

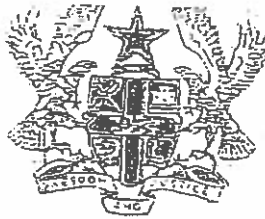
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OCJ/P VOL.65

My Ref. No. ....

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0302-561810 (Direct)



REPUBLIC OF GHANA

OFFICE OF THE JUDICIAL SECRETARY

P. O. Box 119

Accra, Ghana

13<sup>TH</sup> NOVEMBER 2019

CIRCULAR

TO: ALL JUDGES AND MAGISTRATES

RE: PRACTICE DIRECTION (DETERMINATION OF BAIL AND CONSEQUENTIAL MATTERS), 2019

Her Ladyship the Chief Justice has issued a Practice Direction in line with determination of bail and consequential matters, which takes effect from 1<sup>st</sup> November, 2019.

By this circular, all Judges and Magistrates are to take note and comply with the Direction.

This circular supersedes the earlier one dated 31<sup>st</sup> October 2019 on the above subject matter.

Please accept the compliments of Her Ladyship the Chief Justice.

CYNTHIA PAMELA A. ADDO (MS.)  
JUDICIAL SECRETARY

CC: HER LADYSHIP THE CHIEF JUSTICE





## PRACTICE DIRECTION (DETERMINATION OF BAIL AND CONSEQUENTIAL MATTERS), 2019

A DIRECTION to provide guidelines and uniform standards in the application of the factors that the Court must take into consideration in determining bail and to provide for related matters.

Whereas the Accused has the right to life<sup>1</sup> and the right to his personal liberty<sup>2</sup> subject to certain restraints,

Being guided by the constitutional provision that where an Accused person is not tried within a reasonable time, then, he shall, without prejudice to any further proceedings that may be brought against him, be released either conditionally or unconditionally<sup>3</sup>,

Being informed by the Supreme Court decision in *Martin Kpebu (No. 1) v Attorney General (No. 1)* that a surety cannot be committed to prison upon failure to comply with the terms of a bail bond<sup>4</sup>,

Being informed by the Supreme Court decision in *Martin Kpebu (No. 2) v Attorney General (No. 2)* that no offence is unbailable and that the Court has unfettered discretion to grant bail using the time-honoured principles and traditions that have guided the Courts and also as provided in section 96 (4) and (5) of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30)<sup>5</sup>,

I direct that, until statutory provisions are made, the determination of bail and its consequential matters in all trial Courts shall be governed as follows:

<sup>1</sup> The Constitution, article 23

<sup>2</sup> The Constitution, article 14 (1)

<sup>3</sup> The Constitution, article 14 (4)

<sup>4</sup> *Martin Kpebu (No. 1) v Attorney-General (No. 1)* [2015-2016] 1 SCGLR 143

<sup>5</sup> Dotse JSC in *Martin Kpebu (No. 2) v Attorney-General (No. 2)* [2015-2016] 1 SCGLR 171 at 235-240

## 1. DETERMINATION OF BAIL

### 1) General Provisions

- a) A Court of competent jurisdiction in a criminal proceeding must direct its mind to the constitutional presumption of innocence<sup>6</sup> and personal liberty<sup>7</sup> of the Accused and accordingly the Accused must be tried within a reasonable time<sup>8</sup>.
- b) A Court which does not have jurisdiction to try a case shall not grant bail in that case<sup>9</sup>.

### 2) Determinants of Bail

In determining bail, the Court shall take into consideration the following factors:

#### *1. Whether the trial of the Accused has delayed unreasonably<sup>10</sup>*

- a) In the instance where the trial of the Accused delays unreasonably, he must be granted bail upon conditions reasonable to ensure his attendance in Court to stand trial<sup>11</sup>.
- b) What amounts to unreasonable delay shall be determined on a case by case basis.

<sup>6</sup> The Constitution, article 19 (1)(c)

<sup>7</sup> The Constitution, article 14 (1)

<sup>8</sup> The Constitution, article 14 (4); and *Brefoh v The Republic* [1980] GLR 679 at 701 where the Court stated that: "reasonable time for an act is such period of time the duration of which may be fairly conceded by any reasonable person having regard to the purpose for which the time is required, the nature of the act or duty to be performed and all the attendant circumstances reasonably existing or anticipated or supervening... the condition of reasonable time has been frequently interpreted, and has invariably been held to mean that the party upon whom it is incumbent duly fulfils his obligation, notwithstanding protracted delay, so long as such delay is attributable to causes beyond his control and he has neither acted negligently nor unreasonably."

