Bail Act 1976

1976 CHAPTER 63

An Act to make provision in relation to bail in or in connection with criminal proceedings in England and Wales, to make it an offence to agree to indemnify sureties in criminal proceedings, to make provision for legal aid limited to questions of bail in certain cases and for legal aid for persons kept in custody for inquiries or reports, to extend the powers of coroners to grant bail and for connected purposes. [15 November 1976]

Extent Information

E1 For extent of Act see s. 13(3)(4)

Modifications etc. (not altering text)

C1 Act excluded by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), **ss. 47(2)**, 51, 52

C2 Act modified (E.W.) by S.I. 1987/299, **art. 8(1)**
Act applied (E.W.) (*prosp.*) by 1980 c. 43, **ss. 4-8** (as substituted by 1994 c. 33, s. 44(2)(3)(4), **Sch. 4 Pt.I** (which Sch. 4 was repealed (*retrospectively*) by 1996 c. 25, ss. 44(2)(6), 80, **Sch. 5 para. 1**))
Act applied (1.9.2001) by 2001 c. 17, **s. 16(2)** (with ss. 16(5), 78); S.I. 2001/2161, **art. 2**

C3 By Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(1), **Sch. 12 para.23**; S.I. 1991/2208, art. 2(1), **Sch.1** it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by S.I. 1992/333, art. 2(2), **Sch. 2**) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

Commencement Information

I1 Act partly in force at Royal Assent see s. 13(2); Act wholly in force at 17.4.1978

Preliminary

1 Meaning of "bail in criminal proceedings".

(1) In this Act "bail in criminal proceedings" means—

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

(a) bail grantable in or in connection with proceedings for an offence to a person who is accused or convicted of the offence, or

(b) bail grantable in connection with an offence to a person who is under arrest for the offence or for whose arrest for the offence a warrant (endorsed for bail) is being issued.**[**[F1], or

(c) bail grantable in connection with extradition proceedings in respect of an offence.**]**

(2) In this Act " bail" means bail grantable under the law (including common law) for the time being in force.

(3) Except as provided by section 13(3) of this Act, this section does not apply to bail in or in connection with proceedings outside England and Wales.

[F2](4) . . . . . .

(5) This section applies—

(a) Whether the offence was committed in England or Wales or elsewhere, and

(b) whether it is an offence under the law of England and Wales, or of any other country or territory.

(6) Bail in criminal proceedings shall be granted (and in particular shall be granted unconditionally or conditionally) in accordance with this Act.

Extent Information

E2 For extent of s. 1 see s. 13(3)(4)

Textual Amendments

F1 S. 1(1)(c) and word inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(2)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

F2 S. 1(4) repealed (10.4.1995) by 1994 c. 33, s. 168(3), **Sch.11**; S.I. 1995/721, art. 2, **Sch.** AppendixB

Modifications etc. (not altering text)

C4 Definition in s. 1 applied (1. 4. 1991) by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s. 7A(4)**; S.I. 1991/608, art. 2, **Sch.**

2 Other definitions.

(1) In this Act, unless the context otherwise requires, "conviction" includes—

(a) a finding of guilt,

(b) a finding that a person is not guilty by reason of insanity,

(c) a finding under **[**[F3]section 11(1) of the Powers of Criminal Courts (Sentencing) Act 2000**]**(remand for medical examination) that the person in question did the act or made the omission charged, and

(d) a conviction of an offence for which an order is made [F4]... discharging **[**[F5]the offender**]** absolutely or conditionally,

and "convicted" shall be construed accordingly.

(2) In this Act, unless the context otherwise requires—

[[F6]"bail hostel" means premises for the accommodation of persons remanded on bail,**]**

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[[F7]"bail in non-extradition proceedings" means bail in criminal proceedings of the kind mentioned in section 1(1)(a),**]**

"child" means a person under the age of fourteen,

[F8]…

"court" includes a judge of a court, **[**[F9]or a justice of the peace**]** and, in the case of a specified court, includes a judge or (as the case may be) justice having powers to act in connection with proceedings before that court,

[[F10]"Court Martial Appeal Rules" means rules made under section 49 of the Court Martial Appeals Act 1968,**]**

[[F7]"custodial sentence" means a sentence or order mentioned in section 76(1) of the Powers of Criminal Courts (Sentencing) Act 2000 or any corresponding sentence or order imposed or made under any earlier enactment,**]**

[F11]…

[[F12]"extradition proceedings" means proceedings under the Extradition Act 2003;**]**

[F11]…

[[F7]"imprisonable offence" means an offence punishable in the case of an adult with imprisonment,**]**

"offence" includes an alleged offence,

[[F13]"probation hostel" means premises for the accommodation of persons who may be required to reside there **[**[F14]by a community order under section 177 of the Criminal Justice Act 2003**]**,**]**

[F15]…

[[F12]"prosecutor", in relation to extradition proceedings, means the person acting on behalf of the territory to which extradition is sought;**]**

[[F7]"sexual offence" means an offence specified in Part 2 of Schedule 15 to the Criminal Justice Act 2003,**]**

[F11]…

"surrender to custody" means, in relation to a person released on bail, surrendering himself into the custody of the court or of the constable (according to the requirements of the grant of bail) at the time and place for the time being appointed for him to do so,

"vary", in relation to bail, means imposing further conditions after bail is granted, or varying or rescinding conditions,

[[F7]"violent offence" means murder or an offence specified in Part 1 of Schedule 15 to the Criminal Justice Act 2003,**]**

"young person" means a person who has attained the age of fourteen and is under the age of **[**[F16]eighteen**]**.

(3) Where an enactment (whenever passed) which relates to bail in criminal proceedings refers to the person bailed appearing before a court it is to be construed unless the context otherwise requires as referring to his surrendering himself into the custody of the court.

(4) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

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Textual Amendments

F3 Words in s. 2(1)(c) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 50(2)**

F4 Words in s. 2(1)(d) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 21(2)(a), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(12), 44(4)(e) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

F5 Words in s. 2(1)(d) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 21(2)(b)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(12) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

F6 Words in s. 2(2) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 50(3)(a)**

F7 Words in s. 2(2) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 2(a)**; S.I. 2012/2906, art. 2(i)

F8 Words in s. 2(2) repealed by Criminal Law Act 1977 (c. 45), **Sch. 13**

F9 Words ins. 2(2) substituted by Criminal Law Act 1977 (c. 45), **Sch. 12**

F10 Words in s. 2(2) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 73**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

F11 Words in s. 2 repealed (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 180, **Sch. 10**; S.I. 2004/2066, art. 2(d)(iii) (with art. 3)

F12 Words in s. 2(2) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(3)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

F13 Definition of "probation hostel" inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 50(3)(b)**

F14 Words in s. 2(2) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 21(3)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(12) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

F15 Words in s. 2(2) repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 198(3), 221, **Sch. 4**; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

F16 Word in s. 2(2) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 2(b)**; S.I. 2012/2906, art. 2(i)

Incidents of bail in criminal proceedings

3 General provisions.

(1) A person granted bail in criminal proceedings shall be under a duty to surrender to custody, and that duty is enforceable in accordance with section 6 of this Act.

(2) No recognizance for his surrender to custody shall be taken from him.

(3) Except as provided by this section—

(a) no security for his surrender to custody shall be taken from him,

(b) he shall not be required to provide a surety or sureties for his surrender to custody, and

(c) no other requirement shall be imposed on him as a condition of bail.

(4) He may be required, before release on bail, to provide a surety or sureties to secure his surrender to custody.

(5) [F17]. . .he may be required, before release on bail, to give security for his surrender to custody.

The security may be given by him or on his behalf.

(6) He may be required [F18]... to comply, before release on bail or later, with such requirements as appear to the court to be necessary [F19]...—

(a) **[**[F20]to secure that**]** he surrenders to custody,

(b) **[**[F20]to secure that**]** he does not commit an offence while on bail,

(c) **[**[F20]to secure that**]** he does not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person,

[[F21](ca) for his own protection or, if he is a child or young person, for his own welfare or in his own interests,**]**

(d) **[**[F20]to secure that**]** he makes himself available for the purpose of enabling inquiries or a report to be made to assist the court in dealing with him for the offence.

[[F22](e) **[**[F20]to secure that**]** before the time appointed for him to surrender to custody, he attends an interview with **[**[F23]a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act);**]]**

[[F24]and, in any Act, "the normal powers to impose conditions of bail" means the powers to impose conditions under paragraph (a), (b) **[**[F25], (c) or (ca)**]** above**]**

[[F26](6ZAA) The requirements which may be imposed under subsection (6) include electronic monitoring requirements.

The imposition of electronic monitoring requirements is subject to section 3AA (in the case of a child or young **[**[F27]person granted bail in criminal proceedings of the kind mentioned in section 1(1)(a) or (b)), section 3AAA (in the case of a child or young person granted bail in connection with extradition proceedings),**]** section 3AB (in the case of other persons) and section 3AC (in all cases).

(6ZAB) In this section and sections 3AA to 3AC "electronic monitoring requirements" means requirements imposed for the purpose of securing the electronic monitoring of a person's compliance with any other requirement imposed on him as a condition of bail.**]**

[[F28](6ZA) Where he is required under subsection (6) above to reside in a bail hostel or probation hostel, he may also be required to comply with the rules of the hostel.**]**

[[F29](6A) In the case of a person accused of murder the court granting bail shall, unless it considers that satisfactory reports on his mental condition have already been obtained, impose as conditions of bail—

(a) a requirement that the accused shall undergo examination by two medical practitioners for the purpose of enabling such reports to be prepared; and

(b) a requirement that he shall for that purpose attend such an institution or place as the court directs and comply with any other directions which may be given to him for that purpose by either of those practitioners.

