

**THE CRIMINAL PROCEDURE (DIRECTIONS IN
THE NATURE OF HABEAS CORPUS) RULES**

ARRANGEMENT OF SECTIONS

1. Citation.
 2. Application to judge in chambers.
 3. Issue of summons.
 4. Where custody public, copy of summons to be served on Attorney-General.
 5. Affidavits in reply.
 6. Date of return to summons.
 7. Admission to bail pending hearing.
 8. Procedure at hearing.
 9. Order of release to be directed to gaoler.
 10. Habeas corpus ad testificandum.
 11. Production of civil prisoner for trial by court martial or commissioners.
 12. Production of prisoner in court.
-

THE CRIMINAL PROCEDURE (DIRECTIONS IN THE NATURE OF HABEAS CORPUS) RULES

[Legal Notice 70 of 1948, Legal Notice 474 of 1963]

1. Citation.

These Rules may be cited as the Criminal Procedure (Directions in the Nature of *Habeas Corpus*) Rules.

2. Application to judge in chambers.

An application for the issue of directions in the nature of *habeas corpus* shall be made in the first instance to a judge in chambers *ex parte*, supported by affidavit in triplicate.

3. Issue of summons.

If the application is not dismissed, the judge shall order a summons to be issued directed to the person in whose custody the person alleged to be improperly detained is said to be, requiring his appearance in person or by advocate, together with the original of any warrant or order for the detention, at a place and time named therein, to show cause why the person so detained should not be forthwith released.

4. Where custody public, copy of summons to be served on Attorney-General.

The summons shall be accompanied by a copy of all affidavits lodged in support of the application, and where the person detained is in public custody a duplicate of the application, of the summons and of all affidavits lodged in support thereof shall be forwarded to the Attorney-General.

5. Affidavits in reply.

Affidavits in reply shall be filed in duplicate, of which one copy shall be served on the applicant.

6. Date of return to summons.

The date fixed for the return to the summons shall be as soon as may be convenient after its issue to permit of the attendance of the parties served.

7. Admission to bail pending hearing.

Pending the return to the summons, the person detained, if in public custody, may be admitted to bail, and if in private custody may be released on such terms and conditions as the court may deem fit.

8. Procedure at hearing.

At the hearing of the summons, the applicant shall begin, and the party resisting the application shall then be heard, and in that case the applicant shall be entitled to reply.

9. Order of release to be directed to gaoler.

If the court orders the release of the person detained, the order of the court shall be drawn up and served on the gaoler or other person having the custody of the person so detained.

10. Habeas corpus ad testificandum.

Where the evidence of a person who is in public custody is required at a trial or proceeding before a civil court, or before a court martial, or before commissioners acting under the authority of a commission, any party to the trial or proceeding may make application *ex parte* to a judge in chambers supported by affidavit that the prisoner be brought before such court or commissioners for the purpose of giving evidence, and the

[Subsidiary]

judge may thereupon direct that the prisoner be produced accordingly, and that the party requiring his production lodge a sufficient sum in court to meet the costs thereof.

11. Production of civil prisoner for trial by court martial or commissioners.

In the case of a prisoner detained in public custody whose presence is required before a court martial or commissioners acting under the authority of a commission for trial, a judge in chambers may, on application made by the chief military authority, or on behalf of the commissioners, order the prisoner to be produced before the court martial or commissioners for trial, but shall not do so without first hearing the prisoner or an advocate on his behalf.

12. Production of prisoner in court.

A judge may, in addition to any other order that he may make under these Rules, order the body of any person alleged to be improperly detained to be produced before him in court.