<sup>9</sup> Dotse JSC in *Martin Kpebu (No. 2) v Attorney-General (No. 2)* [2015-2016] 1 SCGLR 171 at 234, comments that: "The practice where Courts which do not have jurisdiction to try an offence grant accused persons bail should not only be frowned upon but should actually not be the practice... thus, it is only the Court, having jurisdiction to try an offence that can on the facts as presented decide that this offence is one of murder, rape, robbery etc. or some other offence, and then consider whether on the facts as presented after bail hearings, to grant or refuse bail."

<sup>10</sup> The Constitution, article 14 (4); There is no unreasonable delay in bringing a case to trial within the meaning of article 14 (4) of the Constitution when by the time the bail application is heard, the trial is already on going see *Gorman v The Attorney-General* [2003-2004] 2 SCGLR 734 at 811 wherein it was stated: "There has been no unreasonable delay in bringing the case to trial; indeed, the trial is currently going on."

<sup>11</sup> *Mwaku and Others v The Republic* [1997-98] 1 GLR 911 at 919

c) In determining what amounts to unreasonable delay, the Court shall consider the following:

1. The number of witnesses that the Prosecution needs<sup>12</sup> to call.
2. The number of counts that the Accused has been charged with.
3. The number of essential elements of the offence(s) with which the Accused has been charged which have to be proved by the Prosecution.
4. Whether in proving any essential element the Prosecution requires a report or document from an institution or establishment over which the Prosecution does not have control.
5. Any special circumstances of the case including, but not limited to, the following:
  - i. Deteriorating health condition of the Accused<sup>13</sup> or any of the witnesses in the case.
  - ii. Advanced age of the Accused or any of the witnesses in the case.
  - iii. The sensitive / public interest nature of the case.
  - iv. The likelihood of the trial of the Accused not starting any sooner<sup>14</sup>.

<sup>12</sup> In determining the number of witnesses that the Prosecution needs to call, the Court shall exclude witnesses whose evidence is irrelevant or repetitive (except where corroboration is required by law - section 7 (3) of the Evidence Act, 1975 (NRCD 323); sections 107 (2) and 183 (9) of the Criminal Offences Act, 1960 (Act 29) in respect of the offences of (a) Procuration and (b) Prohibition and importation or publication of newspaper, sedition respectively, the proof of which requires corroboration). This is because, in law, only relevant evidence is admissible: see section 51 (2) of the Evidence Act, 1975 (NRCD 323).

<sup>13</sup> The Supreme Court, in *Gorman & Ors v The Republic [2003-2004] 2 SCGLR 784*, per Prof. Ocran JSC, at page 798 of the report, stated as: "...one would surmise [guess] that any reasonable ground, such as the deterioration of the health of the accused while in detention, would suffice as a proper ground for the grant of bail. But this is made subject to other provisions..."

<sup>14</sup> Where an applicant for bail alleges that there is no likelihood of the Accused being tried within a reasonable time, the burden is on him to provide some material proof before the Court to give the Court an indication that the trial shall not be conducted within a reasonable time; bare allegation will not suffice for the grant of bail: see the Evidence Act, 1975 (NRCD 323) section 14 and *Republic v Arthur [1932-83] 249 at 250*

2. *Whether the Accused is suffering from an infectious or contagious disease, a person of unsound mind, a person addicted to drugs or alcohol or a vagrant, for the purpose of his care or treatment or the protection of the community*<sup>15</sup>
3. *Whether the life of the Accused is in danger which the Court must protect*<sup>16</sup>
4. *Whether the health condition of the Accused has deteriorated due to the failure of the Prosecution or persons keeping custody of the Accused to grant him access to health*<sup>17</sup>
5. *Whether the Accused has contracted a serious disease directly as a result of any insanitary condition in the custody where he is kept*<sup>18</sup>
6. *Whether the Accused may not appear to stand trial*<sup>19</sup>

In determining whether the Accused may not appear to stand trial, the Court should consider the following<sup>20</sup>:

- i. *The nature of the accusation*<sup>21</sup> - The Court shall take into account the gravity and seriousness of the offence. Where the offence is grave or of a serious nature, the probability that the Accused may not appear in Court to stand his trial is greater than where the accusation is trivial;
- ii. *The nature of evidence in support of the accusation*<sup>22</sup> - Where the evidence points to guilt, the Accused is more unlikely to appear for his trial than when the evidence does not;

<sup>15</sup> Where the Court suspects that the Accused is suffering from an infectious or contagious disease, a person of unsound mind, a person addicted to drugs or alcohol or a vagrant, the Court shall remand him to the appropriate institution or facility for the purpose of his care or treatment or the protection of the community: see the Constitution, article 14 (1)(d)

<sup>16</sup> The Constitution, article 13

<sup>17</sup> The Constitution, article 13

<sup>18</sup> *Choe v The Republic* (1975) 1 GLR 80

<sup>19</sup> See the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) section 96 (5). The main consideration for the Court in determining bail shall be to ensure the attendance of the Accused in Court to stand trial: see *R v Rose* (1995-1996) All ER 150

<sup>20</sup> See the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) section 96 (5).