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(6B) Of the medical practitioners referred to in subsection (6A) above at least one shall be a practitioner approved for the purposes of **[**[F30]section 12 of the Mental Health Act 1983**].]**

[[F31](6C) Subsection (6D) below applies where—

(a) the court has been notified by the Secretary of State that arrangements for conducting a relevant assessment or, as the case may be, providing relevant follow-up have been made for the **[**[F32]local justice area**]** in which it appears to the court that the person referred to in subsection (6D) would reside if granted bail; and

(b) the notice has not been withdrawn.

(6D) In the case of a person ("P")—

(a) in relation to whom paragraphs (a) to (c) of paragraph 6B(1) of Part 1 of Schedule 1 to this Act apply **[**[F33] (including where P is a person to whom the provisions of Part 1A of Schedule 1 apply)**]**;

(b) who, after analysis of the sample referred to in paragraph (b) of that paragraph, has been offered a relevant assessment or, if a relevant assessment has been carried out, has had relevant follow-up proposed to him; and

(c) who has agreed to undergo the relevant assessment or, as the case may be, to participate in the relevant follow-up,

the court, if it grants bail, shall impose as a condition of bail that P both undergo the relevant assessment and participate in any relevant follow-up proposed to him or, if a relevant assessment has been carried out, that P participate in the relevant follow-up.

(6E) In subsections (6C) and (6D) above—

(a) "relevant assessment" means an assessment conducted by a suitably qualified person of whether P is dependent upon or has a propensity to misuse any specified Class A drugs;

(b) "relevant follow-up" means, in a case where the person who conducted the relevant assessment believes P to have such a dependency or propensity, such further assessment, and such assistance or treatment (or both) in connection with the dependency or propensity, as the person who conducted the relevant assessment (or conducts any later assessment) considers to be appropriate in P's case,

and in paragraph (a) above "Class A drug" and "misuse" have the same meaning as in the Misuse of Drugs Act 1971, and "specified" (in relation to a Class A drug) has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000.

(6F) In subsection (6E)(a) above, "suitably qualified person" means a person who has such qualifications or experience as are from time to time specified by the Secretary of State for the purposes of this subsection.**]**

(7) If a parent or guardian of **[**[F34]a person under the age of seventeen**]** consents to be surety for **[**[F35]the person**]** for the purposes of this subsection, the parent or guardian may be required to secure that **[**[F35]the person**]** complies with any requirement imposed on him by virtue of **[**[F36]subsection (6) **[**[F37], (6ZAA)**]** or (6A) above**]**, but—

(a) no requirement shall be imposed on the parent or the guardian [F38]... by virtue of this subsection where it appears that the [F39]... person will attain the age of seventeen before the time to be appointed for him to surrender to custody; and

(b) the parent or guardian shall not be required to secure compliance with any requirement to which his consent does not extend and shall not, in respect

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of those requirements to which his consent does extend, be bound in a sum greater than £50.

(8) Where a court has granted bail in criminal proceedings **[**[F40]that court or, where that court has **[**[F41]sent**]** a person on bail to the Crown Court for trial or **[**[F42]committed him on bail to the Crown Court**]** to be sentenced or otherwise dealt with, that court or the Crown Court may**]** on application—

(a) by or on behalf of the person to whom **[**[F40]bail was**]** granted, or

(b) by the prosecutor or a constable,

vary the conditions of bail or impose conditions in respect of bail which **[**[F40]has been**]** granted unconditionally.

[F43](8A) . . . . . .

[F44](8B) . . . . . .

(9) This section is subject to **[**[F45]subsection (3) of section 11 of the Powers of Criminal Courts (Sentencing) Act 2000**]** (conditions of bail on remand for medical examination).

[[F46](10) This section is subject, in its application to bail granted by a constable, to section 3A of this Act.**]**

[F47](10) . . . . . .

Textual Amendments

F17 Words in s. 3(5) repealed (30.9.1998) by 1998 c. 37, ss. 54(1), 120(2), **Sch. 10**; S.I. 1998/2327, **art. 2(3)(n)**

F18 Words in s. 3(6) repealed (10.4.1995) by 1994 c. 33, ss. 27(2)(a), 168(3), **Sch. 11**; S.I. 1995/721, art. 2, **Sch.** Appendix B

F19 Words in s. 3(6) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 13(1)(a), 336(3)(4), **Sch. 37 Pt. 2** (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)(l)(ii)

F20 Words in s. 3(6)(a)-(e) inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 13(1)(b)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

F21 S. 3(6)(ca) inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 13(1)(c)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

F22 S. 3(6)(e) inserted (30.9.1998) by 1998 c. 37, **s. 54(2)**; S.I. 1998/2327, **art. 2(1)(n)**

F23 Words in s. 3(6)(e) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 21 para. 34** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)

F24 Words at the end of s. 3(6) inserted (10.4.1995) by 1994 c. 33, **s. 27(2)(b)**; S.I. 1995/721, art. 2, **Sch.**

F25 Words in s. 3(6) substituted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 13(1)(d)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

F26 S. 3(6ZAA)(6ZAB) substituted for s. 3(6ZAA) (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 11 para. 2**; S.I. 2008/2712, art. 2, Sch. para. 15

F27 Words in s. 3(6ZAA) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 3(2)**; S.I. 2012/2906, art. 2(i)

F28 S. 3(6ZA) inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 131(1), **Sch. 8 para. 16**

F29 S. 3(6A)(6B) inserted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **s. 34(2)**

F30 Words substituted by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 4 para. 46**

F31 S. 3(6C)-(6F) inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 19(2)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

F32 Words in s. 3(6C)(a) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 1, **Sch. para. 40**

F33 Words in s. 3(6D)(a) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 12 para. 2**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 27

F34 Words in s. 3(7) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 3(3)(a)**; S.I. 2012/2906, art. 2(i)

F35 Words in s. 3(7) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 3(3)(b)**; S.I. 2012/2906, art. 2(i)

F36 Words substituted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **s. 34(3)**

F37 Words in s. 3(7) inserted (1.3.2002) by 2001 c. 16, **s. 131(3)**; S.I. 2002/344, **art. 2** (with transitional provisions in art. 4)

F38 Words in s. 3(7)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 3(3)(c)(i)**; S.I. 2012/2906, art. 2(i)

F39 Word in s. 3(7)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 3(3)(c)(ii)**; S.I. 2012/2906, art. 2(i)

F40 Words substituted by Criminal Law Act 1977 (c. 45), **Sch. 12**

F41 Word in s. 3(8) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(2)(a)(i)**; S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F42 Words in s. 3(8) inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(2)(a)(ii)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F43 S. 3(8A) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 48(2)(b), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F44 S. 3(8B) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 48(2)(b), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F45 Words in s. 3(9) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 51**

F46 S. 3(10) beginning "This section is" inserted (10.4.1995) by 1994 c. 33, **s. 27(2)(c)**; S.I. 1995/721, art. 2, **Sch.**

F47 S. 3(10) (which was inserted by 1994 c. 33, **Sch. 9 para. 12(b)**) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 48(2)(b), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

Modifications etc. (not altering text)

C5 S. 3(6D) modified (1.12.2005 for specified purposes, 1.4.2007 in so far as not already in force) by Drugs Act 2005 (c. 17), **ss. 17(2)**, 24(3) (with s. 17(4)); S.I. 2005/3053, art. 2(2)(d), S.I. 2007/562, art. 2(2)(d)

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[F48 3AA [F49 Conditions for the imposition of electronic monitoring requirements: children and young persons [F50 released on bail other than in extradition proceedings]]

[F51 (1) A court may not impose electronic monitoring requirements on a child or young person [F52 released on bail in criminal proceedings of the kind mentioned in section 1(1)(a) or (b)] unless each of the following conditions is met.]

(2) The first condition is that the child or young person has attained the age of twelve years.

(3) The second condition is that—

(a) the child or young person is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or

(b) he is charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings—

(i) amount, or

(ii) would, if he were convicted of the offences with which he is charged, amount,

to a recent history of repeatedly committing imprisonable offences while remanded on bail or [F53 subject to a custodial remand].

[F54 (4) The third condition is that the court is satisfied that the necessary provision for dealing with the person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in each local justice area which is a relevant area.]

(5) The fourth condition is that a youth offending team has informed the court that in its opinion the imposition of [F55 electronic monitoring requirements] will be suitable in the case of the child or young person.

F56 (6) . . . . . .

F56 (7) . . . . . .

F56 (8) . . . . . .

F56 (9) . . . . . .

F56 (10) . . . . . .

[F57 (11) The references in subsection (3)(b) to an imprisonable offence include a reference to an offence—

(a) of which the child or young person has been convicted outside England and Wales, and

(b) which is equivalent to an offence that is punishable with imprisonment in England and Wales.

