

THE SUPREME COURT OF THE FEDERATION OF MALAYA

REGISTRAR'S CIRCULAR No: 19/48

CRIMINAL TRIALS IN THE HIGH COURT.

BAIL BONDS AND BONDS TO GIVE EVIDENCE.

Reference is made to sections 44 and 45 of the Courts Ordinance, 1948. The Chief Justice does not intend, in the ordinary course, to appoint assizes, but that the Judges should continue fixing criminal cases in the High Court as they arise, as is done at present. This raises certain difficulties as regards bail bonds and bonds to give evidence. The statutory form of bail bond, Form XXXIX in the Second Schedule to the Criminal Procedure Code, does not mention the date of appearance in the High Court and the form itself is perfectly appropriate to the new circumstances. It is, however, necessary, in any case where an accused person is to be committed for trial before the High Court and the Magistrate intends to allow him bail, that he should be committed to appear on a specific day, and not merely "on a date of which he will be given notice." This is necessary in order to preserve the liability of the bailors, who would otherwise be discharged if the accused disappeared before notice of the date of hearing could be served upon him. The following practice will therefore be adopted in all such cases:-

The committing Magistrate will require the accused to appear before the High Court on the first working day of the next month, unless that date is so close that the record might not reach the High Court in time, in which case the Magistrate will appoint the first working day of the succeeding month. The prisoner and his bailors will then attend the High Court and the case will be fixed for hearing. They will thus be informed of the definite date of hearing, bail will be extended and a new bond will have to be entered into in the High Court. This procedure does not apply where the accused person is committed to the High Court for trial and is not given bail; in that event he will be committed, as now, for trial "on a date to be fixed by the High Court".

The position as regards bonds to give evidence, Form Courts 130, is somewhat different. In the few exceptional cases where the Magistrate requires sureties under section 145 (ii) of the Criminal Procedure Code the same procedure must be adopted as is outlined above in the case of an accused person. These cases are, however, very rare. In the normal case, where the bond is taken without sureties, Form 130 should be amended by striking out the words "at the assizes next ensuing fixed to begin at.....o'clock on theday of next, or else" and also the words "during the said assizes". The witness will then be bound to attend at the time of which notice will be served upon him.

The Federal Registry,
Supreme Court,
Federation of Malaya.

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REGISTRAR.

Kuala Lumpur, 31st December, 1948

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