<sup>21</sup> *R v Robinson* (1954) 23 QCB 286 and *Berman v. On v The Republic* (2003-2004) 2004 (1) JLR 284 at 802-803

<sup>22</sup> *R v Robinson* (1954) 23 QCB 286 and *Berman v. On v The Republic* (2003-2004) 2004 (1) JLR 284 at 802

- iii. *The severity of punishment which conviction will entail<sup>23</sup> - The probability of the Accused not appearing for his trial is directly linked to the gravity of the offence with which he has been charged. Therefore, where the charge carries severe punishment, the probability of the Accused not appearing to stand his trial is higher than when the punishment is not severe;*
- iv. *Whether the Accused having been released on bail on a previous occasion has willfully<sup>24</sup> failed to comply with the conditions of the recognisance entered into by him on that occasion;*
- v. *Whether or not the Accused has a fixed place of abode in the Republic, or is gainfully employed;*
- vi. *Whether the sureties are independent, of good character, and of sufficient means<sup>25</sup>.*

**7. Whether the Accused may interfere with a witness or evidence, or in any way hamper police investigation**

In determining whether the Accused may interfere with a witness or evidence, or in any way hamper police investigation, the Court must be guided by considerations including:

- i. Whether, on the facts, the Accused has the capacity to interfere with the witness or evidence.
- ii. Whether investigations in the case have been completed.
- iii. If investigations are not complete, whether the Prosecution could have completed the investigation before bringing the Accused to Court.

**8. Whether Accused may commit further offence when on bail**

In determining whether the Accused may commit further offence when on bail, the Court shall consider, among other things, the following:

- i. The inchoate nature of the offence, especially Attempt.

<sup>23</sup> *R v Robinson* [1854] 23 LQ8 285 and *Gorman & Ors v The Republic* [2003-2004] 2 SCGLR 784 at 802

<sup>24</sup> The Court must ascertain that the failure was deliberate and in bad taste

<sup>25</sup> *Okoe v The Republic* [1976] 1 GLR 59 at 94

- ii. Whether given the nature of the offence, such as offence against the person and sexual offences, the Accused may be bonded not to be seen together with the victim of the offence or in the vicinity of the place where the victim resides during the trial period.

9. *Whether the Accused is charged with an offence punishable by imprisonment exceeding six months which is alleged to have been committed while the Accused was on bail*<sup>26</sup>

10. *Whether the bail applicant is a female convict who is pregnant*<sup>27</sup>

## 2. REMAND

- 1) Where the Court refuses to grant bail, it shall remand<sup>28</sup> the Accused into the custody from which he was brought to Court, unless there is reason to order otherwise.
- 2) Where bail has been granted to the Accused but he is unable to fulfil the bail conditions, the Court shall issue a default remand warrant for the Accused person to be kept in custody pending the fulfilment of the bail conditions, and accordingly, it shall be bold written at the top of the warrant, in red ink and in capital letters, "AWAITING FULFILMENT OF BAIL CONDITIONS", before the Judge or Magistrate signs the warrant. A default remand warrant automatically lapses upon due fulfilment of the bail conditions, and accordingly, the Accused person must forthwith be released from custody any time he is able to fulfil the bail conditions.
- 3) Where the Accused has been granted bail but he is unable to fulfil the bail conditions, the case shall be treated for all intents and purposes as a remand case, and the terms of sub-paragraphs 4 and 5 of this paragraph shall apply.