(12) The reference in subsection (3)(b) to a child or young person being subject to a custodial remand is to the child or young person being—

(a) remanded to local authority accommodation or youth detention accommodation under section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,

(b) remanded to local authority accommodation under section 23 of the Children and Young Persons Act 1969 or to prison under that section as modified by section 98 of the Crime and Disorder Act 1998 or under section 27 of the Criminal Justice Act 1948, or

(c) subject to a form of custodial detention in a country or territory outside England and Wales while awaiting trial or sentence in that country or territory or during a trial in that country or territory.**]]**

Textual Amendments

F48 S. 3AA inserted (1.3.2002) by 2001 c. 16, **s. 131(2)**; S.I. 2002/344, **art. 2** (with transitional provisions in art. 4)

F49 S. 3AA heading substituted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 11 para. 3(2)**; S.I. 2008/2712, art. 2, Sch. para. 15

F50 Words in s. 3AA heading inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 4(2)**; S.I. 2012/2906, art. 2(i)

F51 S. 3AA(1) substituted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 11 para. 3(3)**; S.I. 2008/2712, art. 2, Sch. para. 15

F52 Words in s. 3AA(1) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 4(3)**; S.I. 2012/2906, art. 2(i)

F53 Words in s. 3AA(3)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 15(2)**; S.I. 2012/2906, art. 2(j)

F54 S. 3AA(4) substituted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 11 para. 3(4)**; S.I. 2008/2712, art. 2, Sch. para. 15

F55 Words in s. 3AA(5) substituted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 11 para. 3(5)**; S.I. 2008/2712, art. 2, Sch. para. 15

F56 S. 3AA(6)-(10) repealed (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 11 para. 3(6), **Sch. 28 Pt. 4**; S.I. 2008/2712, art. 2, Sch. paras. 1519(3)(b)

F57 S. 3AA(11)(12) substituted for s. 3AA(11) (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 15(3)**; S.I. 2012/2906, art. 2(j) [Editorial note: a previous subsection (12) was repealed (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 11 para. 3(6), Sch. 28 Pt. 4; S.I. 2008/2712, art. 2, Sch. paras. 1519(3)(b)]

[[F58]3AAA Conditions for the imposition of electronic monitoring requirements: children and young persons released on bail in extradition proceedings

(1) A court may not impose electronic monitoring requirements on a child or young person released on bail in connection with extradition proceedings unless each of the following conditions is met.

(2) The first condition is that the child or young person has attained the age of twelve years.

(3) The second condition is that—

(a) the conduct constituting the offence to which the extradition proceedings relate, or one or more of those offences, would, if committed in England and Wales, constitute a violent or sexual offence or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more, or

(b) the offence or offences to which the extradition proceedings relate, together with any other imprisonable offences of which the child or young person has been convicted in any proceedings—

(i) amount, or

(ii) would, if the child or young person were convicted of that offence or those offences, amount,

to a recent history of committing imprisonable offences while on bail or subject to a custodial remand.

(4) The third condition is that the court is satisfied that the necessary provision for dealing with the child or young person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in each local justice area which is a relevant area.

(5) The fourth condition is that a youth offending team has informed the court that in its opinion the imposition of electronic monitoring requirements will be suitable in the case of the child or young person.

(6) The references in subsection (3)(b) to an imprisonable offence include a reference to an offence—

(a) of which the child or young person has been accused or convicted outside England and Wales, and

(b) which is equivalent to an offence that is punishable with imprisonment in England and Wales.

(7) The reference in subsection (3)(b) to a child or young person being subject to a custodial remand is to the child or young person being—

(a) remanded to local authority accommodation or youth detention accommodation under section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,

(b) remanded to local authority accommodation under section 23 of the Children and Young Persons Act 1969 or to prison under that section as modified by section 98 of the Crime and Disorder Act 1998 or under section 27 of the Criminal Justice Act 1948, or

(c) subject to a form of custodial detention in a country or territory outside England and Wales while awaiting trial or sentence in that country or territory or during a trial in that country or territory.**]**

Textual Amendments

F58 S. 3AAA inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 5**; S.I. 2012/2906, art. 2(i)

[F59 3AB Conditions for the imposition of electronic monitoring requirements: other persons

(1) A court may not impose electronic monitoring requirements on a person who has attained the age of **[**F60eighteen**]** unless each of the following conditions is met.

(2) The first condition is that the court is satisfied that without the electronic monitoring requirements the person would not be granted bail.

(3) The second condition is that the court is satisfied that the necessary provision for dealing with the person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in each local justice area which is a relevant area.

[F61](4) . . . . . .

Textual Amendments

F59 Ss. 3AB, 3AC inserted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 11 para. 4**; S.I. 2008/2712, art. 2, Sch. para. 15

F60 Word in s. 3AB(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 6(2)**; S.I. 2012/2906, art. 2(i)

F61 S. 3AB(4) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 6(3)**; S.I. 2012/2906, art. 2(i)

3AC Electronic monitoring: general provisions

(1) Where a court imposes electronic monitoring requirements as a condition of bail, the requirements must include provision for making a person responsible for the monitoring.

(2) A person may not be made responsible for the electronic monitoring of a person on bail unless he is of a description specified in an order made by the Secretary of State.

(3) The Secretary of State may make rules for regulating—

(a) the electronic monitoring of persons on bail;

(b) without prejudice to the generality of paragraph (a), the functions of persons made responsible for such monitoring.

(4) The rules may make different provision for different cases.

(5) Any power of the Secretary of State to make an order or rules under this section is exercisable by statutory instrument.

(6) A statutory instrument containing rules under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) For the purposes of section 3AA **[**[F62], 3AAA**]** or 3AB a local justice area is a relevant area in relation to a proposed electronic monitoring requirement if the court considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area.

(8) Nothing in sections 3, 3AA **[**[F62], 3AAA**]** or 3AB is to be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of persons released on bail.**]**

Textual Amendments

F59 Ss. 3AB, 3AC inserted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 11 para. 4**; S.I. 2008/2712, art. 2, Sch. para. 15

F62 Words in s. 3AC(7)(8) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 7**; S.I. 2012/2906, art. 2(i)

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[F63 3A Conditions of bail in case of police bail.

(1) Section 3 of this Act applies, in relation to bail granted by a custody officer under Part IV of the M1 Police and Criminal Evidence Act 1984 [F64 or Part 3 of the Criminal Justice Act 2003] in cases where the normal powers to impose conditions of bail are available to him, subject to the following modifications.

(2) Subsection (6) does not authorise the imposition of a requirement to reside in a bail hostel or any requirement under [F65 paragraph (d) or (e)].

(3) Subsections [F66 (6ZAA),](6ZA) [F67 and (6A) to (6F)] shall be omitted.

(4) For subsection (8), substitute the following—

(") Where a custody officer has granted bail in criminal proceedings he or another custody officer serving at the same police station may, at the request of the person to whom it was granted, vary the conditions of bail; and in doing so he may impose conditions or more onerous conditions.".

(5) Where a constable grants bail to a person no conditions shall be imposed under subsections (4), (5), (6) or (7) of section 3 of this Act unless it appears to the constable that it is necessary to do so F68 ...—

(a) [F69 for the purpose of preventing that person from] failing to surrender to custody, or

(b) [F69 for the purpose of preventing that person from] committing an offence while on bail, or

(c) [F69 for the purpose of preventing that person from] interfering with witnesses or otherwise obstructing the course of justice, whether in relation to himself or any other person. [F70 or

(d) for that person's own protection or, if he is a child or young person, for his own welfare or in his own interests.]

(6) Subsection (5) above also applies on any request to a custody officer under subsection (8) of section 3 of this Act to vary the conditions of bail.]

Textual Amendments

F63 S. 3A inserted (10.4.1995) by 1994 c. 33, **s. 27(3)**; S.I. 1995/721, art. 2, **Sch.**

F64 Words in s. 3A(1) inserted (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 14 para. 5(a)**; S.I. 2007/709, art. 3(p) (with art. 6)

F65 Words in s. 3A(2) substituted (30.9.1998) by 1998 c. 37, **s. 54(3)**; S.I. 1998/2327, **art. 2(1)(n)**

F66 Words in s. 3A(3) inserted (1.3.2002) by 2001 c. 16, **s. 131(4)**; S.I. 2002/344, **art. 2** (with transitional provisions in art. 4)

F67 Words in s. 3A(3) substituted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 19(3)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

F68 Words in s. 3A(5) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 13(2)(a), 336(3)(4), **Sch. 37 Pt. 2** (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)(l)(ii)

F69 Words in s. 3A(5)(a)-(c) inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 13(2)(b)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

F70 S. 3A(5)(d) and word inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 13(2)(c)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

Marginal Citations

M1 1984 c. 60.

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Bail for accused persons and others

4 General right to bail of accused persons and others.

(1) A person to whom this section applies shall be granted bail except as provided in Schedule 1 to this Act.

(2) This section applies to a person who is accused of an offence when—

(a) he appears or is brought before a magistrates' court or the Crown Court in the course of or in connection with proceedings for the offence, or

(b) he applies to a court for bail **[**[F71]or for a variation of the conditions of bail**]** in connection with the proceedings.

This subsection does not apply as respects proceedings on or after a person's conviction of the offence [F72]....

[[F73](2A) This section also applies to a person whose extradition is sought in respect of an offence, when—

(a) he appears or is brought before a court in the course of or in connection with extradition proceedings in respect of the offence, or

(b) he applies to a court for bail or for a variation of the conditions of bail in connection with the proceedings.

(2B) But subsection (2A) above does not apply if the person is alleged **[**[F74]to have been convicted**]** of the offence.**]**

(3) This section also applies to a person who, having been convicted of an offence, appears or is brought before a magistrates' court **[**[F75]or the Crown Court [F76]... under—

[[F77](za) Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000 (referral orders: referral back to appropriate court),

(zb) Schedule 8 to that Act (breach of reparation order),**]**

[[F78](a) Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach, revocation or amendment of youth rehabilitation orders), [F79]...**]**

(b) Part 2 of Schedule 8 to the Criminal Justice Act 2003 (breach of requirement of community order)**][**[F80], or

(c) the Schedule to the Street Offences Act 1959 (breach of orders under section 1(2A) of that Act)**]**.

