

Changes to legislation: The Civil Procedure Rules 1998, RSC ORDER 79 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 1

Modifications etc. (not altering text)

- C1** Sch. 1, Sch. 2 applied (with modifications) (30.12.2005) by [The Family Procedure \(Adoption\) Rules 2005 \(S.I. 2005/2795\)](#), [rule 5\(5\)](#)
- C1** Sch. 1 applied (with modifications) (6.4.2011) by [The Family Procedure Rules 2010 \(S.I. 2010/2955\)](#), [rule 33.1\(2\)](#) (with [rules 2.1](#), [33.1\(1\)](#))

Commencement Information

- I1** Sch. 1 in force at 26.4.1999, see [Signature](#)

RSC ORDER 79

CRIMINAL PROCEEDINGS

Estreat of recognizances

Rule 8.—(1) No recognizance acknowledged in or removed into the [^{F1}King's] Bench Division shall be estreated without the order of a judge.

(2) Every application to estreat a recognizance in the [^{F2}King's] Bench Division must be made by claim form and will be heard by a judge ^{F3}...and must be supported by a witness statement or affidavit showing in what manner the breach has been committed and proving that the claim form was duly served.

(2A) When it issues the claim form the court will fix a date for the hearing of the application.

(3) A claim form under this rule must be served at least 2 clear days before the day named therein for the hearing.

(4) On the hearing of the application the judge may, and if requested by any party shall, direct any issue of fact in dispute to be tried by a jury.

(5) If it appears to the judge that a default has been made in performing the conditions of the recognizance, the judge may order the recognizance to be estreated.

Textual Amendments

- F1** Word in Sch. 1 RSC Order 79 rule 8(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [41\(a\)](#)
- F2** Words in Sch. 1 RSC Order 79 rule 8(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [41\(a\)](#)
- F3** Words in Sch. 1 RSC Order 79 rule 8(2) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), [rules 1](#), [62\(f\)](#)

Bail

Rule 9.—(1) Subject to the provisions of this rule, every application to the High Court in respect of bail in any criminal proceeding—

- (a) where the defendant is in custody, must be made by claim form to a judge ^{F4}... to show cause why the defendant should not be granted bail;

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- (b) where the defendant has been admitted to bail, must be made by claim form to a judge^{F4} ... to show cause why the variation in the arrangements for bail proposed by the applicant should not be made.
- (2) Subject to paragraph (5), the claim form (in Form No. 97 or 97A^{F5}...) must, at least 24 hours before the day named therein for the hearing, be served—
- (a) where the application was made by the defendant, on the prosecutor and on the Director of Public Prosecutions, if the prosecution is being carried on by him;
- (b) where the application was made by the prosecutor or a constable under section 3 (8) of the Bail Act 1976⁽¹⁾, on the defendant.
- (3) Subject to paragraph (5), every application must be supported by witness statement or affidavit.
- (4) Where a defendant in custody who desires to apply for bail is unable through lack of means to instruct a solicitor, he may give notice in writing to the [^{F6}court] stating his desire to apply for bail and requesting that the official solicitor shall act for him in the application, and the [^{F7}court may] assign the official solicitor to act for the applicant accordingly.
- (5) Where the official solicitor has been so assigned the [^{F8}court may] dispense with the requirements of paragraphs (1) to (3) and deal with the application in a summary manner.
- (6) Where the [^{F9}court] grants the defendant bail, the order must be in Form No. 98^{F10} ... and a copy of the order shall be transmitted forthwith—
- (a) where the proceedings in respect of the defendant have been transferred to the Crown Court for trial or where the defendant has been committed to the Crown Court to be sentenced or otherwise dealt with, to the appropriate officer of the Crown Court;
- (b) in any other case, to the [^{F11}[^{F12}designated officer] for] the court which committed the defendant.
- (6A) The recognizance of any surety required as a condition of bail granted as aforesaid may, where the defendant is in a prison or other place of detention, be entered into 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.
- (6B) Where under section 3 (5) or (6) of the Bail Act 1976⁽²⁾[^{F13}the court] imposes a requirement to be complied with before a person's release on bail, [^{F14}it] may give directions as to the manner in which and the person or persons before whom the requirement may be complied with.
- (7) A person who in pursuance of an order for the grant of bail made by [^{F15}the court] under this rule proposes to enter into a recognizance or give security must, unless [^{F16}the court] otherwise directs, give notice (in Form No. 100^{F17}...) to the prosecutor at least 24 hours before he enters into the recognizance or complies with the requirements as aforesaid.
- (8) Where in pursuance of such an order as aforesaid 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 of the requirement complied with to be transmitted forthwith—
- (a) where the proceedings in respect of the defendant have been transferred to the Crown Court for trial or where the defendant has been committed to the Crown Court to be sentenced or otherwise dealt with, to the appropriate officer of the Crown Court;
- (b) in any other case, to the [^{F18}[^{F19}designated officer] for] the court which committed the defendant