<sup>26</sup> See the Criminal and Other Offences (Procedure) Act, 1950 (Act 30) section 95 (5)(d)

<sup>27</sup> Where a female of child-bearing age is convicted, and death or custodial sentence is to be imposed, the Court shall order pregnancy enquiry to be conducted on her: see the Constitution, articles 13, 14 and the Criminal and Other Offences (Procedure) Act, 1950 (Act 30) sections 312, 313 and 313A; Where the outcome of the enquiry turns out to be positive for pregnancy, the female convict shall be admitted to bail on terms necessary to ensure her appearance in Court at a later date for sentencing: see the Criminal and Other Offences (Procedure) Act, 1950 (Act 30) section 318 (1); Where the Accused is sentenced to a fine and the Court issues a distress warrant (see the Criminal and Other Offences (Procedure) Act, 1950 (Act 30) section 317), the Court may suspend the execution of the sentence of imprisonment and may admit the Accused to bail on terms that are reasonable for his re-appearance before the Court to serve his sentence: see the Criminal and Other Offences (Procedure) Act, 1950 (Act 30) section 318; subsection 3 shall equally apply to the situation where a fine is imposed on a convicted female of child-bearing age and she is unable to pay the fine.

<sup>28</sup> The Court shall not remand the Accused into custody for more than fourteen clear days: see the Criminal and Other Offences (Procedure) Act, 1950 (Act 30) section 153 (1); This is subject to the Court's duty under article 14 (1)(d) of the Constitution to remand the Accused to the appropriate institution or facility for the purpose of the care or treatment or the protection of the community.



- 4) The hearing of cases in which an Accused person is in custody shall have priority over those in which the Accused persons are on bail.
- 5) Where the Accused is in custody, the Court shall ensure that there is a warrant for the purpose and the case shall be adjourned to a specific date<sup>29</sup> for the Accused to be brought to Court. The Court shall ensure, in cases where the Accused is subsequently remanded into custody, that the warrant is duly renewed.
- 6) No criminal case shall be adjourned *sine die*.

### 3. BAIL CONDITIONS<sup>30</sup>

Where the Court decides to grant bail, in determining the amount and conditions of the bail as stated in section 96 (3) of Act 30, it shall take into account the following:

- a) *The quantum of the bail sum* - In determining the quantum of the bail sum, the Court must consider:
  - i. The number of counts the Accused is charged with,
  - ii. The nature and degree of the offence in each count,
  - iii. In respect of offences against the right to property, the value of the property the subject matter of the offence.
- b) *Whether the bail shall be by self-recognition*<sup>31</sup> - In determining whether the bail shall be by self-recognition, the Court shall consider the status and prominence of the Accused in the community and the assurance that he will re-appear to stand his trial.
- c) *Whether the bail shall be with sureties* - Where the bail is to be with sureties, the normal practice where two (2) persons stand as sureties shall be maintained, unless the Court has good reason to vary it.

<sup>29</sup> The Court shall not remand the Accused into custody for more than fourteen clear days: see the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) section 169 (2);

<sup>30</sup> Where bail has been granted, the amount and conditions of the bail shall be fixed with due regard to the circumstances of the case and the amount and conditions of bail shall not be excessive or harsh: see the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) section 96 (3) and see *Practice & Procedure in the Trial Courts & Tribunals of Ghana* (2011) by Justice S. A. Brobbey, at 547

<sup>31</sup> It is the release of the defendant in a criminal case in which the Court takes the defendant's word that he will appear before the Court for a scheduled matter or when called to appear. This type of release dispenses with the necessity of the person's posting money or having a surety sign a bond with the Court: *Black's Law Dictionary* (9<sup>th</sup> ed.) at page 1386. The Accused can be granted bail on his own recognition. A self-recognition bail shall be granted to persons considered to be prominent in the society. A self-recognition bail does not require justification or security.

d) *Whether the bail should be with justification* - In determining whether the sureties are to be justified, the Court shall take into consideration the quantum of the bail sum and the need for its realisation<sup>32</sup>.

e) *Whether the Accused has to report to the Police periodically while on bail* - In determining whether the Accused has to report to the Police periodically, the Court shall take into consideration, among others, the following:

- i. Whether the Accused has to assist the Police in further or other investigations.
- ii. Whether the activities of the Accused have to be monitored when on bail.

f) *Whether the passport of the Accused has to be deposited at the registry of the Court while on bail* - The Court shall not order the passport of the Accused to be deposited at the registry of the Court unless it is satisfied that the Accused indeed has a passport and he is likely to leave the jurisdiction when granted bail. When the passport is so deposited and the bail ceases to be operational upon the determination or striking out of the case, the passport shall be released to the Accused person, at no cost to him.

