

# **BAIL RULES 2021**

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## **EXPLANATORY NOTES**

The *Bail Rules 2021* came into force on 1 November 2021.

A hard copy of these Rules, which has been published in “the Bail Book”, is available for purchase from the Waigani Court Library. Please contact Mr Johannes Fege on email [jfege@pngjudiciary.gov.pg](mailto:jfege@pngjudiciary.gov.pg).

**JUSTICE CANNINGS**  
**CHAIR, RULES COMMITTEE**  
20 May 2024

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## **BAIL RULES 2021**

I, Chief Sir Gibuma Gibbs Salika GCL KBE CSM, Chief Justice of Papua New Guinea, certify that, pursuant to Section 184 (*rules of court*) of the *Constitution* and Section 8 (*rules of Court of the National Court*) of the *National Court Act* (Chapter No 38) and all other powers enabling, the following Rules, described as “*Bail Rules 2021*”, prescribing the practice and procedure of the National Court of Justice regarding the making, hearing and determination of bail applications in accordance with the *Bail Act* and the *Bail Regulation* Chapter No 340, and related matters, so as to give effect to the rights under Section 42(6) of the *Constitution* of persons arrested or detained for offences, have been made by the Judges at a meeting of the Judges on 17 December 2020 and shall come into force on a date to be determined by the Chief Justice by notice published in the *National Gazette*. \*

Dated this 8<sup>th</sup> day of February 2021

**Chief Sir Gibuma Gibbs Salika GCL KBE CSM, Chief Justice of Papua New Guinea**

\* Editorial note: The date on which the *Bail Rules 2021* shall come into force is 1 November 2021 (as determined by the Chief Justice and published in *National Gazette* No G380 of 10 June 2021).

# **BAIL RULES 2021**

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# BAIL RULES 2021

## 1. Operation of these Rules

- (1) These Rules only apply to bail in the National Court and do not apply to bail in other courts such as the Supreme Court or the District Court unless expressly adopted for that purpose by such a court.
- (2) Any person in custody or otherwise detained in connection with any offence under any law may apply for bail to the National Court in accordance with these Rules.
- (3) Nothing in these Rules is in derogation of the right of any person to make a complaint under Section 42(5) of the *Constitution* to the Court or a Judge that they are unlawfully or unreasonably detained.

## 2. Definitions

In these Rules, unless the contrary intention appears:

“Act” means the *Bail Act* Chapter No 340;

“applicant” means a person who is making or has made a bail application, whether granted or not;

“bail file” means a BA file opened by the Registrar upon a person filing a bail application;

"Judge" means a Judge or acting Judge of the National Court of Justice;

“National Court” means the National Court of Justice;

“Public Prosecutor” means the Office of the Public Prosecutor;

“Public Solicitor” means the Office of the Public Solicitor;

"Registrar" means the Registrar of the National Court and includes the Deputy Registrar, Assistant Registrars and other officers and employees in the office of the Registrar;

"Registry" means the Office of the National Court and includes a sub-Registry;

“Regulation” means the *Bail Regulation* made under the *Bail Act* (Chapter No 340);

“Supreme Court” means the Supreme Court of Justice;

“quickest available means” includes communication by e-mail or other means of electronic communication;

"the country" means Papua New Guinea;

"the State" means the Independent State of Papua New Guinea.

### **3. Forms, orders, dispensation etc**

- (1) Substantial compliance with a form shall generally be regarded as sufficient and no bail application should be refused simply on the basis of incorrect or inadequate completion of the application form.
- (2) The pro-forma orders prescribed by these Rules are intended as a guide and may be used or not used or modified as is considered appropriate at the discretion and on the direction of the Judge dealing with any bail-related matter.
- (3) The Court may dispense with compliance with any of the requirements of these Rules either before or after compliance arises.

### **4. Service and communication**

- (1) It is not necessary for bail and other applications under these Rules to be personally served unless there is an express direction to that effect by a Judge.
- (2) All persons and parties involved in bail matters under these Rules are encouraged to communicate with and serve documents on each other by the quickest available means.
- (3) The Registrar shall from time to time authorise and publish in the *National Gazette* a list of email addresses for the different Registries in the country to which bail applications and other bail-related documents may conveniently be electronically transmitted; and shall ensure that that list is accurate and current at all times.
- (4) The Public Prosecutor shall from time to time publish in the *National Gazette* and update a list of email addresses for the different offices of the Public Prosecutor in the country to which bail applications and other bail-related documents may conveniently be electronically transmitted; and shall ensure that that list is accurate and current at all times.

