



STATUTORY INSTRUMENTS.

S.I. No. 470 of 2015



RULES OF THE SUPERIOR COURTS (BAIL HEARINGS) 2015

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We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, by virtue of the powers conferred upon us by The Courts of Justice Act 1924, section 36, and the Courts of Justice Act 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), and the Courts (Supplemental Provisions) Act 1961, section 14, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 18th day of December 2014.

Susan Denham
Sean Ryan
Donal O'Donnell
Peter Kelly
Michael Peart
Anthony Barr
Gerard Meehan
Stuart Gilhooly
Noel Rubotham
John Mahon

I concur in the making of the following Rules of Court.

Dated this 25th day of October, 2015.

FRANCES FITZGERALD,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 30th October, 2015.*

S.I. No. of 2015

RULES OF THE SUPERIOR COURTS (BAIL HEARINGS) 2015

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Bail Hearings) 2015, shall come into operation on the 23rd day of November, 2015.

(2) These Rules shall be construed together with the Rules of the Superior Courts.

(3) The Rules of the Superior Courts as amended by these Rules may be cited as the Rules of the Superior Courts 1986 to 2015.

2. The Rules of the Superior Courts are amended:

(i) by the substitution for rule 15 of Order 84 of the following rule:

“15. (1) An application for bail by a person in custody or an appeal by an accused person under section 28(3) of the Criminal Procedure Act 1967 shall be by motion on notice to the Chief State Solicitor grounded on the affidavit of the applicant or (as the case may be) the appellant, in this rule hereinafter referred to as the “applicant”.

(2) Proceedings shall be entitled:

THE HIGH COURT
BAIL

THE PEOPLE (AT THE SUIT OF THE DIRECTOR OF
PUBLIC PROSECUTIONS)

.V.

AT PRESENT PENDING IN THE... COURT

AT.....

or to the appropriate effect.

(3) The affidavit of the applicant shall set forth fully the basis upon which the application is made to the High Court and in particular:

(a) shall give particulars of whether and, if so, in what other Court bail has been refused to the applicant;

(b) shall specify where the applicant is being detained;

(c) shall specify the usual place of abode or address where the applicant normally resides;

- (d) shall specify the address at which it is proposed the applicant would reside, if granted bail;
- (e) shall provide full particulars of the offence or offences with which the applicant is charged;
- (f) shall include the identity, address and occupation of any proposed independent surety and of the amount that such surety may offer;
- (g) the terms of bail which were previously fixed in relation to the offences (if any);
- (h) whether there had been any previous High Court applications for bail in respect of the offences;
- (i) whether any warrants for failure to appear have been issued in relation to the applicant;
- (j) what surety and/or other conditions relating to bail (if any) the applicant is proposing;
- (k) the personal circumstances of the applicant and in particular whether the applicant was legally aided in relation to the charges in any other Court;
- (l) any other relevant circumstances.

(4) Where such an application is made to the Court sitting as the Central Criminal Court or on an appeal under section 28(3) of the Criminal Procedure Act 1967, and the applicant, being legally represented or having obtained legal advice or been given the opportunity of obtaining or being provided with such advice, is agreeable to the application being heard by live television link, averments to the following effect should be incorporated in the affidavit:

“I understand that the Court may give a direction that I may participate in the hearing of my application for bail from [*insert name of prison*] by means of a live television link, in which event I shall be deemed to be present at the hearing.

I further understand that the Court may not give such a direction unless—

- (a) to do so would not be prejudicial to me,
- (b) the interests of justice do not require my presence at the hearing,

- (c) the facilities provided by a live television link between the court and the prison concerned are such as to enable—
 - (i) me to participate in and to view and hear the court proceedings
 - (ii) those present in the court to see and hear me, and
 - (iii) myself and my legal representative to communicate in confidence during the hearing,
- (d) to do so is otherwise appropriate having regard to—
 - (i) the nature of the application,
 - (ii) the complexity of the hearing,
 - (iii) my age, and
 - (iv) my mental and physical capacity, and
- (e) no other circumstances exist that warrant my presence in court.

Having had the opportunity to take legal advice, I confirm that I consent to the Court directing that I participate in the hearing of my application and any appeal in the manner aforementioned.”.

(5) Where such an application is made to the Court otherwise than in accordance with sub-rule (4), and the applicant being legally represented or having obtained legal advice or been given the opportunity of obtaining or being provided with such advice, is agreeable to the application being heard by live television link, averments to the following effect should be incorporated in the affidavit:

“I understand that the Court may give a direction that I may participate in the hearing of my application for bail from [*insert name of prison*] by means of a live television link, in which event I shall be deemed to be present at the hearing.

I further understand that the Court:

- (a) shall not give such a direction unless facilities are available which enable me to see and hear the proceedings at the hearing and to be seen and heard by those present in the courtroom in which the hearing is taking place, and
- (b) shall in any event not give such a direction if:
 - (i) it would be unfair to me to do so, or
 - (ii) it would be otherwise contrary to the interests of justice to do so.

Having had the opportunity to take legal advice, I confirm that I consent to the Court directing that I participate in the hearing of my application and any appeal in the manner aforementioned.”

(6) Where an applicant has no solicitor, the Court may dispense with the necessity for a notice of motion and affidavit, and in lieu thereof shall give all appropriate directions including a direction that the applicant be brought before the Court, in person or by means of a live television link, on a date and at a time to be specified, of which the Chief State Solicitor shall be notified. The Court may on that date or at any time to which the hearing is adjourned hear the applicant and the Chief State Solicitor for the purpose of giving such directions.

(7) Where an applicant for bail who has participated in the hearing before the High Court by means of a live television link appeals to the Court of Appeal against a refusal of an application for bail, the Court of Appeal may, on the production to it of an affidavit containing the averments mentioned in sub-rule (4) or (5) when the appeal is listed before the Court of Appeal, and confirmation by or on behalf of the appellant that the appellant has not withdrawn his or her consent to participating in the hearing by live television link, give a direction under section 33(2) of the Prisons Act 2007 or, as the case may be, section 26(1) of the Civil Law (Miscellaneous Provisions) Act 2008, and dispense with the necessity for a notice of motion and further affidavit.

(8) The Court of Appeal may in any case hear the appellant (including by live television link) and the Chief State Solicitor for the purpose of considering the giving of such a direction.

(9) References in this rule to the Director of Public Prosecutions shall, where appropriate, be deemed to include references to the Attorney General.”;

(ii) by the insertion in rule 13 of Order 86C, immediately following sub-rule (19), of the following sub-rule:

“(20) The provisions of sub-rules (4), (5) and (6) of Order 84, rule 15 shall apply, with the necessary modifications, to applications under this rule to the Court of Appeal for bail.”, and

(iii) by the insertion in rule 17 of Order 86D, immediately following sub-rule (18), of the following sub-rule:

“(19) The provisions of sub-rules (4), (5) and (6) of Order 84, rule 15 shall apply, with the necessary modifications, to applications under this rule to the Court of Appeal for bail.”

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Rules amend Order 84, rule 15 of the Rules of the Superior Courts to provide for

- (a) an application for bail to the High Court,
- (b) an appeal from an order made on such an application, and
- (c) an application for bail directly to the Court of Appeal in criminal proceedings and military proceedings to be conducted by videolink.

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