#### 4. FULFILMENT OF BAIL CONDITIONS

##### 1) General Provisions

a) Without prejudice to the duty of the Investigator in the case to locate the place of abode of a surety and to inspect and verify any property in the fulfilment of bail conditions, it shall be the duty of the Registrar<sup>33</sup> of the Court to determine the question as to whether the surety is independent, of good character, and of sufficient means<sup>34</sup>.

b) In determining whether the surety is independent, of good character, and of sufficient means, the Registrar shall conduct the necessary enquiries,

<sup>32</sup> To ensure the due realisation of the bail sum upon breach of performance of the bail conditions, the Court is more likely to require the sureties to be justified when it is of the considered opinion that the bail sum is generally far above the net worth of the average member of the community within the jurisdiction of the Court, than where the bail sum is far below the net worth of the average member.

<sup>33</sup> This is subject to section 74 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) where, in the case of taking direct security, the Police Officer in charge of a Police station to whom an arrested person entitled to be released on bail is brought, has the duty to release that person while the person enters into a bond with or without sureties approved by that Officer.

<sup>34</sup> Order of The Republic (1976), 1, 20, 40.

including requesting the surety to produce any relevant document(s), and the Registrar shall take responsibility for the determination.

- c) The cost of transportation to locate the place of abode of a surety shall be borne by the surety.
- d) It shall be the duty of the Court to explain to Parties and all concerned, in open Court, that save for the deposit in lieu of executing a bail bond, in respect of which an official receipt shall be issued, the fulfilment of bail conditions does not involve payment of any money whatsoever to the Judge / Magistrate, a Court Officer or to any person for that matter.
- e) It shall also be the duty of the Court to ensure that the dockets of persons who are released on bail contain the relevant executed bail bonds.
- f) The bail bond once executed shall operate until the case has been determined<sup>35</sup>, struck out<sup>36</sup> or a surety under the bond has made an application to the Court to be discharged from the bond and the application has been granted.
- g) An application for discharge from a bail bond shall not be granted unless the surety has produced the Accused before the Court or the Accused is otherwise present in Court.
- h) Amendment of the charge sheet or the facts of the Prosecution's case shall not affect the operation of an executed bail bond<sup>37</sup>.
- i) Transfer of a case from one Court to the other shall not affect the operation of an executed bail bond<sup>38</sup>.

## 2) Deposit instead of Recognisance<sup>39</sup>

- a) The Court does not have the power to order payment of money in lieu of recognisance. It is solely the option of the Accused to make such payment<sup>40</sup>.

<sup>35</sup> A Criminal case may be determined by Acquittal at the close of case for the Prosecution or upon Judgment after full trial.

<sup>36</sup> A Criminal case may be struck out for want of jurisdiction, for want of prosecution, as withdrawn or as settled.

<sup>37</sup> A bail bond is specific to the case in which the bail was granted, as per the suit number of the case. Simply put, the bail bond lives and dies with the case number.

<sup>38</sup> A bail bond is specific to the case in which the bail was granted, as per the suit number of the case. Simply put, the bail bond lives and dies with the case number.

<sup>39</sup> See the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) section 99

<sup>40</sup> See the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) section 99 (1)

- b) Where the Accused opts to pay deposit in lieu of recognisance, the money shall be paid into Court and a Judicial Service payment receipt shall be issued to the Accused. The Court must order the deposit to be paid into an interest-yielding account.
- c) Where deposit has been paid in lieu of recognisance, the deposit at its face value shall be released to the Accused, upon the determination<sup>41</sup> or striking out of the case. The deposit shall be released to the Accused upon presentation of the Judicial Service payment receipt, at no cost to him.
- d) Where the Accused elects to pay a deposit in lieu of recognisance, he shall complete and sign the **Form 3: Deposit (Bail)** attached to this Direction as Appendix 3.

### 3) Self-Recognisance

Self-Recognisance bail shall be executed by the Accused completing and signing **Form 2: (Self-Recognisance)** attached to this Direction as Appendix 2.

### 4) Surety without justification

Bail bond without justification shall be executed by the surety completing and signing **Form 1: (Bail / Recognisance)** attached to this Direction as Appendix 1.

### 5) Surety with Justification

Bail bond with justification shall be executed by the surety completing and signing **Form 1: (Bail / Recognisance)** and **Form 4: Justification (Bail)** attached to this Direction as Appendices 1 and 4 respectively.

## 5. FORFEITURE OF RECOGNISANCE

Where a recognisance has been forfeited<sup>42</sup> in accordance with section 104 of Act 30, notice of forfeiture of the recognisance shall be served on the person(s) bound by the recognisance to appear before the Court at the next sitting of the Court. The

<sup>41</sup> Irrespective of whether the determination is a conviction or an acquittal

<sup>42</sup> Where the Court is unable to recover the bail sum on attachment and sale, the surety must be remanded to prison; see the Constitution, article 14 and *Martin v Attorney-General (No. 3)* [1977] 133 SCLR 143 where the Court held that, the practice where persons are committed to prison for not fulfilling bail conditions was unconstitutional even though the relevant provision under the Criminal and Quasi-Criminal Offences Act (Procedure, Act No. 30 of Act 30) had not been repealed.