### **5. Making a bail application**

- (1) Subject to these Rules, the general requirement is that a bail application will be made formally by filing at a Registry of the National Court a bail application in form 1.
- (2) A bail application may be filed by e-mail provided that it is conveyed to an official email address authorised by the Registrar.
- (3) Form 1 can be used, unless directed otherwise by a Judge, in all situations in which a person wishes to apply for bail, including where the applicant:
  - (a) is detained, with or without charge; or
  - (b) has not been taken before a court; or
  - (c) is attending a District Court for committal proceedings; or
  - (d) has been committed for trial; or
  - (e) has been convicted and is awaiting sentence; or
  - (f) is appealing against conviction or sentence; or
  - (g) has had their bail revoked or been refused bail and wishes to make a new bail application.

- (4) The bail application should be filed at the Registry nearest to the applicant's place of detention, but if it is not so filed, this must be disclosed in the form, and reasons must be given as to why it is not filed at the nearest Registry.
- (5) All bail applications are free of charge or fees.
- (6) The Registrar shall assist applicants complete their bail application forms by, for example, pointing out parts of the form that have not been completed properly, and such assistance shall be readily provided by the Registrar particularly in cases where the applicant is not legally assisted.
- (7) An applicant may provide affidavits, statements or other documents to support their bail application, however it is not necessary to do so unless directed by the Court.
- (8) Nothing in these Rules prevents a Judge hearing, provided there are exceptional circumstances, an oral bail application or granting bail on the own initiative of the Court, especially in urgent cases where to insist on compliance with these Rules would be likely to cause serious hardship; provided that in all such cases a bail file is opened within three days after dealing with the matter and all orders and processes of the Court are then recorded expeditiously.

## **6. Obligations of Registrar upon filing bail application**

- (1) When a bail application is filed, and upon being satisfied that the application is in a proper form to go before the Court, the Registrar shall:
  - (a) open a file for the bail application, ascribing to it the file reference "BA No ... of (year) ..."; and
  - (b) subject to any directions of a Judge and having regard to the need in some cases to deal with bail applications urgently, set, in form 2, the time, date and place of the hearing of the bail application, which shall be no more than four days after the filing of the bail application; and
  - (c) notify by the quickest available means the applicant (or their lawyer or other representative) and the Public Prosecutor (or other appropriate representative of the State) of the time, date and place of the hearing of the bail application; and
  - (d) if in any case it appears to the Registrar that the applicant might face difficulty with service, serve the bail application, and any supporting affidavits, statements or other documents, by the quickest available means on the nearest Office of the Public Prosecutor or lawyer of that Office.
- (2) The Registrar shall ensure that once a bail application file has been opened, it shall not be closed except by order of the Court.
- (3) If bail is granted, all applications under these Rules for steps to be taken or things done (such as permission to leave a part of the country or variation of bail or other applications)

shall be made by filing the appropriate application using the same file reference as that ascribed by the Registrar when the bail application was first made.

- (4) Circumstances in which it would be appropriate to close a BA file include where bail is revoked and the applicant's cash bail is forfeited or where the applicant is found not guilty and is discharged from their bail obligations.

## **7. Obligations of Public Prosecutor upon service of bail application**

- (1) As soon as is practicable and no later than 72 hours after being served with a bail application, the Public Prosecutor shall indicate the State's position on the bail application by filing form 3 and serving it on the applicant or the applicant's lawyer or personal representative.
- (2) If the State consents to the bail application, the Judge may determine the application in chambers in accordance with Section 166(5) (*jurisdiction of the National Court*) of the *Constitution*.

## **8. Hearing of bail applications**

- (1) A bail application shall be heard at the time and date set unless the Court for good reason determines otherwise.
- (2) A bail application that is adjourned, part-heard or otherwise, shall be adjourned to a specific date, time and place.
- (3) No bail application shall be adjourned indefinitely.
- (4) Nothing in these Rules prevents a Judge determining a bail application in chambers, in the absence of the parties, in accordance with Section 166(5) of the *Constitution*, even where bail is opposed by the State or the position of the State is unknown, for example in situations that can be regarded as an enforcement of rights or freedoms under Section 57(1) of the *Constitution*, provided that:
  - (a) the Judge is satisfied that the application is urgent and it is in the interests of justice to deal with the application in such a manner; and
  - (b) the reasons for dealing with the application in that way are endorsed on the file and set out in the terms of the order that is made.

