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STATUTORY INSTRUMENTS

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**2014 No. 2604**

**The Tribunal Procedure (First-tier Tribunal)  
(Immigration and Asylum Chamber) Rules 2014**

**PART 5**

**Bail**

**Scope of this Part and interpretation**

**37.**—(1) This Part applies to bail proceedings, meaning bail applications and any matter relating to bail which the Tribunal is considering on its own initiative.

(2) In this Part, “bail party” means a person released on bail or applying to the Tribunal to be released on bail.

(3) Except where paragraph (4) applies, the parties to bail proceedings are the bail party and the Secretary of State.

(4) Where the proceedings concern forfeiture of a recognizance, the parties are the Secretary of State and any person who entered into the recognizance in question, whether as principal or surety.

**Bail applications**

**38.**—(1) A bail application must be made by sending or delivering to the Tribunal an application notice containing the information specified below.

(2) A bail application must specify whether it is for—

- (a) the bail party to be released on bail;
- (b) variation of bail conditions;
- (c) continuation of bail; or
- (d) forfeiture of a recognizance.

(3) Subject to paragraph (4), a bail application must contain the following details—

- (a) the bail party’s—
  - (i) full name;
  - (ii) date of birth; and
  - (iii) date of their most recent arrival in the United Kingdom;
- (b) the address of any place where the bail party is detained;
- (c) the address where the bail party will reside if the bail application is granted, or, if unable to give such an address, the reason why an address is not given;
- (d) the amount of any recognizance in which the bail party is, or is proposed to be, bound;
- (e) whether the bail party has a pending appeal to the Tribunal or any pending application for further appeal relating to such an appeal;

- (f) the full name, address, date of birth and any occupation of any person who is acting or is proposed to act as a surety for the recognizance and the amount in which the surety is, or is proposed to be, bound;
  - (g) where the bail party is aged 18 or over, whether the bail party will, if required, agree as a condition of bail to co-operate with electronic monitoring under section 36 of the 2004 Act;
  - (h) the grounds on which the application is made and, where a previous application has been refused, when it was refused and details of any material change in circumstances since the refusal; and
  - (i) whether an interpreter will be required at the hearing, and in respect of what language and dialect.
- (4) Where the application is for forfeiture of a recognizance, paragraph (3) applies except for sub-paragraphs (a)(iii), (b), (c), (e) and (g) of that paragraph.
- (5) An application made by the bail party must be signed by the bail party or their representative.
- (6) On receipt of a bail application, the Tribunal must record the date on which it was received and provide a copy of the application to the Secretary of State as soon as reasonably practicable.

### **Bail hearings**

**39.**—(1) Subject to paragraph (3), where a bail application is for the bail party to be released on bail, the Tribunal must, as soon as reasonably practicable, hold a hearing of the application.

(2) In all other bail proceedings, the Tribunal may determine the matter without a hearing if it considers it can justly do so.

(3) Where an application for release on bail is received by the Tribunal within 28 days after a Tribunal decision made at a hearing under paragraph (1) not to release the bail party on bail, the Tribunal—

- (a) must determine whether the bail party has demonstrated that there has been a material change in circumstances since the decision;
- (b) if the Tribunal so determines, must apply paragraph (1);
- (c) otherwise, must dismiss the application without a hearing.

(4) Paragraph (3) has no effect until the date on which section 7(3)(c) of the Immigration Act 2014<sup>(1)</sup> (inserting paragraph 25(2) of Schedule 2 to the Immigration Act 1971) comes into force.

### **Response to a bail application**

**40.**—(1) If the Secretary of State opposes a bail application, the Secretary of State must provide the Tribunal and the bail party with a written statement of the reasons for doing so—

- (a) not later than 2.00 pm on the working day before the hearing; or
- (b) if the Secretary of State was provided with notice of the hearing less than 24 hours before that time, as soon as reasonably practicable.

(2) Where the Secretary of State's reasons for opposition include that directions are in force for the removal of the bail party from the United Kingdom, the Secretary of State must provide a copy of the notice of those directions.

