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STATUTORY INSTRUMENTS

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**1995 No. 585 (L. 3)**

**MAGISTRATES' COURTS  
PROCEDURE**

**The Magistrates' Courts (Amendment) Rules 1995**

*Made* - - - - *7th March 1995*  
*Laid before Parliament* *8th March 1995*  
*Coming into force* - - *10th April 1995*

The Lord Chancellor, in exercise of the powers conferred upon him by section 144 of the Magistrates' Courts Act 1980(1) and in pursuance of section 5B(9) of the Bail Act 1976(2), after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

1. These Rules may be cited as the Magistrates' Courts (Amendment) Rules 1995 and shall come into force on 10th April 1995.

2.—(1) The Magistrates' Courts Rules 1981(3) shall be amended in accordance with the following provisions of this rule.

(2) After rule 84, there shall be inserted the following rule:

**“Procedure on application for bail following grant of conditional police bail**

**84A.—**(1) An application under section 43B(1) of the Act of 1980(4) shall—

- (a) be made in writing;
- (b) contain a statement of the grounds upon which it is made;
- (c) specify the offence with which the applicant was charged before his release on bail;
- (d) specify, or be accompanied by a copy of the note of, the reasons given by the custody officer for imposing or varying the conditions of bail; and
- (e) specify the name and address of any surety provided by the applicant before his release on bail to secure his surrender to custody.

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(1) 1980 c. 43; section 144 is extended by section 145 of that Act and section 144(3) was amended by paragraph 25(7) of Schedule 18 to the Courts and Legal Services Act 1990 (c. 41).  
(2) 1976 c. 63; section 5B was inserted by section 30 of the Criminal Justice and Public Order Act 1994 (c. 33).  
(3) S.I.1981/552, the only relevant amending instrument is S.I.1994/1481.  
(4) The Magistrates' Courts Act 1980; section 43B was inserted by paragraph 3 of Schedule 3 to the Criminal Justice and Public Order Act 1994.

- (2) Any such application shall be sent to the clerk of—
- (a) the magistrates' court (if any) appointed by the custody officer as the court before which the applicant has a duty to appear; or
  - (b) if no such court has been appointed, a magistrates' court acting for the petty sessions area in which the police station at which the applicant was granted bail or at which the conditions of his bail were varied, as the case may be, is situated;

and, in either case, a copy shall be sent to a custody officer appointed for that police station.

(3) The clerk to whom an application is sent under paragraph (2) shall send a notice in writing of the date, time and place fixed for the hearing of the application to—

- (a) the applicant;
- (b) the prosecutor; and
- (c) any surety in connection with bail in criminal proceedings granted to, or the conditions of which were varied by a custody officer in relation to, the applicant.

(4) The time fixed for the hearing shall be not later than 72 hours after receipt of the application. In reckoning for the purposes of this paragraph any period of 72 hours, no account shall be taken of Christmas Day, Good Friday, any bank holiday, or any Saturday or Sunday.

(5) Any notice required by this rule to be sent to any person shall either be delivered to him or be sent by post in a letter and, if sent by post to the applicant or a surety of his, shall be addressed to him at his last known or usual place of abode.

(6) If the magistrates' court hearing an application under section 43B(1) of the Act of 1980 discharges or enlarges any recognizance entered into by any surety or increases or reduces the amount in which that person is bound, the clerk of the court shall forthwith give notice thereof to the applicant and to any such surety.

(7) In this rule, “the applicant” means the person making an application under section 43B(1) of the Act of 1980.”.

(3) After rule 93A(5) there shall be inserted the following rule:

**“Procedure on reconsideration of a decision to grant bail**

**93B.—**(1) The appropriate court for the purposes of section 5B of the Bail Act 1976 in relation to the decision of a constable to grant bail shall be—

- (a) the magistrates' court (if any) appointed by the custody officer as the court before which the person to whom bail was granted has a duty to appear; or
- (b) if no such court has been appointed, a magistrates' court acting for the petty sessions area in which the police station at which bail was granted is situated.

(2) An application under section 5B(1) of the Bail Act 1976 shall—

- (a) be made in writing;
- (b) contain a statement of the grounds on which it is made;
- (c) specify the offence which the proceedings in which bail was granted were connected with, or for;
- (d) specify the decision to be reconsidered (including any conditions of bail which have been imposed and why they have been imposed); and
- (e) specify the name and address of any surety provided by the person to whom the application relates to secure his surrender to custody.

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(5) Rule 93A was inserted by rule 3(c) of the Magistrates' Courts (Bail) (Amendment) Rules 1994 (S.I. 1994/1481).

(3) The clerk of a magistrates' court to which an application has been made under section 5B of the Bail Act 1976 shall fix a date, time and place for the hearing of the application and shall give notice of the application and of the date, time and place so fixed in the prescribed form to the person affected and send a copy of the notice to the prosecutor who made the application and to any surety specified in the application.

(4) The time fixed for the hearing shall be not later than 72 hours after receipt of the application. In reckoning for the purpose of this paragraph any period of 72 hours, no account shall be taken of Christmas Day, Good Friday, any bank holiday or any Sunday.