## **9. Determination of bail applications**

- (1) When the Court determines a bail application, the order of the Court may be expressed in the terms of form 4.
- (2) If bail is granted, a bail certificate may be expressed, in compliance with Section 2 of the Regulation, in the terms of form 5.
- (3) If a guarantor is appointed, a guarantor certificate may be expressed, in compliance with Section 4 of the Regulation, in the terms of form 6.



- (4) If bail is refused, a certificate of refusal may be expressed, in compliance with Section 3 of the Regulation, in the terms of form 7.

#### **10. Bail after committal**

- (1) If a District Court commits an accused for trial or sentence in the National Court and the accused is granted bail by the District Court or some other bail authority, the accused shall make an application for National Court bail in form 1, which shall be heard and determined as soon as is practicable in accordance with Section 8 of the Act.
- (2) The practice of allowing an accused who has been committed for trial or sentence in the National Court to remain on bail granted by the District Court or some other bail authority for any extended period and/or converting that bail to National Court bail is discouraged.
- (3) For the avoidance of doubt every accused person who is the subject of a criminal proceeding in the National Court should as soon as practicable after being committed for trial or being the subject of an ex officio indictment, be either appearing from custody or appearing from bail granted by the National Court (or the Supreme Court).
- (4) In all cases where a person is appearing from such bail:
  - (a) there shall be a BA file (or Supreme Court file) relating to that person; and
  - (b) the Registrar shall ensure that the BA file (or Supreme Court file) is readily accessible at all times that the person's criminal proceeding is being dealt with.

#### **11. Persons subject to Criminal Code, Section 526**

If the Public Prosecutor indicates an intention to present an indictment under Section 526 (*indictment without committal*) of the *Criminal Code*, then as soon as is practicable after a criminal file in relation to that matter is opened, the accused person shall be brought before the Court and provided the opportunity to make a bail application in form 1.

#### **12. Bail ceases upon verdict**

- (1) Subject to this rule, unless the conditions of bail expressly provide otherwise, grant of bail ceases upon delivery of verdict.
- (2) If the accused is found guilty, they will be remanded in custody pending sentence, their bail will be revoked and their bail file will be closed, unless bail is granted under Section 10 (*bail after conviction and before sentence*) of the Act and in accordance with these Rules.
- (3) If the accused is found not guilty, they shall, unless they are facing some other charge or other special circumstances apply, be discharged from bail and their bail file shall be closed.

**13. Bail after conviction and before sentence**

- (1) Subject to this Rule, a convicted person may make an oral application for bail under Section 10 of the Act, in which case the Judge may hear and determine the application forthwith and give an extempore decision, and the order of the Court granting or refusing bail may be made in terms of form 25.
- (2) Notwithstanding Sub-Rule (1), the Judge who convicts a person of any offence may direct the offender to file a bail application in form 1, and such a direction may be given in any case, including a case in which the offender had been on bail prior to conviction.
- (3) In cases where an order or direction is given under this Rule, the bail application may, unless the Judge directs otherwise, be filed, recorded and determined using any existing bail file for the offender.

**14. Bail after lodging appeal**

- (1) A person who has been convicted and/or sentenced by the District Court or the National Court and who has lodged an appeal with the National Court or the Supreme Court, as the case may be, may apply to the National Court for bail in accordance with Section 11 of the Act, using form 1.
- (2) The Registrar shall open a bail file for a person applying for bail under this Rule and the application shall be dealt with in accordance with these Rules.

**15. Application for permission to change address**

- (1) A person who is on bail on a condition that they reside at a particular address, who wishes to change their residential address, shall make an application to change address using form 8.
- (2) An application under this Sub-Rule must be given to the Public Prosecutor before it goes before a Judge for determination and the Public Prosecutor shall promptly indicate the State's position regarding the application, on the application form, and immediately convey that position to applicant and the Court.
- (3) An application under this Sub-Rule may be determined in chambers without a hearing.
- (4) When a Judge determines an application made under this Rule, the order of the Court may be expressed in the terms of form 16.