(4) This section also applies to a person who has been convicted of an offence and whose case is adjourned by the court for the purpose of enabling inquiries or a report to be made to assist the court in dealing with him for the offence.

(5) Schedule 1 to this Act also has effect as respects conditions of bail for a person to whom this section applies.

(6) In Schedule 1 to this Act "the defendant" means a person to whom this section applies and any reference to a defendant whose case is adjourned for inquiries or a report is a reference to a person to whom this section applies by virtue of subsection (4) above.

(7) This section is subject to **[**[F81]section 41 of the Magistrates' Courts Act 1980**]** (restriction of bail by magistrates' court in cases of treason) **[**[F82]and section 115(1) of the Coroners and Justice Act 2009 (bail decisions in murder cases to be made by Crown Court judge)**]**.

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[[F83](8) This section is subject to section 25 of the Criminal Justice and Public Order Act 1994 (exclusion of bail in cases of homicide and rape).**]**

[[F84](9) In taking any decisions required by Part I or II of Schedule 1 to this Act, the considerations to which the court is to have regard include, so far as relevant, any misuse of controlled drugs by the defendant ("controlled drugs" and "misuse" having the same meanings as in the [M2]Misuse of Drugs Act 1971).**]**

Textual Amendments

F71 Words in s. 4(2)(b) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 33**; S.I. 1995/721, art. 2, **Sch.** Appendix A

F72 Words in s. 4(2) repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 198(4), 221, **Sch. 4**; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

F73 S. 4(2A)(2B) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(5)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

F74 Words in s. 4(2B) substituted (15.1.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 13 para. 34**; S.I. 2006/3364, art. 2(e)

F75 Words in s. 4(3) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 22**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(12) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

F76 Words in s. 4(3) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 4 para. 23(a), **Sch. 28 Pt. 1** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, art. 2(p)(iii)(u)

F77 S. 4(3)(za)(zb) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 4 para. 102** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, art. 2(p)(xv)

F78 S. 4(3)(a) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 4 para. 23(b)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, art. 2(p)(iii)

F79 Word in s. 4(3)(a) repealed (1.4.2010) by Policing and Crime Act 2009 (c. 26), s. 116(1), Sch. 7 para. 19, **Sch. 8 Pt. 2**; S.I. 2010/507, art. 5(v)(x)

F80 S. 4(3)(c) and word inserted (1.4.2010) by Policing and Crime Act 2009 (c. 26), s. 116(1), **Sch. 7 para. 19**; S.I. 2010/507, art. 5(v)

F81 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 7 para. 145**

F82 Words in s. 4(7) added (1.2.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 74(a)** (with s. 180); S.I. 2010/145, art. 2(2), Sch. para. 25(b)

F83 S. 4(8) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 32**; S.I. 1995/721, art. 2, **Sch.** Appendix A

F84 S. 4(9) inserted (2.7.2001) by 2000 c. 43, **s. 58**; S.I. 2001/2232, **art. 2(g)**

Modifications etc. (not altering text)

C6 S. 4 applied (with modifications) (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 90(4)**, 336(3)(4); S.I. 2005/950, art. 2(1), Sch. 1 para. 5 (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

Marginal Citations

M2 1971 c. 38.

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Supplementary

5 Supplementary provisions about decisions on bail.

(1) Subject to subsection (2) below, where—

(a) a court or constable grants bail in criminal proceedings, or

(b) a court withholds bail in criminal proceedings from a person to whom section 4 of this act applies, or

(c) a court, officer of a court or constable appoints a time or place or [F85]... a different time or place for a person granted bail in criminal proceedings to surrender to custody, or

(d) a court **[**[F86]or constable**]** varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings,

that court, officer or constable shall make a record of the decision in the prescribed manner and containing the prescribed particulars and, if requested to do so by the person in relation to whom the decision was taken, shall cause him to be given a copy of the record of the decision as soon as practicable after the record is made.

(2) Where bail in criminal proceedings is granted by endorsing a warrant of arrest for bail the constable who releases on bail the person arrested shall make the record required by subsection (1) above instead of the judge or justice who issued the warrant.

[[F87](2A) Where a magistrates' court or the Crown Court grants bail in criminal proceedings to a person to whom section 4 of this Act applies after hearing representations from the prosecutor in favour of withholding bail, then the court shall give reasons for granting bail.

(2B) A court which is by virtue of subsection (2A) above required to give reasons for its decision shall include a note of those reasons in the record of its decision and, if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of the record of the decision as soon as practicable after the record is made.**]**

(3) Where a magistrates' court or the Crown Court—

(a) withholds bail in criminal proceedings, or

(b) imposes conditions in granting bail in criminal proceedings, or

(c) varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings,

and does so in relation to a person to whom section 4 of this Act applies, then the court shall, [F88]..., give reasons for withholding bail or for imposing or varying the conditions.

(4) A court which is by virtue of subsection (3) above required to give reasons for its decision shall include a note of those reasons in the record of its decision and shall (except in a case where, by virtue of subsection (5) below, this need not be done) give a copy of that note to the person in relation to whom the decision was taken.

(5) The Crown Court need not give a copy of the note of the reasons for its decision to the person in relation to whom the decision was taken where that person **[**[F89]has legal representation unless his legal representative**]** requests the court to do so.

(6) Where a magistrates' court withholds bail in criminal proceedings from a person who **[**[F90]does not have legal representation**]**, the court shall—

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(a) if it is **[**[F91]sending**]** him for trial to the Crown Court **[**[F92]or if it issues a certificate under subsection (6A) below**]**, inform him that he may apply [F93]... to the Crown Court to be granted bail;

[F94](b) . . . . . .

[[F95](6A) Where in criminal proceedings—

(a) a magistrates' court remands a person in custody under **[**[F96]section 52(5) of the Crime and Disorder Act 1998, **][**[F97]section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand for medical examination) or**]** any of the following provisions of the Magistrates' Courts Act 1980—

[F98](i) . . . . . .

(ii) section 10 (adjournment of trial); **[**[F99]or**]**

[F100](iia) **[** section 17C (intention as to plea: adjournment);**]**

[F101](iii) **[** section 18 (initial procedure on information against adult for offence triable either way),**][**[F102]or

(iv) section 24C (intention as to plea by child or young person: adjournment),**]**

after hearing full argument on an application for bail from him; and

(b) either—

(i) it has not previously heard such argument on an application for bail from him in those proceedings; or

(ii) it has previously heard full argument from him on such an application but it is satisfied that there has been a change in his circumstances or that new considerations have been placed before it,

it shall be the duty of the court to issue a certificate in the prescribed form that they heard full argument on his application for bail before they refused the application.

(6B) Where the court issues a certificate under subsection (6A) above in a case to which paragraph (b)(ii) of that subsection applies, it shall state in the certificate the nature of the change of circumstances or the new considerations which caused it to hear a further fully argued bail application.

(6C) Where a court issues a certificate under subsection (6A) above it shall cause the person to whom it refuses bail to be given a copy of the certificate.**]**

(7) Where a person has given security in pursuance of section 3(5) above and a court is satisfied that he failed to surrender to custody then, unless it appears that he had reasonable cause for his failure, the court may order the forfeiture of the security.

(8) If a court orders the forfeiture of a security under subsection (7) above, the court may declare that the forfeiture extends to such amount less than the full value of the security as it thinks fit to order.

[[F103](8A) An order under subsection (7) above shall, unless previously revoked, have effect at the end of twenty-one days beginning with the day on which it is made.

(8B) A court which has ordered the forfeiture of a security under subsection (7) above may, if satisfied on an application made by or on behalf of the person who gave it that he did after all have reasonable cause for his failure to surrender to custody, by order remit the forfeiture or declare that it extends to such amount less than the full value of the security as it thinks fit to order.

(8C) An application under subsection (8B) above may be made before or after the order for forfeiture has taken effect, but shall not be entertained unless the court is satisfied that the prosecution was given reasonable notice of the applicant's intention to make it.**]**

(9) A security which has been ordered to be forfeited by a court under subsection (7) above shall, to the extent of the forfeiture—

(a) if it consists of money, be accounted for and paid in the same manner as a fine imposed by that court would be;

(b) if it does not consist of money, be enforced by such magistrates' court as may be specified in the order.

[[F104](9A) Where an order is made under subsection (8B) above after the order for forfeiture of the security in question has taken effect, any money which would have fallen to be repaid or paid over to the person who gave the security if the order under subsection (8B) had been made before the order for forfeiture took effect shall be repaid or paid over to him.**]**

(10) In this section "prescribed" means, in relation to the decision of a court or an officer of a court, prescribed by **[**[F105]Civil Procedure Rules, **[**[F106]Court Martial Appeal Rules**]** or Criminal Procedure Rules**]**, as the case requires or, in relation to a decision of a constable, prescribed by direction of the Secretary of State.

[[F107](11) This section is subject, in its application to bail granted by a constable, to section 5A of this Act.**]**

Textual Amendments

F85 Words in s. 5(1)(c) repealed (15.12.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 12**; S.I. 2004/3033, art. 3(1)(2)(aa)(e)(ii)

F86 Words in s. 5(1)(d) inserted (10.4.1995) by 1994 c. 33, s. 27(4), **Sch. 3 para. 1(a)**; S.I. 1995/721, art. 2, **Sch.**

F87 S. 5(2A)(2B) inserted (1.8.2001) by 2001 c. 16, **s. 129(1)**; S.I. 2001/2223, **art. 3(i)**

F88 Words in s. 5(3) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 2**; S.I. 2004/829, art. 2(1)(2)(l)(ii)

F89 Words in s. 5(5) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 21 para. 35(a)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)

F90 Words in s. 5(6) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 21 para. 35(b)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)

F91 Word in s. 5(6)(a) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(3)(a)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F92 Words inserted as provided by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(2)(3)**

F93 Words in s. 5(6)(a) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 2**; S.I. 2004/829, art. 2(1)(2)(l)(ii)

F94 S. 5(6)(b) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 2**; S.I. 2004/829, art. 2(1)(2)(l)(ii)

F95 S. 5(6A)–(6C) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(2)(3)**

F96 Words in s. 5(6A)(a) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(3)(b)(i)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I.

