

Rules made under s. 317.

BAIL (PROSECUTION APPEAL) RULES, 1995

(LN. 1995/087)

1.8.1995

Amending enactments	Relevant current provisions	Commencement date
None		

ARRANGEMENT OF RULES.

Rule

1. Title and commencement.
2. Interpretation.
3. Procedure in magistrates' court where prosecution appeals against a decision to grant bail.
4. Appeals under section 54 of the Act.
5. Prescribed forms.

SCHEDULE

1961-24

Criminal Procedure

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**Subsidiary
1995/087**

Title and commencement.

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1995/087**

1. These rules may be cited as the Bail (Prosecution Appeal) Rules 1995 and shall come into effect on the day on which the Criminal Procedure (Amendment) Act 1995 shall come into effect.

Interpretation.

2. In these rules, unless the context shall otherwise require, references the “person concerned” are references to such a person within the meaning of section 54.

Procedure in magistrates’ court where prosecution appeals against a decision to grant bail.

3. (1) Where the prosecution wishes to exercise the right of appeal under section 54 of the Act to the Supreme Court against the decision to grant bail, oral notice of appeal must be given to the clerk to 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 to 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.

(4) When an oral notice of appeal has been given, the magistrates’ 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 54(5), the magistrates’ 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 sub-rule (3).

(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 54(5), the clerk to 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.

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(8) If the prosecution serves notice of abandonment of appeal on the clerk to the magistrates' court, the clerk shall forthwith by way of written notice to the Superintendent of the Prison 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 to 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 to the magistrates' court, he shall provide as soon as practicable to the Registrar of the Supreme Court a copy of that written notice together with—

- (a) the notes of the clerk to the magistrates' court of submissions of the parties, 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 Supreme Court.

Appeals under section 54 of the Act.

4.(1) This rule shall apply where the prosecution appeals under section 54 against the decision of the magistrates' court granting bail.

(2) The written notice of appeal required by section 54 (5) shall be in the prescribed form.

(3) The Registrar of the Supreme Court shall enter the appeal and give notice of the time and place of the hearing to—

- (a) the prosecution,
- (b) the person concerned or his legal representative,
- (c) the clerk to the magistrates' court.

(4) At any time after the service of written notice of appeal required by section 54(5), the prosecution may abandon the appeal by giving notice in writing in the prescribed form.

(5) The notice of abandonment required by the preceding subrule shall be served on—

- (a) the person concerned or his legal representative,

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(b) the clerk to the magistrates' court.

(6) Any record required by rules of court, together with any note of reasons required by such rules to be included, shall be made by way of an entry in the file relating to the case in question and the record shall include the following particulars, namely—

- (a) the effect of the decision;
- (b) a statement of any condition imposed in respect of bail, indicating whether it is complied with before or after release on bail;
- (c) where bail is withheld, a statement of the reasons on which the decision is based.

(7) The Registrar of the Supreme Court shall, as soon as practicable after the hearing of the appeal, give notice of the decision and of the matters required by subrule (6) to be recorded to—

- (a) the person concerned or his legal representative,
- (b) the prosecution,
- (c) the police,
- (d) the clerk to the magistrates' court,
- (e) the Superintendent of the prison or person responsible for the establishment where the person concerned is being held.

(8) Where the judge hearing the appeal grants bail to the person concerned, the provisions of the Act shall apply as if that person had applied to the Supreme Court for bail and the conditions, if any, of the bail shall be the conditions imposed by the Supreme Court.

(9) In addition to the methods of service permitted by rules of court, the notices required by subrules (3), (4) and (7) may be sent by way of facsimile transmission and the notice required by subrule (3) may be given by telephone.

Prescribed forms.

5. The forms prescribed for the purposes of these rules shall be those specified in the Schedule in respect of each such purpose.