**16. Application for permission to leave a part of the country**

- (1) A person who is on bail and needs, in accordance with their bail conditions, permission of the Court to leave a certain part of the country to go to another part of the country, shall make an application for permission in form 9.
- (2) An application under this Sub-Rule must be given to the Public Prosecutor before it goes before a Judge for determination and the Public Prosecutor shall promptly indicate the

State's position regarding the application, on the application form, and immediately convey that position to applicant and the Court.

- (3) An application under this Rule may be determined in chambers without a hearing.
- (4) When a Judge determines an application made under this Rule, the order of the Court may be expressed in the terms of form 17.

### **17. Application for permission to leave the country**

- (1) A person who is on bail and needs, in accordance with Section 23 (*permission to leave the country in certain cases*) of the Act and/or their bail conditions, permission of the Court to leave the country, shall make an application for permission in form 10.
- (2) An application under this Rule must be given to the Public Prosecutor before it goes before a Judge for determination and the Public Prosecutor shall promptly indicate the State's position regarding the application, on the application form, and immediately convey that position to applicant and the Court.
- (3) An application under this Rule may be determined in chambers without a hearing.
- (4) When a Judge determines an application made under this Rule, the order of the Court may be expressed in the terms of form 18.
- (5) If permission is granted to leave the country a note to that effect shall, in accordance with Section 23(5) of the Act, be endorsed by the Court on the copy of the bail certificate held by the applicant.

### **18. Application for variation of bail**

- (1) A person who is on bail and wishes to have their bail conditions varied shall make an application for variation of bail under Section 20 of the Act, in form 11.
- (2) An application under this Sub-Rule must be given to the Public Prosecutor before it goes before a Judge for determination and the Public Prosecutor shall promptly indicate the State's position on the application form.
- (3) An application under this Sub-Rule may be determined in chambers without a hearing.
- (4) When a Judge determines an application made under this Rule, the order of the Court may be expressed in the terms of form 19.
- (5) The Public Prosecutor or any other party to the bail proceedings may also apply for variation of bail conditions, in which case, subject to any direction of the Court, the forms and procedures prescribed for the purpose of this Rule may be adopted and amended to reflect the fact that it is not the person granted bail who is making the application for variation.

- (6) If there is any variation of the terms and conditions of bail, a note to that effect shall, in accordance with Section 5(a) of the Regulation, be endorsed by the Court on the copy of the bail certificate held by the applicant.

### **19. Application for revocation of bail**

- (1) The Public Prosecutor or any other party to the bail proceedings shall make any application for revocation of bail under Section 21 of the Act in form 12.
- (2) The party making an application under this Rule must take reasonable steps to serve the application on the person granted bail or their legal or personal representative before it goes before a Judge for determination.
- (3) The person granted bail shall be given a reasonable opportunity to appear before the Court and respond to the application to revoke their bail, and may give evidence or call witnesses to give evidence in response to the application.
- (4) When a Judge determines an application made under this Rule, the order of the Court may be expressed in the terms of form 20.

### **20. Summons to guarantor to show cause**

- (1) If the person granted bail fails to appear at the time and place set for their trial or fails to comply with the conditions of their bail, the Public Prosecutor or any other party to the bail proceedings may make an oral application for a guarantor to be issued a summons to show cause why they ought not be ordered, under Section 19(7) of the Act, to pay the amount guaranteed to the State.
- (2) An oral application may be made under Sub-Rule (1) without notice to the Court, the person granted bail or the guarantor and shall be heard and determined as soon as is practicable.
- (3) Nothing in this Rule prevents the Court issuing a summons under this Rule on its own initiative.
- (4) A summons to show cause issued under this Rule shall be in form 13.
- (5) A guarantor who is issued a summons under this Rule shall be given a reasonable opportunity to appear before the Court and show cause, and may give evidence or call witnesses to give evidence in response to the summons.
- (6) When a Judge determines a summons to show cause under this Rule, the order of the Court may be expressed in the terms of form 21.

### **21. Application by guarantor under Bail Act, Section 19(8)**

- (1) A guarantor who is affected by an order under Section 19(7) of the *Bail Act* or Rule 20, to pay money to the State, shall make any application under Section 19(8) of the *Bail Act* for variation or revocation of that order, within 14 days after the making of that order, in form 14.