Investigator in the case shall effect service of the notice and shall have the service duly sworn before the Registrar of the Court.

## 6. APPLICATION

- 1) This Direction shall apply to:
  - a) Bail in summary trials and trials on indictment in criminal proceedings.
  - b) Bail in contempt proceedings.
  - c) Bail in civil proceedings involving an absconding defendant, an interim attachment of properties or proceedings in family cases and matrimonial causes<sup>43</sup>.
- 2) This Direction shall not apply to police enquiry bail.

## 7. INTERPRETATION

In this Direction,

- a) "Accused" is a person formally charged with an offence or offences before a Court of competent jurisdiction for trial, and may, in the appropriate case, refer to a Defendant or a Respondent.
- b) "Bail" means the procedure by which an Accused or a convict is set at liberty on terms reasonable for his re-appearance before the Court at a later date<sup>44</sup>.
- c) "Bail bond" means written deposition signed by an Accused or a surety, as security for ensuring that the Accused re-appears in Court at a later date.
- d) "Court" means a Court with jurisdiction to grant or refuse bail.

<sup>43</sup> The defendant in a civil case who is not able to show cause why he should not give good and sufficient security against a judgment for attempting to dispose or remove his property or substantial part thereof from the country, or is involved in matrimonial cause and that by reason of any of these, an execution of any judgment which may be given against him is likely to be obstructed or delayed, may be asked to provide a security in the form of a bail bond or any valuable property sufficient to satisfy the claim and cost. If he is unable to provide any such security, he may be committed to custody for a maximum of twenty-one days during which the case has to be disposed: see District Court Rules, 2009 (CI 59), Order 12 rule 4; *Tafa & Co. (Ghana) Ltd v Tafa & Co. Ltd* [1977] 1 GLR 422; and see *Practice & Procedure in the Trial Courts & Tribunals of Ghana* (2011) by Justice S. A. Brobbey at 539

<sup>44</sup> *Republic v Registrar of High Court; Ex Parte Attorney-General* [1982-83] GLR 407 at 417

- e) "Deposit" refers to a sum of an amount determined by the Court to be paid by a person at his request as security in lieu of executing a bail bond<sup>45</sup>.
- f) "He" and "His" include their feminine references.
- g) "Justification" is the act of a surety swearing to an affidavit before the Court that the depositions he has made to the Court for the release of an Accused person on bail are true and correct to the best of his knowledge and belief, and that should the contrary be the case, he renders himself liable for perjury.
- h) "Party" refers to the Accused or the Prosecution.
- i) "Prosecution" covers the Attorney-General and all persons authorised by the Attorney-General to prosecute criminal offences in Ghana.
- j) "Recognisance" includes 'bail bond'.
- k) "Surety" is a person who executes a bond for the release of an Accused person on bail.

This Practice Direction comes into force on 1<sup>st</sup> November, 2019.

Sgd.  
Sophia A. B. Akuffo  
Chief Justice of the Republic of Ghana

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<sup>45</sup> See the Criminal and Other Offences (Procedure) Act, 1960 (Act 20) section 73 (1)

**FORM 1: (BAIL / RECOGNISANCE)**  
[Sections 74, 84, 96, 97 and 190 of Act 30]

IN THE ..... COURT OF JUSTICE, .....  
IN THE CASE OF ..... SUIT NO. ....  
WHEREAS, ..... the principal party has been charged with:  
[name of principal party]

.....  
[state cause of complaint with time, date and place]

.....  
[state cause of complaint with time, date and place]

The undersigned as surety / sureties to this recognisance agree(s) to, and is/are hereby bound to ensure that the principal party, appears before the Court at ..... on the ..... day of ..... 20 ..... and on any other day or subsequent day when required by the Court to answer the charge and be dealt with according to the law.

And the undersigned surety / sureties hereby acknowledge(s) themselves bound to forfeit to the Republic the sum of Gh¢..... each, in case the principal party fails to perform the above obligation or part of the obligation.

NAME.....  
RES. ADDRESS.....

OCCUPATION.....  
TEL NO.....  
SIGNATURE / THUMBPRINT  
*[Provide a Juret overleaf where the surety is an illiterate]*

AFFIX A COPY OF VALID PHOTO IDENTIFICATION CARD OF SURETY  
*[cut to size]*

*(e.g. National ID, Voter's ID, Driver's License, Passport, National Health Insurance Card, SSNIT Card, etc.)*

NAME.....  
RES. ADDRESS.....