(5) Service of a notice to be given under paragraph (3) to the person affected may be effected by delivering it to him.

(6) At the hearing of an application under section 5B of the Bail Act 1976 the court shall consider any representations made by the person affected (whether in writing or orally) before taking any decision under that section with respect to him; and, where the person affected does not appear before the court, the court shall not take such a decision unless it is proved to the satisfaction of the court, on oath or in the manner prescribed by paragraph (1) of rule 67, that the notice required to be given under paragraph (3) was served on him before the hearing.

(7) Where the court proceeds in the absence of the person affected in accordance with paragraph (6)—

- (a) if the decision of the court is to vary the conditions of bail or impose conditions in respect of bail which has been granted unconditionally, the clerk of the court shall notify the person affected in the prescribed form;
- (b) if the decision of the court is to withhold bail, the order of the court under section 5B(5)(b) of the Bail Act 1976 (surrender to custody) shall be signed by the justice issuing it or state his name and be authenticated by the signature of the clerk of the court and shall be in the prescribed form.

(8) Service of any of the documents referred to in paragraph (7) may be effected by delivering it to the person to whom it is directed or by leaving it for him with some person at his last known or usual place of abode.”

**3.—**(1) Schedule 2 to The Magistrates' Courts (Forms) Rules 1981(6) shall be amended in accordance with the following provisions of this rule.

(2) After the form numbered 153, there shall be added the forms numbered 153A, 153B and 153C in the Schedule to these Rules.

Dated 7th March 1995

*Mackay of Clashfern, C.*

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(6) S.I. 1981/553, to which there are amendments not relevant to this instrument.

**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 3

MAGISTRATES' COURTS (FORMS) RULES 1981

FORM 153A *Notice of hearing to reconsider a decision to grant bail (Bail Act 1976, s.5B; M.C. Rules 1981, r.93B)*

*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:  
To:  
Address:

**PLEASE READ THIS NOTICE CAREFULLY**

On ..... [the court] [the custody officer at.....  
police station] granted you bail in criminal proceedings in  
connection with the offence[s] of ..... [and  
imposed the following conditions .....].

On ..... the prosecutor applied to the court under section 5B  
of the Bail Act 1976 for that decision granting bail to be  
reconsidered on the grounds that .....

TAKE NOTICE THAT ON ..... (date), at ..... (time) this  
Magistrates' Court sitting at ..... (location), will  
consider that application and that the court will have power on the  
hearing of that application [to vary the conditions on which bail  
was granted to you] [to impose conditions in respect of the bail  
granted to you] or to withhold bail.

YOU SHOULD ATTEND AT THAT HEARING, AT WHICH  
YOU WILL BE ENTITLED TO MAKE REPRESENTATIONS  
TO THE COURT.

YOU MAY ALSO MAKE REPRESENTATIONS TO THE  
COURT IN WRITING.

If you do not attend, the court may proceed in your absence but  
will consider any representations which you have made in writing  
to the court.

Justices' Clerk

**NOTE**—If you intend to consult a solicitor about your case you should do so at once and hand this  
notice to him so that he may deal with it.

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FORM 153B Notice of decision to vary conditions of bail or impose conditions on bail granted unconditionally (reconsideration of decision) (Bail Act 1976, s.5B; M.C. Rules 1981, r.93B)

Date: ..... Magistrates' Court (Code)  
Accused :  
Date of birth :  
Address :  
Alleged offence[s]: (short particulars and statute)

The accused having been granted bail by [the above magistrates' court] [Police Force] on ..... (date) [and the said bail being subject to conditions]. Application having been made by ..... under section 5B of the Bail Act 1976 for reconsideration of that decision to grant bail.

Decision: The condition(s) to be complied with by the accused in respect of the said bail shall now be as specified in the Schedule hereto. The accused is under a duty to surrender to the custody of [magistrates' court] on ..... at .....

Reasons: The conditions of bail were [varied][imposed] for the following reason(s):

Justices' Clerk

SCHEDULE

CONDITIONS TO BE COMPLIED WITH

FORM 153C Order that person granted bail surrender himself into the custody of the court on reconsideration of decision (Bail Act 1976, s.5B; M.C. Rules 1981, r.93B)

**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:  
Address:

On ..... the court, on reconsidering the decision of [the court][the custody officer at ..... police station] taken on ..... to grant you bail [subject to conditions], decided to withhold bail for the following reason(s):

Decision: The accused is now under a duty to surrender forthwith to the custody of the above Magistrates' Court.

Signature .....  
Justice of the Peace

[Clerk of the Court present during these proceedings]

**Note**—Failure without reasonable cause to surrender to custody in accordance with this order will render the accused liable to arrest without warrant and to be brought before a justice of the peace to be remanded in custody.

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### EXPLANATORY NOTE

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

These Rules make amendments to the Magistrates' Courts Rules 1981 and the Magistrates' Courts (Forms) Rules 1981 to provide for the procedure to be followed on an application under section 43B of the Magistrates' Courts Act 1980 for bail following a grant of conditional police bail and on reconsideration under section 5B of the Bail Act 1976 of a decision to grant bail.