- (2) The guarantor making an application under this Rule must take reasonable steps to serve the application on the Public Prosecutor before it goes before a Judge for determination.
- (3) The Public Prosecutor shall be given a reasonable opportunity to appear before the Court and respond to any application made under this Rule, and may give evidence or call witnesses to give evidence in response to the application.
- (4) When a Judge determines an application made under this Rule, the order of the Court may be expressed in the terms of form 22.

## **22. Application by person whose bail has been forfeited**

- (1) A person who is affected by an order under Section 22(1) of the *Bail Act* of forfeiture of their cash bail or other security given by them to secure their bail obligations, shall make any application under Section 22(3) of the *Bail Act* for variation or revocation of that order, within 14 days after the making of that order, in form 15.
- (2) The person making an application under this Rule must take reasonable steps to serve the application on the Public Prosecutor before it goes before a Judge for determination.
- (3) The Public Prosecutor shall be given a reasonable opportunity to appear before the Court and respond to any application made under this Rule, and may give evidence or call witnesses to give evidence in response to the application.
- (4) When a Judge determines an application made under this Rule, the order of the Court may be expressed in the terms of form 23.

## **23. Discharge from bail, closure of bail file etc**

In any case in which:

- (a) a person was granted bail by the National Court pending committal and the District Court has refused to commit the person for trial; or
- (b) the Court orders revocation of bail; or
- (c) the person granted bail has faced trial and been acquitted and is facing no other charge requiring the grant of bail; or
- (d) other circumstances exist that in the opinion of the Court warrant the discharge of a person from their bail obligations and/or closure of the bail file –

the Court shall consider whether it is proper and appropriate that the bail file be closed and/or that the person granted bail be discharged from their bail obligations and may make an order in the terms of form 24.

## **24. Repeal**

To the extent that these Rules are inconsistent with any pre-existing rules or practices or procedures regarding the making, hearing and determination of bail applications in the National



....., where I have resided since .....  
(state date or year); before that I lived at ..... (state where you  
have lived over the last five years).

My occupation is: villager/unemployed/employed:.....  
.....  
..... (state details)

My religion is:.....  
.....  
(state name of church or other place of worship you attend, if any; if you have no religion,  
state "none")

**WHERE ARE YOU DETAINED?**

I am detained in custody at ..... (state name of correctional  
institution or police lock-up)

I have been detained there since ..... (insert date)

Are you filing this bail application at the Registry of the National Court nearest to your place  
of detention?

Yes.

No (state reasons for filing the application in this Registry): .....  
.....

**WHAT ARE YOU CHARGED WITH?**

I am charged with: .....  
.....  
.....  
under Section ... of the *Criminal Code/Firearms Act/Summary Offences Act*/some other law;  
(state the charges) OR

I have not yet been charged

I have already been convicted of ...

**WHAT STAGE IS YOUR CASE AT?**

Tick the box that describes your situation:

- I have not yet been taken before a court;
- I have appeared in the District Court for mention;

- My trial has been set down for trial in the District Court on (state the trial date);
- I have been convicted by the District Court and I am awaiting sentence/ have been sentenced to ..... months/years' imprisonment and I have filed/intend to file an appeal in the National Court;
- I am still in the committal process in the District Court and no decision has yet been made;
- I was committed for trial in the National Court on ..... (state date) and my file reference is CR No ... of 20..;
- I have been convicted by the National Court and I am awaiting sentence;
- I have been convicted by the District/National Court and I have lodged an appeal against conviction and/or sentence in the National Court/Supreme Court;
- I do not know;
- None of the above. Describe your case and what stage it is at:  
.....  
.....  
.....  
.....  
.....

**WHY SHOULD YOU GET BAIL?**

Tick any of the boxes that apply to you:

- I am sick or injured. Describe your condition (*attach medical certificate or report if available*):  
.....
- I am being detained in bad conditions (give details) .....  
.....  
.....
- I am a juvenile and I am being detained with adult detainees
- I am a female and I am being detained with male detainees
- I am a remandee and I am being detained with convicted prisoners



- I have been convicted but I am being detained in a police lock-up (*give details*).....  
.....  
.....
- I have been threatened/assaulted while in custody (*give details*): .....  
.....  
.....
- I need to report to my employer (*give details*) .....  
.....
- State any other special reason you should be granted bail: .....  
.....  
.....  
.....