OCCUPATION.....  
TEL NO.....  
SIGNATURE / THUMBPRINT  
*[Provide a Juret overleaf where the surety is an illiterate]*

AFFIX A COPY OF VALID PHOTO IDENTIFICATION CARD OF SURETY  
*[cut to size]*

*(e.g. National ID, Voter's ID, Driver's License, Passport, National Health Insurance Card, SSNIT Card, etc.)*

Signed, sealed and delivered by the surety / sureties  
Before me at ..... this ..... day of ..... 20 .....

.....  
(Signed)

CONFIDENTIAL



**FORM 2: (SELF-RECOGNISANCE)**  
[Sections 74, 84, 96, 97 and 190 of Act 30]

IN THE ..... COURT OF JUSTICE, ..... SUIT NO. ....  
IN THE CASE OF .....  
WHEREAS, ..... the principal party has been charged with:  
(name of principal party)

.....  
(state cause of complaint with time, date and place)

.....  
(state cause of complaint with time, date and place)

The undersigned as principal party to this recognisance agrees to, and is hereby bound to appear before the Court at ..... on the ..... day of ..... 20..... and on any other day or subsequent day when required by the Court to answer the charge and be dealt with according to the law.

And the principal party hereby acknowledges himself / herself bound to forfeit to the Republic the sum of Gh¢..... in case the principal party fails to perform the above obligation or part of the obligation.

NAME.....  
RES. ADDRESS.....  
OCCUPATION.....  
TEL:NO.....  
SIGNATURE / THUMBPRINT  
[Provide a Jurat overleaf where the principal party is an illiterate]

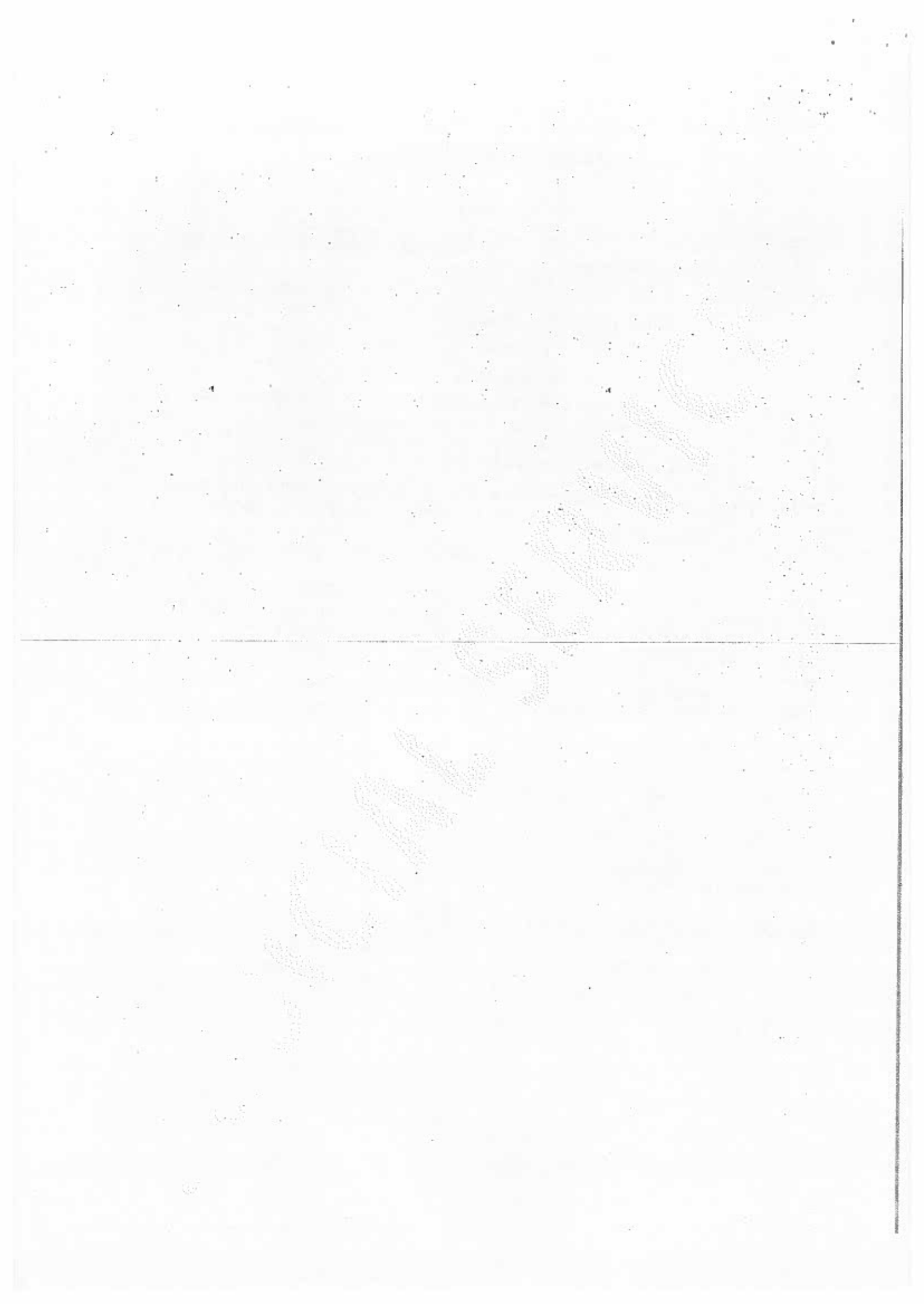
AFFIX A COPY OF VALID PHOTO IDENTIFICATION CARD OF PRINCIPAL PARTY  
(cut to size)

