entered into before an officer of the Crown Court 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.

(3) Where the Crown Court under section 3(5) or (6) of the Bail Act 1976 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) On hearing an application for bail (other than bail in criminal proceedings) the Crown Court may order that the applicant shall be released from custody on entering into a recognizance, with or without sureties, or giving other security before—

(*a*) an officer of the Crown Court; or

(*b*) any other person authorised by virtue of section 95(1) of the Magistrates' Courts Act 1952 to take a recognizance where a magistrates' court having power to take the recognizance has, instead of taking it, fixed the amount in which the principal and his sureties, if any, are to be bound.

(5) A person who, in pursuance of an order made by the Crown Court for the grant of bail in criminal proceedings, proposes to enter into a recognizance or give security must, unless the Crown Court otherwise directs, give notice to the prosecutor at least 24 hours before he enters into the recognizance or gives security as aforesaid.

(6) Where, in pursuance of an order of the Crown Court, a recognizance is entered into or any requirement imposed under section 3(5) or (6) is complied with (being a requirement to be complied with before a person's release on bail) before any person, it shall be his duty to cause the recognizance or, as the case may be, a statement of the requirement to be transmitted forthwith to the appropriate officer of the Crown Court; and a copy of the 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 person named in the order is detained, unless the recognizance was entered into or the requirement was complied with before such governor or keeper.

(7) Where, in pursuance of section 3(5) of the Bail Act 1976, security has been given in respect of a person granted bail with a duty to surrender to the custody of the Crown Court and either—

(*a*) that person surrenders to the custody of the Court; or

(*b*) that person having failed to surrender to the custody of the Court, the Court decides not to order the forfeiture of the security,

the appropriate officer of the Court shall as soon as practicable give notice of the surrender to custody or, as the case may be, of the decision not to forfeit the security to the person before whom the security was given.

(8) In this Rule "bail in criminal proceedings" has the same meaning as in the Bail Act 1976.".

4. After Rule 18 of the principal Rules there shall be inserted the following Rule:—

"*Estreat of recognizances*

18A.—(1) Where a recognizance has been entered into in respect of a person granted bail to appear before the Crown Court 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 estreated.

(2) Where the Crown Court is to consider making an order under paragraph (1) of this Rule for a recognizance to be estreated, the appropriate officer of the Court 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.".

5. For Schedule 2 to the principal Rules there shall be substituted the following Schedule:—

"SCHEDULE 2

FORM OF NOTICE OF APPLICATION RELATING TO BAIL IN THE CROWN COURT

Take notice that an application relating to bail will be made to the Crown Court

at

on at a.m./p.m.

on behalf of the defendant/appellant/prosecutor/respondent.

Name of defendant/appellant: (Block letters)	Crown Court No.
Solicitor for the *Applicant:* Address:	
If defendant/appellant is in custody: state place of detention and give Prison No. if applicable	
State particulars of proceedings during which defendant/appellant) was committed to custody or bailed [un]conditionally:	
Enter details of any relevant previous applications for bail or variation of conditions of bail:	
Nature and grounds of application: (State fully facts relied on and list previous convictions (if any). Give details of any proposed sureties and answer any objections raised previously):	

Notes

The appropriate officer of the Crown Court should be consulted about the time and place of the hearing before this notice is sent to the other party to the application.

A copy of this notice should be sent to the Crown Court.".

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.

Dated 15th March 1978.

EXPLANATORY NOTE

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

These Rules amend the Crown Court Rules 1971 in consequence of the Bail Act 1976. In particular, the manner in which records of bail decisions are to be made under section 5 of the Bail Act 1976 is prescribed, that is to say by inclusion in the appropriate court file (paragraph (8) of Rule 17 as substituted by Rule 2).

A new Rule 18A is inserted providing for 7 days notice to be given before a recognizance is estreated (Rule 4).

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