2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F97 Words in s. 5(6A)(a) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 53(a)**

F98 S. 5(6A)(a)(i) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 48(3)(b)(ii), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

F99 Word in s. 5(6A)(a)(ii) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 53(b)**

F100 S. 5(6A)(a)(iia) inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(3)(b)(iii)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F101 S. 5(6A)(a)(iii) substituted (25.8.2000) for s. 5(6A)(a)(iii)(iv) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 53(c)**

F102 S. 5(6A)(a)(iv) and word inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(3)(b)(iv)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F103 S. 5(8A)–(8C) inserted by Criminal Law Act 1977 (c. 45), **Sch. 12**

F104 S. 5(9A) inserted by Criminal Law Act 1977 (c. 45), **Sch. 12**

F105 Words in s. 5(10) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 182**; S.I. 2004/2066, art. 2(c)(ix) (with art. 3)

F106 Words in s. 5(10) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 74**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

F107 S. 5(11) inserted (10.4.1995) by 1994 c. 33, s. 27(4), **Sch. 3 para. 1(b)**; S.I. 1995/721, art. 2, **Sch.**

[F108 5A Supplementary provisions in cases of police bail.

(1) Section 5 of this Act applies, in relation to bail granted by a custody officer under Part IV of the Police and Criminal Evidence Act 1984 **[**F109 or Part 3 of the Criminal Justice Act 2003 **]** in cases where the normal powers to impose conditions of bail are available to him, subject to the following modifications.

F110(1A) **[** Subsections (2A) and (2B) shall be omitted.**]**

(2) For subsection (3) substitute the following—

(”) Where a custody officer, in relation to any person,—

(a) imposes conditions in granting bail in criminal proceedings, or

(b) varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings,

the custody officer shall, F111... give reasons for imposing or varying the conditions.”.

(3) For subsection (4) substitute the following—

(”) A custody officer who is by virtue of subsection (3) above required to give reasons for his decision shall include a note of those reasons in the custody record and shall give a copy of that note to the person in relation to whom the decision was taken.”.

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

(4) Subsections (5) and (6) shall be omitted.**]**

Textual Amendments

F108 S. 5A inserted (10.4.1995) by 1994 c. 33, **s. 27(4)**,Sch. 3 para. 2; S.I. 1995/721, art. 2, **Sch.**

F109 Words in s. 5A(1) inserted (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 14 para. 5(b)**; S.I. 2007/709, art. 3(p) (with art. 6)

F110 S. 5A(1A) inserted (1.8.2001) by 2001 c. 16, **s. 129(2)**; S.I. 2001/2223, **art. 3(i)**

F111 Words in s. 5A(2) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 2**; S.I. 2004/829, art. 2(1)(2)(l)(ii)

[5B Reconsideration of decisions granting bail.

[[F112](A1) This section applies in any of these cases—

(a) a magistrates' court has granted bail in criminal proceedings in connection with an offence to which this section applies or proceedings for such an offence;

(b) a constable has granted bail in criminal proceedings in connection with proceedings for such an offence;

(c) a magistrates' court or a constable has granted bail in connection with extradition proceedings.

(1) The court or the appropriate court in relation to the constable may, on application by the prosecutor for the decision to be reconsidered—

(a) vary the conditions of bail,

(b) impose conditions in respect of bail which has been granted unconditionally, or

(c) withhold bail.**]**

(2) The offences to which this section applies are offences triable on indictment and offences triable either way.

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

(4) Whether or not the person to whom the application relates appears before it, the magistrates' court shall take the decision in accordance with section 4(1) (and Schedule 1) of this Act.

(5) Where the decision of the court on a reconsideration under this section 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, and

(b) if that person is not before the court, order him to surrender himself forthwith into the custody of the court.

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

(7) A person who has been ordered to surrender to custody under subsection (5) above may be arrested without warrant by a constable if he fails without reasonable cause to surrender to custody in accordance with the order.

(8) A person arrested in pursuance of subsection (7) above shall be brought as soon as practicable, and in any event within 24 hours after his arrest, before a justice of the peace [F113]... and the justice shall remand him in custody.

In reckoning for the purposes of this subsection any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.

[F114](8A) **[** Where the court, on a reconsideration under this section, refuses to withhold bail from a relevant person after hearing representations from the prosecutor in favour of withholding bail, then the court shall give reasons for refusing to withhold bail.

(8B) In subsection (8A) above, "relevant person" means a person to whom section 4(1) (and Schedule 1) of this Act is applicable in accordance with subsection (4) above.

(8C) A court which is by virtue of subsection (8A) above required to give reasons for its decision shall include a note of those reasons in any record of its decision and, if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of any such record as soon as practicable after the record is made.**]**

(9) **[**[F115]Criminal Procedure Rules**]** shall include provision—

(a) requiring notice of an application under this section and of the grounds for it to be given to the person affected, including notice of the powers available to the court under it;

(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; and

(c) designating the court which is the appropriate court in relation to the decision of any constable to grant bail.**]**

Extent Information

E3 S. 5B inserted (10.4.1995) by 1994 c. 33, **s. 30**; S.I. 1995/721, art. 2, **Sch.**

Textual Amendments

F112 S. 5B(A1)(1) substituted for s. 5B(1) (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(6)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

F113 Words in s. 5B(8) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 183(2), **Sch. 10**; S.I. 2005/910, art. 3(y)

F114 S. 5B(8A)-(8C) inserted (1.8.2001) by 2001 c. 16, **s. 129(3)**; S.I. 2001/2223, **art. 3(i)**

F115 Words in s. 5B(9) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 183(3)**; S.I. 2004/2066, art. 2(c)(ix) (with art. 3)

6 Offence of absconding by person released on bail.

(1) If a person who has been released on bail in criminal proceedings fails without reasonable cause to surrender to custody he shall be guilty of an offence.

(2) If a person who—

(a) has been released on bail in criminal proceedings, and

(b) having reasonable cause therefor, has failed to surrender to custody,

fails to surrender to custody at the appointed place as soon after the appointed time as is reasonably practicable he shall be guilty of an offence.

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

(3) It shall be for the accused to prove that he had reasonable cause for his failure to surrender to custody.

(4) A failure to give to a person granted bail in criminal proceedings a copy of the record of the decision shall not constitute a reasonable cause for that person's failure to surrender to custody.

(5) An offence under subsection (1) or (2) above shall be punishable either on summary conviction or as if it were a criminal contempt of court.

(6) Where a magistrates' court convicts a person of an offence under subsection (1) or (2) above the court may, if it thinks—

(a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than the court has power to inflict, or

(b) in a case where it **[**[F116]sends**]** that person for trial to the Crown Court for another offence, that it would be appropriate for him to be dealt with for the offence under subsection (1) or (2) above by the court before which he is tried for the other offence,

commit him in custody or on bail to the Crown Court for sentence.

(7) A person who is convicted summarily of an offence under subsection (1) or (2) above and is not committed to the Crown Court for sentence shall be liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding **[**[F117]level 5 on the standard scale**]** or to both and a person who is so committed for sentence or is dealt with as for such a contempt shall be liable to imprisonment for a term not exceeding 12 months or to a fine or to both.

(8) In any proceedings for an offence under subsection (1) or (2) above a document purporting to be a copy of the part of the prescribed record which relates to the time and place appointed for the person specified in the record to surrender to custody and to be duly certified to be a true copy of that part of the record shall be evidence of the time and place appointed for that person to surrender to custody.

(9) For the purposes of subsection (8) above—

(a) "the prescribed record" means the record of the decision of the court, officer or constable made in pursuance of section 5(1) of this Act;

(b) the copy of the prescribed record is duly certified if it is certified by the appropriate officer of the court or, as the case may be, by the constable who took the decision or a constable designated for the purpose by the officer in charge of the police station from which the person to whom the record relates was released;

(c) "the appropriate officer" of the court is—

(i) in the case of a magistrates' court, the **[**[F118]designated officer for the court**]**;

(ii) in the case of the Crown Court, such officer as may be designated for the purpose in accordance with arrangements made by the Lord Chancellor;

(iii) in the case of the High Court, such officer as may be designated for the purpose in accordance with arrangements made by the Lord Chancellor;

(iv) in the case of the Court of Appeal, the registrar of criminal appeals or such other officer as may be authorised by him to act for the purpose;

(v) in the case of the **[**[F119]Court Martial Appeal Court**]**, the registrar or such other officer as may be authorised by him to act for the purpose.

[[F120](10) Section 127 of the Magistrates' Courts Act 1980 shall not apply in relation to an offence under subsection (1) or (2) above.

(11) Where a person has been released on bail in criminal proceedings and that bail was granted by a constable, a magistrates' court shall not try that person for an offence under subsection (1) or (2) above in relation to that bail (the "relevant offence") unless either or both of subsections (12) and (13) below applies.

(12) This subsection applies if an information is laid for the relevant offence within 6 months from the time of the commission of the relevant offence.