Note: if you are charged with wilful murder or treason, or if you have been convicted of an offence and are applying for bail pending sentence or appeal to a higher court, you must show exceptional circumstances warranting the granting of bail. *State any exceptional circumstances here:* .....

.....  
.....  
.....

**PROPOSED BAIL CONDITIONS**

What amount of cash bail do you propose? K.....

If you are granted bail, where would you reside? (*give details of physical address*).....

.....  
.....

**HAVE YOU PREVIOUSLY HAD A BAIL APPLICATION REFUSED, IN CONNEXION WITH THIS CASE OR IN ANY OTHER CASE?**

- No.
- Yes: give full details of date of refusal and the court that refused you bail and why bail was refused AND you must annex a copy of the certificate of refusal: .....  
.....  
.....  
.....

Have your circumstances changed since bail was refused?

- No.

Yes: state here how your circumstances have changed: .....  
.....  
.....

**DO YOU HAVE A LAWYER OR ANYONE ELSE HELPING YOU MAKE THIS BAIL APPLICATION? (Tick the box)**

No.

Yes, I have a **lawyer**: state lawyer’s name, physical address, contact details (phone number and/or email address: .....  
.....  
.....

Yes, I have a **friend/relative**: state friend/relative’s name, physical address, contact details (phone number and/or email address: .....  
.....  
.....

**DO YOU WANT TO SAY ANYTHING ELSE IN SUPPORT OF YOUR BAIL APPLICATION?**

No.

Yes. *If yes, make statement here and/or attach a separate statement or affidavit:* .....  
.....  
.....

**DECLARATION BY APPLICANT:**

I, ....., declare that:

- Everything stated in this application is true and correct.
- I know that if I make any false or misleading statement I can be charged with contempt of court and if convicted of such a charge, I can be fined and/or imprisoned.
- If I am granted bail I promise to comply with all my bail conditions.
- I know that if I go missing or do not comply with any bail conditions I can be arrested and put back in custody and my cash bail will be forfeited and my guarantors will have to pay extra money to the State.

Declared by ..... (state name of applicant) at .....  
(state place of making declaration) on the ..... day of ..... 20...

.....  
SIGNATURE/MARK OF APPLICANT

**DECLARATION BY GUARANTOR NO 1:**

Name .....

Address .....

Occupation: .....

Phone number: .....

Email: .....

Relationship to applicant: .....

Why do you think the applicant should be granted bail?.....  
.....  
.....

I declare that:

- I have known the applicant for ..... years
- If the applicant is granted bail, I will make sure the applicant complies with all conditions of bail.
- I know that if I make any false or misleading statement I can be charged with contempt of court and if convicted of such a charge, fined and/or imprisoned.
- I know if the applicant goes missing or does not comply with any bail conditions the cash bail will be forfeited and I will, if ordered to do so, have to pay extra money to the State.

Declared at ..... (state place of making declaration) on the ... day of .... 20...

.....  
SIGNATURE/MARK OF GUARANTOR NO 1

**DECLARATION BY GUARANTOR NO 2:**

Name .....

Address .....

Occupation: .....



**BAIL RULES-FORM 3-POSITION OF THE STATE**

**THE POSITION OF THE STATE IS:** (tick the appropriate box)

- MORE TIME IS NEEDED**, being ..... (state number of days), due to (state reasons for needing more time for State’s position to be clarified):.....
- CONSENTS TO BAIL**
- OPPOSES BAIL**
- STRONGLY OPPOSES BAIL**

If bail is opposed or strongly opposed, tick any box that describes the grounds in s 9(1) of the *Bail Act* on which bail is opposed:

- (a) applicant unlikely to appear at trial if granted bail;
- (b) offence with which applicant has been charged was committed while on bail;
- (c) alleged offence consists of—
  - (i) serious assault; or
  - (ii) threat of violence to another person; or
  - (iii) possession of firearm, imitation firearm, other offensive weapon or explosive;
- (d) applicant likely to commit indictable offence if not in custody;
- (e) necessary for applicant’s own protection to be in custody;
- (f) applicant likely to interfere with witnesses or complainant;
- (g) alleged offence involves property of substantial value, not recovered and applicant would make efforts to conceal or otherwise deal with property;
- (h) extradition proceedings under the Extradition Act against applicant; or
- (i) alleged offence involves possession etc of narcotic drug;
- (j) alleged offence is one of breach of parole.
- NONE OF THE ABOVE**, the State’s position being: (state clearly the State’s position):  
 .....  
 .....  
 .....

