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STATUTORY INSTRUMENTS

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**2005 No. 384**

**The Criminal Procedure Rules 2005**

**PART 19**

**BAIL IN MAGISTRATES' COURTS AND THE CROWN COURT**

**Application to a magistrates' court to reconsider grant of police bail**

**19.2.**—(1) The appropriate court for the purposes of section 5B of the Bail Act 1976(1) 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 local justice area in which the police station at which bail was granted is situated.
- (2) An application under section 5B(1) of the 1976 Act 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.
- (3) Where an application has been made to a magistrates' court under section 5B of the 1976 Act,
- (a) the clerk of that magistrates' court shall fix a date, time and place for the hearing of the application; and
  - (b) the court officer shall—
    - (i) give notice of the application and of the date, time and place so fixed to the person affected, and
    - (ii) 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.

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(1) 1976 c. 63; section 5B was inserted by section 30 of the Criminal Justice and Public Order Act 1994 (c. 33) and amended by section 129(3) of the Criminal Justice and Police Act 2001 (c. 16), section 109 of, and paragraph 183 of Schedule 8 and Schedule 10 to, the Courts Act 2003 (c. 39) and section 198 of the Extradition Act 2003 (c. 41).

(6) At the hearing of an application under section 5B of the 1976 Act 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 set out by rule 4.2(1), that the notice required to be given under paragraph (3) of this rule 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 court officer shall notify the person affected;
- (b) if the decision of the court is to withhold bail, the order of the court under section 5B(5) (b) of the 1976 Act (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.

(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.

*[Note. Formerly rule 93B of the Magistrates' Courts Rules 1981. See also section 5B of the Bail Act 1976.]*