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## STATUTORY INSTRUMENTS

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# 1981 No. 1675

## The Magistrates' Courts (Northern Ireland) Order 1981

### PART XI

#### RECOGNIZANCES AND BAIL

##### *Bail on arrest*

##### **Endorsement on warrant as to release on bail**

**129.**—(1) A justice of the peace on issuing a warrant for the arrest of any person may by endorsement on the warrant, direct that the person named, described or otherwise identified in the warrant shall on arrest be released on his entering into such recognizance as may be specified in the endorsement; and the endorsement shall fix the amounts in which the principal and the sureties, if any, are to be bound or the amount of any security permitted to be deposited in lieu of sureties.

[<sup>F1</sup>(2) Where a warrant has been endorsed for bail under paragraph (1)—

- (a) where the person arrested is to be released on bail on his entering into a recognizance without sureties, it shall not be necessary to take him to a police station, but if he is so taken, he shall be released from custody on his entering into the recognizance; and
- (b) where he is to be released on his entering into a recognizance with sureties, he shall be taken to a police station on his arrest, and the custody officer there shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.]

**F1** 1989 NI 12

*Arts. 130, 131 rep. by 1989 NI 12*

##### **Powers of resident magistrate or other justice in relation to persons not released on bail**

**132.** Without prejudice to any other provision of this Order, any resident magistrate or other justice of the peace before whom a person arrested for any offence is brought, where he is satisfied that the offence is not of a serious nature, may, without prejudice to further proceedings being brought against such person by way of summons or otherwise, release such person from custody without requiring him to enter into any recognizance.

##### **[<sup>F2</sup>Power to grant bail where police bail has been granted**

**132A.**—(1) Where a custody officer—

- (a) grants bail to any person under Part V of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12) [<sup>F3</sup>(other than under Article 38(2) or (7)(b))] and imposes conditions; or

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(b) varies, in relation to any person, conditions of bail under Article 48(3E) of that Order, a magistrates' court may, on application by or on behalf of that person, grant bail or vary the conditions.

(2) On an application under paragraph (1), the court, if it grants bail and imposes conditions or if it varies the conditions, may impose more onerous conditions.

(3) On determining an application under paragraph (1), the court shall remand the applicant in custody or on bail in accordance with the determination and, where the court withholds bail or grants bail, the grant of bail by the custody officer shall lapse.]

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| <b>F2</b> | Art. 132A inserted (12.3.2007) by <a href="#">Criminal Justice (Northern Ireland) Order 2003 (S.I. 2003/1247 (N.I. 13))</a> , arts. 1(3), 9; S.R. 2007/56, <b>art. 2(a)</b>   |
| <b>F3</b> | Words in art. 132A(1)(a) inserted (8.12.2008) by <a href="#">Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1))</a> , arts. 1(4), <b>87(4)</b> ; S.R. 2008/472, <b>art. 2(1)</b> , Sch. Pt. I para. 2 |

### Conditions on admission to bail

**133.** Without prejudice to any other power to impose conditions on admission to bail, a magistrates' court may impose such conditions on admitting a person to bail as appear to the court to be likely to result in that person's appearance at the time and place required or to be necessary in the interests of justice or for the prevention of crime.

### [<sup>F4</sup>Reconsideration of decisions granting bail

**133A.**—(1) Where a magistrates' court has granted bail in connection with an offence, or proceedings for an offence, to which this Article applies, or a custody officer has granted bail in connection with proceedings for an offence, a magistrates' court may, on an application by the prosecution for the decision to be reconsidered—

- (a) vary or rescind the conditions of bail or impose further conditions;
- (b) impose conditions in respect of bail which has been granted unconditionally, or
- (c) withhold bail.

(2) This Article applies to offences which are punishable on conviction on indictment (whether or not punishable only on conviction on indictment).

(3) No application for the reconsideration of a decision under this Article shall be made unless it is based on information which was not available to the court or custody officer when the decision was taken.

(4) Where the decision of the court on a reconsideration under this Article is to withhold bail from the person to whom it was originally granted, the court shall—

- (a) if that person is before the court, remand him in custody; or
- (b) if that person is not before the court, order him to surrender himself forthwith into the custody of the court.

(5) Where a person surrenders himself into the custody of the court in compliance with an order under paragraph (4), the court shall remand him in custody.

(6) A person who has been ordered to surrender to custody under paragraph (4) may be arrested without warrant by a constable if he fails without reasonable cause to surrender to custody in accordance with the order.

(7) A person arrested in pursuance of paragraph (6) shall be brought before a magistrates' court as soon as practicable after the arrest and in any event not later than the day next following the day on which he is arrested and the court shall remand him in custody.

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**Changes to legislation:** *The Magistrates' Courts (Northern Ireland) Order 1981, Cross Heading: Bail on arrest is up to date with all changes known to be in force on or before 28 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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(8) Where the day next following the day on which that person is arrested is Christmas Day, Good Friday or a Sunday, he shall be brought before a magistrates' court not later than the next following day which is not one of those days.

(9) Magistrates' courts rules shall include provision—

- (a) requiring notice of an application under this Article and of the grounds for it to be given to the person affected, including notice of the powers available to the court under it; and
- (b) for securing that any representations made by the person affected (whether in writing or orally) are considered by the court before making its decision.

(10) In this Article custody officer includes an officer who is performing the functions of a custody officer by virtue of Article 37(4) or (7) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12).]

**F4** [Art. 133A](#) inserted (12.3.2007) by [Criminal Justice \(Northern Ireland\) Order 2003 \(S.I. 2003/1247 \(N.I. 13\)\)](#), arts. 1(3), 10; S.R. 2007/56, **art. 2(a)**

**Changes to legislation:**

The Magistrates' Courts (Northern Ireland) Order 1981, Cross Heading: Bail on arrest is up to date with all changes known to be in force on or before 28 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) arts.3\(4\)25](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.3\(5\)Sch.1](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.5\(2\)](#)
- Instrument mod (prosp) by [1994 c. 33 s. 91\(3\)](#)
- Instrument revoked by [1998 c. 41 s.74\(1\)\(3\)Sch.12 para.5Sch.14 Pt.I](#)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Order applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to [legislation.gov.uk](#). [S.I. 2018/1125](#), reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))
- Order power to modify conferred by [2015 c. 9 \(N.I.\) s. 24\(5\)\(a\)](#) (see [s 24\(6\)](#))

**Whole provisions yet to be inserted into this Order (including any effects on those provisions):**

- [Sch.6 Pt.I paras.1819](#) revoked by [1995 c. 21 s. 314\(1\)Sch.12](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch.6 Pt.I para.5](#) revoked by [S.I. 1995/756 art.15Sch.](#)
- [Sch. 6 para. 128-130](#) repealed by [2011 c. 15 \(N.I.\) Sch. 3 Pt. 2](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 125](#) repealed by [2011 c. 16 \(N.I.\) Sch. 5](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 Pt. 3 para. 170](#) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 1](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 144](#) repealed by [2006 c. 48 Sch. 15 Pt. 4](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 21](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 25](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [art. 29A](#) excluded by [1975 c. 59, s. 4\(3\)](#) (as substituted) by [2015 c. 9 \(N.I.\) s. 7\(6\)](#)
- [art. 29A](#) inserted by [2015 c. 9 \(N.I.\) s. 7\(2\)](#)
- [art. 34\(1A\)-\(1E\)](#) inserted by [2015 c. 9 \(N.I.\) s. 8\(2\)](#)
- [art. 140\(2ZA\)](#) inserted by [2016 c. 18 \(N.I.\) Sch. 10 para. 16](#)