.....  
Signed by or for the PUBLIC PROSECUTOR

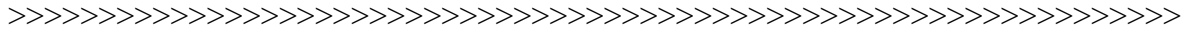
Name: .....

Position: .....





**BY THE COURT**



**BAIL RULES-FORM 7-CERTIFICATE OF REFUSAL TO GRANT BAIL**

**CERTIFICATE OF REFUSAL TO GRANT BAIL**

To ..... of .....

(A) WHEREAS you have been charged with *(state nature of offence)* and you are required to be present at the National Court on ..... and the Court is satisfied that you have failed to demonstrate that in all the circumstances your continued detention is unjustified on the following grounds, that —

OR *(strike out whichever of (A) or (B) is inapplicable)*

(B) WHEREAS you have been charged with wilful murder or treason *(strike out whichever is inapplicable)* and the Court is satisfied that you have failed to establish exceptional circumstances warranting bail on the following grounds, that —

you will not appear at your trial if granted bail;

the offence charged was allegedly committed while you were on bail;

the offence you are charged with consists of —

\*  (a) a serious assault;

\*  (b) a threat of violence to another person;

\*  (c) having or possessing a firearm, imitation firearm, or other offensive weapon or explosives;

\*  it appears you are likely to commit an indictable offence if you are not in custody;

\*  it is necessary for your own protection for you to be in custody;

it appears you are likely to interfere with witnesses or with the person who instituted the proceedings;

the alleged offence involves property of substantial value which has not been recovered and it appears that if released you would make efforts to conceal or otherwise deal with the property;

that there is in process or pending, extradition proceedings made under the *Extradition Act* (Chapter 49) against you;

that the alleged offence involved the possession, importation or exportation of a narcotic drug other than for your personal, medical use under prescription;

that the alleged offence is one of breach of parole;











**SUMMONS TO GUARANTOR TO SHOW CAUSE**

WHEREAS you are a guarantor for ..... (*insert name of person granted bail*) pursuant to a guarantor’s certificate issued on ..... (*insert date*) under which you guaranteed to ensure that that person complied with all of their bail conditions; and

WHEREAS the person granted bail has failed to appear at the time and place set for their trial and/or failed to comply with the following conditions of bail (*insert the relevant number or describe the bail condition breached*):

.....  
or

WHEREAS the applicant’s bail has been revoked by order of the Court,  
.....

YOU ARE SUMMONED TO APPEAR BEFORE THE NATIONAL COURT at .....  
on (*insert date*) ..... at ..... (*insert time*),

TO SHOW CAUSE WHY YOU SHOULD NOT BE ORDERED UNDER SECTION 19(7)  
OF THE BAIL ACT TO PAY THE SUM OF K..... TO THE STATE.

AND TAKE NOTICE THAT IF YOU FAIL TO COMPLY WITH THIS SUMMONS YOU  
CAN BE ARRESTED AND/OR THIS MATTER WILL BE DEALT WITH IN YOUR  
ABSENCE.

**BY THE COURT**

PROOF OF SERVICE (*to be completed by member of the Police Force or other person  
serving the summons and, where appropriate, the person on whom the summons was served*):

I, ....., (*insert name*), ..... (*insert  
rank or other description*) of ..... (*insert address*), who can  
be contacted on ..... (*insert phone number*), certify that I served this  
summons on the person being summoned, at .....  
(*insert place of service*) at ..... (*insert time*) on .....  
(*insert date*) by:

(a) handing the summons to the person being summoned who acknowledged its receipt by  
signing or putting their mark here:

....., dated ..... or

(b) putting the summons in front of the person and telling them the nature of the summons  
and leaving the summons with them/making a reasonable attempt to effect service; or

(c) effecting service as follows: .....  
.....













