

## Statutory Instrument 290 of 1991

### Supreme Court of Zimbabwe (Bail) Rules, 1991

#### *1. Title and date of commencement*

- (1) These rules may be cited as the Supreme Court of Zimbabwe (Bail) Rules, 1991.
- (2) These rules shall apply to applications and appeals in terms of section 111A which are made or noted on or after the 1st November, 1991.

#### *2. Interpretation*

In these rules —

“judge” means a judge of the Supreme Court, sitting otherwise than in open court;

“registrar” means the registrar of the Supreme Court or any deputy or assistant registrar of the Supreme Court.

#### *3. Reckoning of time*

Where anything is required by these rules to be done within a particular number of days or hours, a Saturday, Sunday or public holiday shall not be reckoned as part of such period.

#### *4. Departures from rules and directions as to procedure*

The Supreme Court or a judge may, in relation to any particular case before it or him, as the case may be —

- (a) direct, authorize or condone a departure from any provision of these rules, including an extension of any period specified therein, where it or he, as the case may be, is satisfied that the departure is required in the interests of justice;
- (b) give such directions as to procedure in respect of any matter not expressly provided for in these rules as appear to it or him, as the case may be, to be just and expedient.

#### *5. Bail applications*

(1) An application to a judge in terms of section 112 of the Criminal Procedure and Evidence Act [Chapter 9:07] for bail or for the alteration of conditions of bail shall be filed with the registrar and shall consist of a written statement setting out —

- (a) the name of the applicant; and
- (b) the applicant's residential address; and
- (c) if the applicant is employed, his employer's name and address and the nature of his employment; and
- (d) the offence of which the applicant has been convicted and the sentence that was imposed on him; and
- (e) the court or courts which convicted the applicant and imposed sentence upon him; and
- (f) the court criminal record book number, if that number is known to the applicant; and
- (g) the date or dates on which the applicant was convicted and sentenced; and
- (h) whether or not bail has previously been refused by a judge or magistrate and, if it has been refused —
  - (i) the grounds on which it was refused, if the grounds are known to the applicant; and (ii) the date on which it was refused; and
- (i) where the applicant seeks an alteration of the conditions of his bail, the conditions which he seeks to have altered; and
- (j) the grounds on which the applicant seeks release on bail or, as the case may be, the grounds on which he seeks to have the conditions of bail altered; and
- (k) where appropriate, the amount of bail which the applicant is prepared to give and the names of any persons who are prepared to stand as sureties for his attendance and appearance.

(2) As soon as possible after an application for bail has been filed in terms of subrule (1)— (a) the applicant's legal practitioner, where the applicant is legally represented; or (b) the registrar, where the applicant is not legally represented; shall—

- (i) cause a copy of the written statement referred to in subrule (1) to be served on the Attorney-General or his representative; and
- (ii) obtain a copy of the judgment of the court which convicted and additionally, or alternatively, sentenced the applicant, and cause the copy to be filed with the registrar or, where the registrar has secured a copy, cause it to be filed together with the written statement referred to in subrule (1), at least one day before the hearing of the application:

Provided that a judge may permit an application to be heard without a copy of the judgment having been so filed, if he is satisfied that to obtain such a copy would unreasonably delay the hearing of the application.

(3) The registrar shall set down an application for bail, after consultation with a representative of the Attorney-General, for hearing by a judge within four days after it was filed in terms of that subrule:

Provided that the four-day period may be extended by agreement between the applicant and the Attorney-General or, in terms of rule 4, by order of a judge.

(4) At least one day before the hearing of an application for bail, the Attorney-General shall cause the following documents to be filed with the registrar — (a) his written response to the application; and

(b) a copy of any comments which he has been able to elicit from the judge or magistrate who presiding over the applicant's trial;

and, where possible, he shall cause a copy of his response to be served on the applicant or the applicant's legal practitioner.

#### **6. Appeals by Attorney-General against grant of bail**

(1) An appeal by the Attorney-General in terms of paragraph (a) of subsection (1) of section 111A of the Criminal Procedure and Evidence Act [Chapter 9:07] shall be noted, within seven days after the judge of the High Court granted bail, by filing with the registrar a written statement setting out — (a) the name of the person who was granted bail; and

(b) the offence of which the person was convicted and the sentence that was imposed; and

(c) the court or courts which convicted the person and imposed sentence upon him; and

(d) the date or dates on which the person was convicted and sentenced; and

(d) the amount of bail granted and any conditions of the recognizance; and

(e) the grounds on which the Attorney-General seeks the revocation or alteration of bail.

(2) As soon as possible after filing an appeal in terms of subrule (1), the Attorney-General shall— (a) cause a copy of the statement referred to in that subrule to be served on—

(i) the person whose bail is the subject of the appeal and, if he is legally represented, on his legal practitioner; and

(ii) the judge whose decision is the subject of the appeal; and

(b) obtain a copy of the judgment of the court which convicted and additionally, or alternatively, sentenced the person whose bail is the subject of the appeal, and cause the copy to be filed with the registrar at least one day before the hearing of the application:

Provided that a judge may permit an application to be heard without a copy of the judgment having been so filed, if he is satisfied that to obtain such a copy would unreasonably delay the hearing of the appeal.

(3) Where practicable, a judge on whom a statement has been served in terms of paragraph (a) of subrule (2) shall file with the registrar his written comments on the appeal at least one day before the hearing of the appeal.

(4) The registrar shall set down an appeal referred to in subrule (1), after consultation with a representative of the Attorney-General and any legal practitioner representing the person whose bail is the subject of the appeal, for hearing by a judge within four days after the appeal was filed:

Provided that the four-day period may be extended by agreement between the Attorney-General and the person whose bail is the subject of the appeal or, in terms of rule 4, by order of a judge.

(5) Where the person whose bail is the subject of an appeal referred to in subrule (1) is legally represented, his legal practitioner shall cause his written response to the appeal to be filed with the registrar within three hours before the hearing of the appeal and, where practicable, shall cause a copy of his response to be served on the Attorney-General or his representative.

#### **7. Urgency of bail applications and appeals**

(1) The registrar shall ensure that every application or appeal referred to in these rules is set down for hearing with the utmost urgency.

(2) Whenever it comes to the attention of a prison officer in charge of a prison that a prisoner lodged therein wishes to apply for bail or appeal against the refusal of bail in terms of these rules, the prison officer shall ensure that—

(a) the prisoner is provided with appropriate forms and adequate facilities with which to make the application or appeal; and

(b) any forms or documents completed by the prisoner in connection with his application or appeal are forwarded to the registrar without any delay for filing in terms of these rules