(1) 1976 c. 63; section 3(8) was amended by the Criminal Law Act 1977 (c. 45), section 65(4), schedule 12.

(2) 1976 c. 63; section 3(6) was amended by the Criminal Justice and Public Order Act 1994 (c. 33), sections 27(2), 168(3), schedule 11.

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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 defendant is detained, unless the recognizance was entered into or the requirement complied with before such governor or keeper.

(10) An order ^{F20}... varying the arrangements under which the defendant has been granted bail shall be in Form 98A ^{F21}... and a copy of the order shall be transmitted forthwith—

- (a) where the proceedings in respect of the defendant have been transferred to the Crown Court for trial or where the defendant has been committed to the Crown Court to be sentenced or otherwise dealt with, to the appropriate officer of the Crown Court;
- (b) in any other case, to the [^{F22}[^{F23}designated officer] for] the court which committed the defendant.

(11) Where in pursuance of an order of [^{F24}the High Court or the Crown Court] a person is released on bail in any criminal proceeding pending the determination of an appeal to the High Court or [^{F25}the Supreme Court] or an application for [^{F26}a quashing order], then, upon the abandonment of the appeal or application, or upon the decision of the High Court or [^{F25}the Supreme Court] being given, any justice (being a justice acting for the same petty sessions area as the magistrates' court by which that person was convicted or sentenced) may issue process for enforcing the decision in respect of which such appeal or application was brought or, as the case may be, the decision of the High Court or [^{F25}the Supreme Court].

(12) If an applicant to the High Court in any criminal proceedings is refused bail ^{F27}..., the applicant shall not be entitled to make a fresh application for bail to any other judge or to a Divisional Court.

(13) The record required by section 5 of the Bail Act 1976(3) to be made by the High Court shall be made by including in the file relating to the case in question a copy of the relevant order of the Court and shall contain the particulars set out in Form No. 98 or 98A ^{F28}..., whichever is appropriate, except that in the case of a decision to withhold bail the record shall be made by inserting a statement of the decision on the Court's copy of the relevant claim form and including it in the file relating to the case in question.

(14) In the case of a person whose return or surrender is sought under the Extradition Act 1989(4), this rule shall apply as if references to the defendant were references to that person and references to the prosecutor were references to the State seeking the return or surrender of that person.

Textual Amendments

- F4** Words in Sch. 1 RSC Order 79 rule 9 omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **62(f)**
- F5** Words in Sch. 1 RSC Order 79 rule 9(2) omitted (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **34(1)**
- F6** Word in Sch. 1 RSC Order 79 rule 9(4) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(a)**
- F7** Words in Sch. 1 Order 79 rule 9(4) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(b)**
- F8** Words in Sch. 1 Order 79 rule 9(5) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(b)**
- F9** Word in Sch. 1 RSC Order 79 rule 9(6) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(c)**

(3) 1976 c. 63; section 5 was amended by the Criminal Justice Act 1982 (c. 48), section 60; and by the Criminal Law Act 1977 (c. 45), section 65(4), schedule 12; and by the Criminal Justice and Public Order Act 1994 (c. 33), section 27(4), schedule 3, paragraph 1.

(4) 1989 c. 33.