(13) This subsection applies if an information is laid for the relevant offence no later than 3 months from the time of the occurrence of the first of the events mentioned in subsection (14) below to occur after the commission of the relevant offence.

(14) Those events are—

(a) the person surrenders to custody at the appointed place;

(b) the person is arrested, or attends at a police station, in connection with the relevant offence or the offence for which he was granted bail;

(c) the person appears or is brought before a court in connection with the relevant offence or the offence for which he was granted bail.**]**

Extent Information

E4 For extent of s. 6 see s. 13(3)

Textual Amendments

F116 Word in s. 6(6)(b) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(4)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F117 Words substituted: (E.W.) by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46; (S.) by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G; and (N.I.) by virtue of S.I. 1984/703 (N.I. 3), **arts. 5**, 6

F118 Words in s. 6(9)(c)(i) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 184**; S.I. 2005/910, art. 3(y)

F119 Words in s. 6(9)(c)(v) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 75**; S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

F120 S. 6(10)-(14) inserted (E.W.) (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 15(3)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

7 Liability to arrest for absconding or breaking conditions of bail.

(1) If a person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a court fails to surrender to custody at the time appointed for him to do so the court may issue a warrant for his arrest.

[[F121](1A) Subsection (1B) applies if—

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

(a) a person has been released on bail in connection with extradition proceedings,
(b) the person is under a duty to surrender into the custody of a constable, and
(c) the person fails to surrender to custody at the time appointed for him to do so.

(1B) A magistrates' court may issue a warrant for the person's arrest.**]**

(2) If a person who has been released on bail in criminal proceedings absents himself from the court at any time after he has surrendered into the custody of the court and before the court is ready to begin or to resume the hearing of the proceedings, the court may issue a warrant for his arrest; but no warrant shall be issued under this subsection where that person is absent in accordance with leave given to him by or on behalf of the court.

(3) A person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a court may be arrested without warrant by a constable—
(a) if the constable has reasonable grounds for believing that that person is not likely to surrender to custody;
(b) if the constable has reasonable grounds for believing that that person is likely to break any of the conditions of his bail or has reasonable grounds for suspecting that that person has broken any of those conditions; or
(c) in a case where that person was released on bail with one or more surety or sureties, if a surety notifies a constable in writing that that person is unlikely to surrender to custody and that for that reason the surety wishes to be relieved of his obligations as a surety.

(4) a person arrested in pursuance of subsection (3) above—
(a) shall, except where he was arrested within 24 hours of the time appointed for him to surrender to custody, be brought as soon as practicable and in any event within 24 hours after his arrest before a justice of the peace [F122]...; and
(b) in the said excepted case shall be brought before the court at which he was to have surrendered to custody.

[F123]....

[[F124](4A) A person who has been released on bail in connection with extradition proceedings and is under a duty to surrender into the custody of a constable may be arrested without warrant by a constable on any of the grounds set out in paragraphs (a) to (c) of subsection (3).

(4B) A person arrested in pursuance of subsection (4A) above shall be brought as soon as practicable and in any event within 24 hours after his arrest before a justice of the peace for the petty sessions area in which he was arrested.**]**

(5) A justice of the peace before whom a person is brought under subsection (4) **[**[F125] or (4B)**]** above may, subject to **[**[F126]subsections (5A) and (6)**]** below, if of the opinion that that person—
(a) is not likely to surrender to custody, or
(b) has broken or is likely to break any condition of his bail,

remand him in custody or commit him to custody, as the case may require, or alternatively, grant him bail subject to the same or to different conditions, but if not of that opinion shall grant him bail subject to the same conditions (if any) as were originally imposed.

[[F127](5A) A justice of the peace may not remand a person in, or commit a person to, custody under subsection (5) if—

(a) the person has attained the age of eighteen,

(b) the person was released on bail in non-extradition proceedings,

(c) the person has not been convicted of an offence in those proceedings, and

(d) it appears to the justice of the peace that there is no real prospect that the person will be sentenced to a custodial sentence in the proceedings.**]**

(6) Where **[**[F128]a person brought before a justice under subsection (4) or (4B)**]** is a child or young person and the justice does not grant him bail, subsection (5) above shall have effect subject to the provisions of **[**[F129]section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (remands of children otherwise than on bail)**]**.

[[F130](7) In reckoning for the purposes of this section any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.**]**

[[F131](8) In the case of a person charged with murder or with murder and one or more other offences—

(a) subsections (4) and (5) have effect as if for "justice of the peace" there were substituted " judge of the Crown Court ",

(b) subsection (6) has effect as if for "justice" (in both places) there were substituted " judge ", and

(c) subsection (7) has effect, for the purposes of subsection (4), as if at the end there were added ", Saturday or bank holiday."**]**

Textual Amendments

F121 S. 7(1A)(1B) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(7)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

F122 Words in s. 7(4)(a) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 185, **Sch. 10**; S.I. 2005/910, art. 3(y)

F123 Words in s. 7(4) repealed (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(8)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

F124 S. 7(4A)(4B) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(9)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

F125 Words in s. 7(5) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(10)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

F126 Words in s. 7(5) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 8(2)**; S.I. 2012/2906, art. 2(i)

F127 S. 7(5A) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 8(3)**; S.I. 2012/2906, art. 2(i)

F128 Words in s. 7(6) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 8(4)**; S.I. 2012/2906, art. 2(i)

F129 Words in s. 7(6) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 16**; S.I. 2012/2906, art. 2(j)

F130 S. 7(7) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(11)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

F131 S. 7(8) added (1.2.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 74(b)** (with s. 180); S.I. 2010/145, art. 2(2), Sch. para. 25(b)

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8 Bail with sureties.

(1) This section applies where a person is granted bail in criminal proceedings on condition that he provides one or more surety or sureties for the purpose of securing that he surrenders to custody.

(2) In considering the suitability for that purpose of a proposed surety, regard may be had (amongst other things) to—
- (a) the surety's financial resources;
- (b) his character and any previous convictions of his; and
- (c) his proximity (whether in point of kinship, place of residence or otherwise) to the person for whom he is to be surety.

(3) Where a court grants a person bail in criminal proceedings on such a condition but is unable to release him because no surety or no suitable surety is available, the court shall fix the amount in which the surety is to be bound and subsections (4) and (5) below, or in a case where the proposed surety resides in Scotland subsection (6) below, shall apply for the purpose of enabling the recognizance of the surety to be entered into subsequently.

(4) Where this subsection applies the recognizance of the surety may be entered into before such of the following persons or descriptions of persons as the court may by order specify or, if it makes no such order, before any of the following persons, that is to say—
- (a) where the decision is taken by a magistrates' court, before a justice of the peace, a justices' clerk or a police officer who either is of the rank of inspector or above or is in charge of a police station or, if **[**[F132]Criminal Procedure Rules**]** so provide, by a person of such other description as is specified in the rules;
- (b) where the decision is taken by the Crown Court, before any of the persons specified in paragraph (*a*) above or, if **[**[F133]Criminal Procedure Rules**]** so provide, by a person of such other description as is specified in the rules;
- (c) where the decision is taken by the High Court or the Court of Appeal, before any of the persons specified in paragraph (*a*) above or, if **[**[F134]Civil Procedure Rules or Criminal Procedure Rules**]** so provide, by a person of such other description as is specified in the rules;
- (d) where the decision is taken by the **[**[F135]Court Martial Appeal Court**]**, before any of the persons specified in paragraph (*a*) above or, if **[**[F136]Court Martial Appeal Rules**]** so provide, by a person of such other description as is specified in the rules;

and **[**[F137]Civil Procedure Rules, Criminal Procedure Rules or **[**[F138]Court Martial Appeal Rules**]]** may also prescribe the manner in which a recognizance which is to be entered into before such a person is to be entered into and the persons by whom and the manner in which the recognizance may be enforced.

(5) Where a surety seeks to enter into his recognizance before any person in accordance with subsection (4) above but that person declines to take his recognizance because he is not satisfied of the surety's suitability, the surety may apply to—
- (a) the court which fixed the amount of the recognizance in which the surety was to be bound, or
- (b) a magistrates' court [F139]...,

for that court to take his recognizance and that court shall, if satisfied of his suitability, take his recognizance.

(6) Where this subsection applies, the court, if satisfied of the suitability of the proposed surety, may direct that arrangements be made for the recognizance of the surety to be entered into in Scotland before any constable, within the meaning of the **[**[F140]Police and Fire Reform (Scotland) Act 2012**]**, having charge at any police office or station in like manner as the recognizance would be entered into in England or Wales.

(7) Where, in pursuance of subsection (4) or (6) above, a recognizance is entered into otherwise than before the court that fixed the amount of the recognizance, the same consequences shall follow as if it had been entered into before that court.

Textual Amendments

F132 Words in s. 8(4)(a) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 186(2)(a)**; S.I. 2004/2066, art. 2(c)(ix) (with art. 3)

F133 Words in s. 8(4)(b) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 186(2)(b)**; S.I. 2004/2066, art. 2(c)(ix) (with art. 3)

F134 Words in s. 8(4)(c) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 186(2)(c)**; S.I. 2004/2066, art. 2(c)(ix) (with art. 3)

F135 Words in s. 8(4)(d) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 76(a)(i)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

F136 Words in s. 8(4)(d) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 76(a)(ii)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

F137 Words in s. 8(4) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 186(2)(d)**; S.I. 2004/2066, art. 2(c)(ix) (with art. 3)

F138 Words in s. 8(4) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 76(b)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

F139 Words in s. 8(5)(b) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 186(3), **Sch. 10**; S.I. 2005/910, art. 3(y)

F140 Words in s. 8(6) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 13** (with Sch. 3 para. 8)

Miscellaneous

9 Offence of agreeing to indemnify sureties in criminal proceedings.

(1) If a person agrees with another to indemnify that other against any liability which that other may incur as a surety to secure the surrender to custody of a person accused or convicted of or under arrest for an offence, he and that other person shall be guilty of an offence.