*(e.g. National ID, Voter's ID, Driver's License, Passport, National Health Insurance Card, SSNIT Card, etc.)*

*Signed, sealed and delivered by the principal party*

Before me at ..... this ..... day of ..... 20.....

.....  
(Signed)



**FORM 3: DEPOSIT (BAIL)**

[Section 99 of Act 30]

IN THE ..... COURT OF JUSTICE, .....

IN THE CASE OF ..... SUIT NO. ....

I, the undersigned, as an Accused person in the above-mentioned case, having opted to pay a deposit instead of executing a bond for my bail, do hereby deposit a sum of Gh¢....., as has been determined by the Court, as security for the due performance of the conditions imposed by the Court for my bail.

On breach of the due performance of the conditions imposed on me by the Court, or part thereof, the sum of Gh¢..... paid by me as deposit for my bail may be forfeited to the Republic in the same manner and to the same extent as if a bond for the amount of the deposit had in fact been executed, without prejudice to my re-arrest for the completion of the case.

Judicial Service Payment Receipt Number.....

NAME OF ACCUSED PERSON.....

RESIDENTIAL ADDRESS.....

OCCUPATION.....

TEL NO.....

DATE.....

SIGNATURE / THUMBPRINT

*(Provide a Jurat overleaf where the Accused person is an illiterate)*

CONFIDENTIAL SEARCH

**FORM 4: JUSTIFICATION (BAIL)**  
[Sections 74, 84, 96, 97 and 190 of Act 30]

IN THE ..... COURT OF JUSTICE, .....  
IN THE CASE OF ..... SUIT NO. ....

I/We as undersigned surety / sureties do make oath and say as follows:

1. That I/we am/are the deponent(s) herein and of the full age of 18 years.
2. That my/our residence and occupation are correctly stated on this form and I/we am/are worth in property to the amount of Gh¢..... over and above all encumbrances and over and above what will pay my/our just debts and every sum for which I/we am/are liable as surety / sureties.
3. That the depositions I/we make to the Court for the release on bail of ..... an Accused person in the above-mentioned case, are true and correct to the best of my/our knowledge and belief, and that, should the contrary be the case, I/we render myself/ourselves liable for the crime of perjury.

NAME.....  
 RES. ADDRESS.....  
 .....  
 OCCUPATION.....  
 TEL NO.....  
 SIGNATURE / THUMBPRINT  
*[Provide a Jural overleaf where the surety is an illiterate]*

AFFIX A COPY OF VALID PHOTO IDENTIFICATION CARD OF SURETY  
*(cut to size)*  
 (e.g. National ID, Voter's ID, Driver's License, Passport, National Health Insurance Card, SSNIT Card, etc.)

NAME.....  
 RES. ADDRESS.....  
 .....  
 OCCUPATION.....  
 TEL NO.....  
 SIGNATURE / THUMBPRINT  
*[Provide a Jural overleaf where the surety is an illiterate]*

AFFIX A COPY OF VALID PHOTO IDENTIFICATION CARD OF SURETY  
*(cut to size)*  
 (e.g. National ID, Voter's ID, Driver's License, Passport, National Health Insurance Card, SSNIT Card, etc.)

Signed, sealed and delivered by the surety / sureties

Before me at ..... this ..... day of ..... 20.....

(Signed)

CONFIDENTIAL SERVICE