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- F10** Words in Sch. 1 RSC Order 79 rule 9(6) omitted (1.10.2022) by virtue of The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **34(1)**
- F11** Words in Sch. 1 RSC Order 79 rule 9(6)(b) substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(b), **22**
- F12** Words in Sch. 1 RSC Order 79 rule 9(6)(b) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) (No. 2) Order 2005 (S.I. 2005/617), art. 1, **Sch. para. 175**
- F13** Words in Sch. 1 RSC Order 79 rule 9(6B) substituted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **40(d)(i)**
- F14** Word in Sch. 1 RSC Order 79 rule 9(6B) substituted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **40(d)(ii)**
- F15** Words in Sch. 1 RSC Order 79 rule 9(7) substituted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **40(e)(i)**
- F16** Words in Sch. 1 RSC Order 79 rule 9(7) substituted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **40(e)(ii)**
- F17** Words in Sch. 1 RSC Order 79 rule 9(7) omitted (1.10.2022) by virtue of The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **34(1)**
- F18** Words in Sch. 1 RSC Order 79 rule 9(8)(b) substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(b), **22**
- F19** Words in Sch. 1 RSC Order 79 rule 9(8)(b) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) (No. 2) Order 2005 (S.I. 2005/617), art. 1, **Sch. para. 175**
- F20** Words in Sch. 1 RSC Order 79 rule 9(10) omitted (26.4.1999) by virtue of The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **40(f)**
- F21** Words in Sch. 1 RSC Order 79 rule 9(10) omitted (1.10.2022) by virtue of The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **34(1)**
- F22** Words in Sch. 1 RSC Order 79 rule 9(10)(b) substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(b), **22**
- F23** Words in Sch. 1 RSC Order 79 rule 9(10)(b) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) (No. 2) Order 2005 (S.I. 2005/617), art. 1, **Sch. para. 175**
- F24** Words in Sch. 1 RSC Order 79 rule 9(11) substituted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **40(g)**
- F25** Words in Sch. 1 RSC Order 79 rule 9(11) substituted (1.10.2009) by The Civil Procedure (Amendment) Rules 2009 (S.I. 2009/2092), rules 1(2), **20**
- F26** Words in Sch. 1 RSC Order 79 rule 9(11) substituted (1.5.2004) by The Civil Procedure (Amendment No. 5) Rules 2003 (S.I. 2003/3361), rules 1(d), **30**
- F27** Words in Sch. 1 RSC Order 79 rule 9(12) omitted (26.4.1999) by virtue of The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **40(h)**
- F28** Words in Sch. 1 RSC Order 79 rule 9(13) omitted (1.10.2022) by virtue of The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **34(1)**

Modifications etc. (not altering text)

- C1** Sch. 1 RSC Order 79 rule 9 applied (with modifications) (23.12.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011 (S.I. 2011/2866), arts. 1(2), 8(1)(2), **Sch. 2**

Issue of witness summonses, etc.

^{F29}**Rule 10**

Textual Amendments

- F29** Sch. 1 RSC Order 79 rules 10, 11 omitted (26.4.1999) by virtue of The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **41**

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Application for warrant to arrest witness

^{F29} **Rule 11**

Textual Amendments

F29 Sch. 1 RSC Order 79 rules 10, 11 omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **41**

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 2 CCR Order 27 Table of Contents word substituted by [S.I. 2014/407 rule 39\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Sch.2 CCR Order 27 does not have a Table of Contents.)
- Sch. 2 CCR Order 27 Table of Contents word substituted by [S.I. 2014/407 rule 39\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Sch.2 CCR Order 27 does not have a Table of Contents.)
- Sch. 2 CCR Order 27 rule 4(b) words omitted by [S.I. 2014/407 rule 39\(e\)\(ii\)\(aa\)](#) (This amendment not applied to legislation.gov.uk. The words "the justices's chief executive for" do not appear in Sch. 2 CCR Order 27 rule 4(b))
- Sch. 2 CCR Order 27 rule 10(3) words omitted by [S.I. 2014/407 rule 39\(k\)\(iii\)](#) (This amendment not applied to legislation.gov.uk. The words "the justices's chief executive for" do not appear in Sch. 2 CCR Order 27 rule 10(3))
- Sch. 2 CCR Order 28 words omitted by [S.I. 2014/867 rule 21\(a\)](#) (This amendment not applied to legislation.gov.uk. There is no Table of Contents in Sch. 2 CCR Order 28)
- Sch. 2 CCR Order 39 words omitted by [S.I. 2014/867 rule 22\(a\)](#) (This amendment not applied to legislation.gov.uk. There is no Table of Contents in Sch. 2 CCR Order 39)
- Sch. 2 CCR Order 27 rule 4(b) words substituted by [S.I. 2014/407 rule 39\(e\)\(ii\)\(bb\)](#) (This amendment not applied to legislation.gov.uk. The words "by that chief executive" do not appear in Sch. 2 CCR Order 27 rule 4(b))
- Sch. 2 CCR Order 27 words substituted by [S.I. 2014/407 rule 4\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. The words "a county court" do not appear in Sch. 2 CCR Order 27)
- Sch. 2 CCR Order 27 words substituted by [S.I. 2014/407 rule 4\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. The words "county court" do not appear in Sch. 2 CCR Order 27)
- Sch. 2 CCR Order 27 words substituted by [S.I. 2014/407 rule 4\(a\)\(iii\)](#) (This amendment not applied to legislation.gov.uk. The words "county courts" do not appear in Sch. 2 CCR Order 27)
- Sch. 2 CCR Order 27 words substituted by [S.I. 2014/407 rule 4\(a\)\(iv\)](#) (This amendment not applied to legislation.gov.uk. The words "district judge" do not appear in Sch. 2 CCR Order 27)
- Sch. 2 CCR Order 28 words substituted by [S.I. 2014/867 rule 3\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. The words "a county court" do not appear in Sch. 2 CCR Order 28)
- Sch. 2 CCR Order 28 words substituted by [S.I. 2014/867 rule 3\(a\)\(iii\)](#) (This amendment not applied to legislation.gov.uk. The words "county courts" do not appear in Sch. 2 CCR Order 28)
- Sch. 2 CCR Order 39 words substituted by [S.I. 2014/867 rule 3\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. The words "a county court" do not appear in Sch. 2 CCR Order 39)
- Sch. 2 CCR Order 39 words substituted by [S.I. 2014/867 rule 3\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. The words "county court" do not appear in Sch. 2 CCR Order 39)