(2) An offence under subsection (1) above is committed whether the agreement is made before or after the person to be indemnified becomes a surety and whether or not he becomes a surety and whether the agreement contemplates compensation in money or in money's worth.

(3) Where a magistrates' court convicts a person of an offence under subsection (1) above the court may, if it thinks—

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(a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than the court has power to inflict, or

(b) in a case where it **[**[F141]sends**]** that person for trial to the Crown Court for another offence, that it would be appropriate for him to be dealt with for the offence under subsection (1) above by the court before which he is tried for the other offence,

commit him in custody or on bail to the Crown Court for sentence.

(4) A person guilty of an offence under subsection (1) above shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding £400 or to both; or

(b) on conviction on indictment or if sentenced by the Crown Court on committal for sentence under subsection (3) above, to imprisonment for a term not exceeding 12 months or to a fine or to both.

(5) No proceedings for an offence under subsection (1) above shall be instituted except by or with the consent of the Director of Public Prosecutions.

Textual Amendments

F141 Word in s. 9(3)(b) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(5)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

Modifications etc. (not altering text)

C7 S. 9(5) explained by Criminal Jurisdiction Act 1975 (c. 59), **s. 12**

[[F142]**9A Bail decisions relating to [**[F143]**children or young persons] who are accused of offences mentioned in Schedule 2 to the Magistrates' Courts Act 1980**

(1) This section applies whenever—

(a) a magistrates' court is considering whether to withhold or grant bail in relation to a **[**[F144]child or young person**]** who is accused of a scheduled offence; and

(b) the trial of that offence has not begun.

(2) The court shall, before deciding whether to withhold or grant bail, consider whether, having regard to any representations made by the prosecutor or the accused **[**[F145]child or young**]** person, the value involved does not exceed the relevant sum for the purposes of section 22.

(3) The duty in subsection (2) does not apply in relation to an offence if—

(a) a determination under subsection (4) has already been made in relation to that offence; or

(b) the accused **[**[F146]child or young**]** person is, in relation to any other offence of which he is accused which is not a scheduled offence, a person to whom Part 1 of Schedule 1 to this Act applies.

(4) If where the duty in subsection (2) applies it appears to the court clear that, for the offence in question, the amount involved does not exceed the relevant sum, the court shall make a determination to that effect.

(5) In this section—

(a) "relevant sum" has the same meaning as in section 22(1) of the Magistrates' Courts Act 1980 (certain either way offences to be tried summarily if value involved is less than the relevant sum);

(b) "scheduled offence" means an offence mentioned in Schedule 2 to that Act (offences for which the value involved is relevant to the mode of trial); and

(c) "the value involved" is to be construed in accordance with section 22(10) to (12) of that Act.**]**

Textual Amendments

F142 S. 9A inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 12 para. 3**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 27

F143 Words in s. 9A heading substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 9(2)**; S.I. 2012/2906, art. 2(i)

F144 Words in s. 9A(1)(a) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 9(3)**; S.I. 2012/2906, art. 2(i)

F145 Words in s. 9A(2) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 9(4)**; S.I. 2012/2906, art. 2(i)

F146 Words in s. 9A(3)(b) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 9(4)**; S.I. 2012/2906, art. 2(i)

10 . . . . . **F147**

Textual Amendments

F147 S. 10 repealed by Criminal Law Act 1977 (c. 45), **Sch. 13**

11 . . . . . **F148**

Textual Amendments

F148 S. 11 repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 6**

12 Amendments, repeals and transitional provisions.

(1) Schedule 2 to this Act (which contains consequential and minor amendments of enactments) shall have effect.

(2) The enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The transitional provisions contained in Schedule 4 to this Act shall have effect.

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Modifications etc. (not altering text)

C8 The text of s. 12(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

13 Short title, commencement, application and extent.

(1) This act may be cited as the Bail Act 1976.

(2) This Act (except this section) shall come into force on such day as the Secretary of State may by order in a statutory instrument appoint.

(3) Section 1 of this Act applies to bail grantable by the **[**[F149]Court Martial Appeal Court**]** when sitting outside England and Wales and accordingly section 6 of this Act applies to a failure outside England and Wales by a person granted bail by that Court to surrender to custody.

(4) Except as provided by subsection (3) above and with the exception of so much of section 8 as relates to entering into recognizances in Scotland and paragraphs 31 and 46 of Schedule 2 to this Act, this Act does not extend beyond England and Wales.

Textual Amendments

F149 Words in s. 13(3) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 77**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Modifications etc. (not altering text)

C9 17.4.1978 appointed under s. 13(2) by S.I. 1978/132

Status: *Point in time view as at 28/05/2013.*
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SCHEDULES

SCHEDULE 1

Section 4.

PERSONS ENTITLED TO BAIL: SUPPLEMENTARY PROVISIONS

PART I

DEFENDANTS ACCUSED OR CONVICTED OF IMPRISONABLE OFFENCES

[F150 Application of Part 1]

Textual Amendments

F150 Words in Sch. 1 Pt. 1 para. 1 cross-heading substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 11**; S.I. 2012/2906, art. 2(i)

[F151[F152]1(1)] [F153 Subject to sub-paragraph (2),**][F154**and paragraph 1A**]** the following provisions of this Part of this Schedule apply to the defendant if—

(a) the offence or one of the offences of which he is accused or convicted in the proceedings is punishable with imprisonment, or

(b) his extradition is sought in respect of an offence.

[F155(2) But those provisions do not apply by virtue of sub-paragraph (1)(a) if the offence, or each of the offences punishable with imprisonment, is—

(a) a summary offence; or

(b) an offence mentioned in Schedule 2 to the Magistrates' Courts Act 1980 (offences for which the value involved is relevant to the mode of trial) in relation to which—

(i) a determination has been made under section 22(2) of that Act (certain either way offences to be tried summarily if value involved is less than the relevant sum) that it is clear that the value does not exceed the relevant sum for the purposes of that section; or

(ii) a determination has been made under section 9A(4) of this Act to the same effect.**]]**

Textual Amendments

F151 Sch. 1 Pt. I para. 1 substituted (1.1.2004) by Extradition Act 2003 (c. 41), ss. 198(12), 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2).

F152 Sch. 1 Pt. I para. 1: renumbered as Sch. 1 Pt. I para. 1(1) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 12 para. 5(1)**; S.I. 2008/1586, art. 2(1), **Sch. 1 para. 27**

F153 Words in Sch. 1 Pt. I para. 1(1) inserted by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 12 para. 5(2)**; S.I. 2008/1586, art. 2(1), **Sch. 1 para. 27**

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F154 Words in Sch. 1 Pt. 1 para. 1(1) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 12**; S.I. 2012/2906, **art. 2(i)**

F155 Sch. 1 Pt. I para 1(2) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 12 para. 5(3)**; S.I. 2008/1586, art. 2(1), **Sch. 1 para. 27**

[F156 1A (1) The paragraphs of this Part of this Schedule mentioned in sub-paragraph (2) do not apply in relation to bail in non-extradition proceedings where—

(a) the defendant has attained the age of 18,

(b) the defendant has not been convicted of an offence in those proceedings, and

(c) it appears to the court that there is no real prospect that the defendant will be sentenced to a custodial sentence in the proceedings.

(2) The paragraphs are—

(a) paragraph 2 (refusal of bail where defendant may fail to surrender to custody, commit offences on bail or interfere with witnesses),

(b) paragraph 2A (refusal of bail where defendant appears to have committed indictable or either way offence while on bail), and

(c) paragraph 6 (refusal of bail where defendant has been arrested under section 7).]

Textual Amendments

F156 Sch. 1 Pt. 1 para. 1A inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 13**; S.I. 2012/2906, art. 2(i)

Exceptions to right to bail

2 [F157 (1)] The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would—

(a) fail to surrender to custody, or

(b) commit an offence while on bail, or

(c) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.

[F158 (2) Where the defendant falls within paragraph 6B, this paragraph does not apply unless—

(a) the court is of the opinion mentioned in paragraph 6A, or

(b) paragraph 6A does not apply by virtue of paragraph 6C.]

Textual Amendments

F157 Sch. 1 Pt. 1 para 2 renumbered as Sch. 1 Pt. 1 para. 2(1) (5.4.2004) by virtue of Criminal Justice Act 2003 (c. 44), **ss. 20(1)**, 336(3) (with s. 141); S.I. 2004/829, art. 2(1)(2) (with art. 2(3))

F158 Sch. 1 Pt. 1 para. 2(2) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 14**; S.I. 2012/2906, **art. 2(i)**

[F159 2ZA (1) The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether

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subject to conditions or not), would commit an offence while on bail by engaging in conduct that would, or would be likely to, cause—

(a) physical or mental injury to an associated person; or

(b) an associated person to fear physical or mental injury.

