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STATUTORY INSTRUMENTS

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**1994 No. 1481**

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

**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(1) 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(2) shall be amended as follows—

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

“(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(3) (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.

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

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

(3) 1993 c. 26.

(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(4) 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.*