FORM 3

Record of prosecution’s decision to appeal against the granting of bail,
section 54 Criminal Procedure Act
Bail (Prosecution Appeal) Rules, 1995

Magistrates’ Court

Date:

Accused:

Date of Birth:

Alleged offence(s):

Date and time oral
notice of appeal given On at am/pm

*Prosecution failed to
service written notice/
Date and time written
notice to appeal served: On at am/pm

The prosecution did/did not *serve notice of abandonment of appeal.

Signature
Justice of the Peace
(or by order of the court
clerk to the court)

*Delete as applicable.

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FORM 4

Notice of release on bail: prosecution's failure to serve written notice of appeal, section 54 Criminal Procedure Act
Bail (Prosecution Appeal) Rules, 1995.

Magistrates' Court

Date:

Accused:

Date of Birth:

Alleged offence(s):

Direction: The prosecution having given oral notice of appeal on
at am/pm against the decision to grant bail to [
], but having failed to serve written notice of appeal, I
hereby direct that you, the person responsible for [.], do
release[.] on bail subject to the conditions, if any,
imposed by the magistrates' court unless he/she is in custody for
some other cause.

Signature
clerk to the court

*A copy of the bail note should accompany this notice and be given to the
accused prior to his release.

Notice of release on bail: prosecution's abandonment of appeal, section 54
Criminal Procedure Act
Bail (Prosecution Appeal) Rules, 1995.

Date:

Accused:

Date of Birth:

Alleged Offence(s):

Direction: The prosecution having given notice on [.] of
its intention to abandon the appeal against the grant of bail to [.
.] I hereby direct that you [the Superintendent]
(prison) (place of remand) [person with custody of] , do release
[.] on bail* subject to the conditions, if any, imposed
by the magistrates court, unless he/she is in custody for some other cause.

Signature
clerk to the court

*A copy of the bail note should accompany this notice and be given to the
accused prior to his release.

FORM 6

Notice of appeal by the prosecution under section 54 of the Criminal Procedure Act against the granting of bail.

Written notice of appeal must be given within 2 hours of the conclusion of the proceedings in which oral notice of appeal was given (section 54(5)).

Copies of this notice must be served on the clerk to the magistrates' court and the person concerned (section 54 (5)).

The hearing of the appeal must be commenced within 48 hours from the date on which oral notice of appeal was given (section 54(8)).

Case Details

Magistrates' Court

Magistrates Court Case
Number

Person Concerned:

Surname:

Forenames:

Usual address:

Charges:

Date of grant of bail:

Date and time of giving of oral notice of appeal:

Take notice that, oral notice of appeal against the granting of bail to the aforementioned having been given at the time, date and place set out above, I, a person within section 54(2) of the Criminal Procedure Act, hereby give written notice of appeal in accordance with section 54(5) of that Act.

The grounds for this appeal are:

Prosecutor:

Name:

Address:

Date and time of service of notice on clerk to Magistrates:

Date of time of service of notice on the person concerned:

The 48 hours excludes weekends, Christmas Day, Good Friday and Bank Holidays (S.54(8)) and runs from midnight on the day on which oral notice of appeal is given.

FORM 7**Notice of abandonment of appeal under section 54 of the Criminal
Procedure Act against the granting of bail**

This notice can be served at any time after the giving of written notice of appeal

It must be served on the person concerned or his legal representative, the clerk to the magistrates' court and the Registrar of the Supreme Court.

Case DetailsThe Supreme Court: Supreme Court Case
Number:The Magistrates' Court: Magistrates' Court
Number:

Person concerned:

Surname: Forenames:

Usual address:

Present address:

Charges:

Date and time of oral notice of appeal:

Date and time of written notice of appeal:

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Take notice that, I, a person within section 54(2) of the Criminal Procedure Act hereby abandon the appeal against the granting of bail to the abovenamed person by the magistrates' court at the time and date and place set out above.

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Prosecutor:

Name:

Address:

To: The person concerned or his legal representative
The clerk to the magistrates' court
The Supreme Court