### **Decision in bail proceedings**

**41.**—(1) The Tribunal must provide written notice of its decision to—

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- (a) the parties; and
  - (b) if the bail application is for the bail party to be released on bail, the person having custody of the bail party.
- (2) Where bail is granted, varied or continued, the notice must state any bail conditions, including any amounts in which the bail party and any sureties are to be bound.
- (3) Where bail is refused or where the Tribunal orders forfeiture of the recognizance, the notice must include reasons for the decision.
- (4) Where, instead of granting or refusing bail, the Tribunal fixes the amount and conditions of the bail with a view to the recognizance being taken subsequently by a person specified by the Tribunal, the notice must include the matters stated in paragraph (2) and the name or office of the person so specified.
- (5) Paragraph (6) applies where the Tribunal determines that directions for the removal of the bail party from the United Kingdom are for the time being in force and the directions require the bail party to be removed from the United Kingdom within 14 days of the date of the decision to release the bail party on bail or under paragraph (4).
- (6) The notice provided under paragraph (1) must state—
- (a) the determination of the Tribunal under paragraph (5);
  - (b) whether the Secretary of State has consented to the release of the bail party;
  - (c) where the Secretary of State has not consented to that release, that the bail party must therefore not be released on bail.

### **Recognizances**

- 42.**—(1) Any recognizance must be in writing and must state—
- (a) the bail conditions, including the amount of the recognizance and any amount in which any surety agrees to be bound; and
  - (b) that the bail party and any surety understand the bail conditions and that, if the bail party fails to comply with those conditions, they may be ordered to pay all or part of the amount in which they are bound.
- (2) The recognizance must be signed by the bail party and any surety and provided to the Tribunal, and a copy provided to—
- (a) the parties,
  - (b) any person having custody of the bail party, and
  - (c) any surety.

### **Release of bail party**

- 43.** The person having custody of the bail party must release the bail party upon—
- (a) being provided with a notice of decision to grant bail; or
  - (b) being—
    - (i) provided with a notice of decision fixing the amount and conditions of the bail, and
    - (ii) satisfied that the recognizance required by that decision has been entered into.

### **Application of this Part to Scotland**

- 44.** This Part applies to Scotland with the following modifications—
- (a) in rule 37, for paragraph (4) substitute—

“(4) Where the proceedings concern forfeiture of bail, the parties are the Secretary of State and any person who entered into the bail bond in question, whether that is the bail party or cautioner.”

(b) in rule 38—

(i) for paragraph (2)(d) substitute—

“(d) forfeiture of bail.”;

(ii) for paragraph (3)(d) substitute—

“(d) the amount, if any, deposited or to be deposited if bail is granted.”;

(iii) for paragraph (3)(f) substitute—

“(f) the full name, address, date of birth and any occupation of any person acting or offering to act as a cautioner if the application for bail is granted, and the amount, if any, deposited or to be deposited.”; and

(iv) for paragraph (4) substitute—

“(4) Where the application is for forfeiture of bail, paragraph (3) applies with the exception of sub-paragraphs (a)(iii) and (b), (c), (e) and (g) of that paragraph”;

(c) in rule 41, for paragraphs (2), (3) and (4) substitute—

“(2) Where bail is granted, varied or continued, the notice must state any bail conditions, including the amounts (if any) to be deposited by the bail party and any cautioners.

(3) Where bail is refused or where the Tribunal orders forfeiture of bail, the notice must include reasons for the decision.

(4) Where, instead of granting or refusing bail, the Tribunal fixes the amount and conditions of bail with a view to a bail bond being entered into subsequently before a person specified by the Tribunal, the notice must include the matters stated in paragraph (2) and the name or office of the person so specified.”;

(d) for rule 42 substitute—

**“Bail bond**

**42.—(1)** Any bail bond of a bail party or cautioner must be in writing and, where the deposit of money is required as a condition of bail, must state—

(a) the amount to be deposited; and

(b) that the bail party and any cautioner understand that, if the bail party fails to answer to bail, all or part of the amount deposited may be forfeited.

(2) The bail bond must be signed by the bail party and any cautioner and provided to the Tribunal, and a copy provided to—

(a) the parties,

(b) any person having custody of the bail party, and

(c) any cautioner.”

(e) in rule 43, for sub-paragraph (b) substitute—

“(b) being—

(i) provided with the notice of decision fixing the amount and conditions of the bail, and

(ii) satisfied that the amount, if any, to be deposited in accordance with those conditions has been deposited.”.