- Sch. 2 CCR Order 39 words substituted by [S.I. 2014/867 rule 3\(a\)\(iii\)](#) (This amendment not applied to legislation.gov.uk. The words "county courts" do not appear in Sch. 2 CCR Order 39)
- Sch. 2 CCR Order 44 words substituted by [S.I. 2014/867 rule 3\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. The words "a county court" do not appear in Sch. 2 CCR Order 44)
- Sch. 2 CCR Order 44 words substituted by [S.I. 2014/867 rule 3\(a\)\(iii\)](#) (This amendment not applied to legislation.gov.uk. The words "county courts" do not appear in Sch. 2 CCR Order 44)
- Sch. 2 CCR Order 44 words substituted by [S.I. 2014/867 rule 3\(a\)\(iv\)](#) (This amendment not applied to legislation.gov.uk. The words "district judge" do not appear in Sch. 2 CCR Order 44)
- rule 45.15A(3) inserted by [S.I. 2024/839 rule 11\(4\)](#)
- rule 1.1(2)(g) rule 1.1(2)(f) renumbered as rule 1.1(2)(g) by [S.I. 2024/839 rule 3\(1\)\(c\)](#)
- rule 2.4(1)(a) words substituted by [S.I. 2024/839 rule 4\(2\)](#)
- rule 3.1(2)(d)-(n) rule 3.1(2)(c)-(ll) renumbered as rule 3.1(2)(d)-(n) by [S.I. 2024/839 rule 5\(1\)\(a\)\(ii\)](#)
- rule 3.1(2)(o) inserted by [S.I. 2024/839 rule 5\(1\)\(a\)\(iii\)](#)
- rule 3.1(2)(p) rule 3.1(2)(m) renumbered as rule 3.1(2)(p) by [S.I. 2024/839 rule 5\(1\)\(a\)\(iv\)](#)
- rule 25.1(n) word omitted by [S.I. 2005/3515 rule 7\(a\)\(i\)](#)
- rule 28.7(1)(d) inserted by [S.I. 2024/839 rule 8\(1\)\(c\)](#)
- rule 28.14(1)(f) inserted by [S.I. 2024/839 rule 8\(2\)\(a\)\(iii\)](#)
- rule 29.2(1A) inserted by [S.I. 2024/839 rule 9](#)
- rule 44.2(5)(e) inserted by [S.I. 2024/839 rule 10\(1\)\(c\)](#)
- rule 45.48(3)(4) inserted by [S.I. 2024/839 rule 11\(6\)](#)
- rule 45.51(5)(6) inserted by [S.I. 2024/839 rule 11\(7\)](#)
- rule 52.13(1)(a) words inserted by [S.I. 2014/879 art. 76](#) (This amendment not applied to legislation.gov.uk. There is no rule 52.13(1)(a))
- rule 52.3B inserted by [S.I. 2024/839 rule 13\(3\)](#)