(2) In sub-paragraph (1) "associated person" means a person who is associated with the defendant within the meaning of section 62 of the Family Law Act 1996.**]**

Textual Amendments

F159 Sch. 1 Pt. 1 para. 2ZA inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 15**; S.I. 2012/2906, art. 2(i)

[[F160]2A The defendant need not be granted bail if—

(a) the offence is an indictable offence or an offence triable either way, and

(b) it appears to the court that the defendant was on bail in criminal proceedings on the date of the offence.**]**

Textual Amendments

F160 Sch. 1 para. 2A substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 16**; S.I. 2012/2906, art. 2(i)

[[F161]2B The defendant need not be granted bail in connection with extradition proceedings if—

(a) the conduct constituting the offence would, if carried out by the defendant in England and Wales, constitute an indictable offence or an offence triable either way; and

(b) it appears to the court that the defendant was on bail on the date of the offence.**]**

Textual Amendments

F161 Sch. 1 para. 2B inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(13)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)

3 The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.

4 The defendant need not be granted bail if he is in custody in pursuance of **[**[F162]a sentence of a court or a sentence imposed by an officer under the Armed Forces Act 2006.**]**

Textual Amendments

F162 Words in Sch. 1 Pt. I para. 4 substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force)) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 78(a)**; S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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Modifications etc. (not altering text)

C10 Sch. 1 Pt. 1 para. 4 modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force)) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), art. 1(3), **Sch. 1 para. 15**

5 The defendant need not be granted bail where the court is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this Part of this Schedule for want of time since the institution of the proceedings against him.

[[F163]6 The defendant need not be granted bail if, having previously been released on bail in, or in connection with, the proceedings, the defendant has been arrested in pursuance of section 7.**]**

Textual Amendments

F163 Sch. 1 Pt. 1 para. 6 substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 17**; S.I. 2012/2906, **art. 2(i)**

[[F164]6ZA If the defendant is charged with murder, the defendant may not be granted bail unless the court is of the opinion that there is no significant risk of the defendant committing, while on bail, an offence that would, or would be likely to, cause physical or mental injury to any person other than the defendant.**]**

Textual Amendments

F164 Sch. 1 Pt. 1 para. 6ZA inserted (1.2.2010) by Coroners and Justice Act 2009 (c. 25), **ss. 114(2)**, 182(5) (with s. 180); S.I. 2010/145, art. 2(2), Sch. para. 7

***[**[F165]*Exception applicable to drug users in certain areas*

Textual Amendments

F165 Sch. 1 paras. 6A-6C and headings inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 19(4)(a)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

6A Subject to paragraph 6C below, a defendant who falls within paragraph 6B below may not be granted bail unless the court **[**[F166]is of the opinion**]** that there is no significant risk of his committing an offence while on bail (whether subject to conditions or not).

Textual Amendments

F166 Words in Sch. 1 Pt. 1 para. 6A substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 18**; S.I. 2012/2906, **art. 2(i)**

Exception applicable to drug users in certain areas

6B (1) A defendant falls within this paragraph if—

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(a) he is aged 18 or over;

(b) a sample taken—

(i) under section 63B of the Police and Criminal Evidence Act 1984 (testing for presence of Class A drugs) in connection with the offence; or

(ii) under section 161 of the Criminal Justice Act 2003 (drug testing after conviction of an offence but before sentence),

has revealed the presence in his body of a specified Class A drug;

(c) either the offence is one under section 5(2) or (3) of the Misuse of Drugs Act 1971 and relates to a specified Class A drug, or the court is satisfied that there are substantial grounds for believing—

(i) that misuse by him of any specified Class A drug caused or contributed to the offence; or

(ii) (even if it did not) that the offence was motivated wholly or partly by his intended misuse of such a drug; and

(d) the condition set out in sub-paragraph (2) below is satisfied or (if the court is considering on a second or subsequent occasion whether or not to grant bail) has been, and continues to be, satisfied.

(2) The condition referred to is that after the taking and analysis of the sample—

(a) a relevant assessment has been offered to the defendant but he does not agree to undergo it; or

(b) he has undergone a relevant assessment, and relevant follow-up has been proposed to him, but he does not agree to participate in it.

(3) In this paragraph and paragraph 6C below—

(a) "Class A drug" and "misuse" have the same meaning as in the Misuse of Drugs Act 1971;

(b) "relevant assessment" and "relevant follow-up" have the meaning given by section 3(6E) of this Act;

(c) "specified" (in relation to a Class A drug) has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000.

Modifications etc. (not altering text)

C11 Sch. 1 para. 6B(2)(b) modified (1.12.2005 for specified purposes, 1.4.2007 in so far as not already in force) by Drugs Act 2005 (c. 17), **ss. 17(3)**, 24(3) (with s. 17(4)); S.I. 2005/3053, art. 2(2)(d); S.I. 2007/562, art. 2(2)(d)

Exception applicable to drug users in certain areas

6C Paragraph 6A above does not apply unless—

(a) the court has been notified by the Secretary of State that arrangements for conducting a relevant assessment or, as the case may be, providing relevant follow-up have been made for the **[**[F167]local justice area**]** in which it appears to the court that the defendant would reside if granted bail; and

(b) the notice has not been withdrawn.**]**

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

Textual Amendments

F167 Words in Sch. 1 para. 6C(a) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 1, **Sch. para. 40**

Exception applicable only to defendant whose case is adjourned for inquiries or a report

7 Where his case is adjourned for inquiries or a report, the defendant need not be granted bail if it appears to the court that it would be impracticable to complete the inquiries or make the report without keeping the defendant in custody.

Restriction of conditions of bail

8 (1) Subject to sub-paragraph (3) below, where the defendant is granted bail, no conditions shall be imposed under subsections **[**[F168](4) to (6B) or (7)**][**[F169](except subsection (6)(d) **[**[F170]or (e)**])]**of section 3 of this Act unless it appears to the court **[**[F171]that it is necessary to do so—

(a) for the purpose of preventing the occurrence of any of the events mentioned in paragraph 2(1) of this Part of this Schedule, or

(b) for the defendant's own protection or, if he is a child or young person, for his own welfare or in his own interests.**]**

[F172]**[**(1A) No condition shall be imposed under section 3(6)(d) of this Act unless it appears to be necessary to do so for the purpose of enabling inquiries or a report to be made.**]**

(2) **[**[F173]Sub-paragraphs (1) and (1A) above also apply**]** on any application to the court to vary the conditions of bail or to impose conditions in respect of bail which has been granted unconditionally.

(3) The restriction imposed by **[**[F174]sub-paragraph (1A)**]** above shall not **[**[F175]apply to the conditions required to be imposed under section 3(6A) of this Act or**]** operate to override the direction in **[**[F176]section 11(3) of the Powers of Criminal Courts (Sentencing) Act 2000**]**to a magistrates' court to impose conditions of bail under section 3(6)(*d*) of this Act of the description specified in **[**[F177]the said section 11(3)**]** in the circumstances so specified.

Textual Amendments

F168 Words in Sch. 1 para. 8(1) substituted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 19(4)(b)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

F169 Words in Sch. 1 para. 8 inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11**, para. 22(2); S.I. 1992/333, art. 2(2), **Sch. 2**.

F170 Words in Sch. 1 para. 8(1) inserted (30.9.1998) by 1998 c. 37 s. 119, Sch. 8 para. 38; S.I. 1998/2327, **art. 2(2)(m)**.

F171 Sch. 1 para. 8(1)(a)(b) substituted for words (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 13(3)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

F172 Sch. 1 para. 8(1A) inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 22(3)**; S.I. 1992/333, art. 2(2), **Sch. 2**.

F173 Words in Sch. 1 para. 8(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 22(4)**; S.I. 1992/333, art. 2(2), **Sch. 2**.

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

F174 Words in Sch. 1 para. 8(3) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 22(5)**; S.I. 1992/333, art. 2(2), **Sch. 2**.
F175 Words inserted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **s. 34(4)**
F176 Words in Sch. 1 Pt. I para. 8(3) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 54(2)(a)**
F177 Words in Sch. 1 Pt. I para. 8(3) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 54(2)(b)**

Decisions under paragraph 2

9 In taking the decisions required by paragraph **[**[F178]2(1), or in deciding whether it is satisfied as mentioned in paragraph **[**[F179]2ZA(1)**]**,**]**[F180]or of the opinion mentioned in paragraph 6ZA**]**[F181]or 6A**]** of this Part of this Schedule, the court shall have regard to such of the following considerations as appear to it to be relevant, that is to say—

(a) the nature and seriousness of the offence or default (and the probable method of dealing with the defendant for it),

(b) the character, antecedents, associations and community ties of the defendant,

(c) the defendant's record as respects the fulfilment of his obligations under previous grants of bail in criminal proceedings,

(d) except in the case of a defendant whose case is adjourned for inquiries or a report, the strength of the evidence of his having committed the offence or having defaulted,

[[F182](e) if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not), would commit an offence while on bail, the risk that the defendant may do so by engaging in conduct that would, or would be likely to, cause physical or mental injury to any person other than the defendant,**]**

as well as to any others which appear to be relevant.

Textual Amendments

F178 Words in Sch. 1 para. 9 substituted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 20(2)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b) (with art. 2(3))
F179 Words in Sch. 1 Pt. 1 para. 9 substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 19(a)**; S.I. 2012/2906, **art. 2(i)**
F180 Words in Sch. 1 para. 9 inserted (1.2.2010) by Coroners and Justice Act 2009 (c. 25), **ss. 114(3)(a)**, 182(5) (with s. 180); S.I. 2010/145, art. 2(2), Sch. para. 7
F181 Words in Sch. 1 Pt. 1 para. 9 inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 19(b)**; S.I. 2012/2906, **art. 2(i)**
F182 Sch. 1 para. 9(e) inserted (1.2.2010) by Coroners and Justice Act 2009 (c. 25), **ss. 114(3)(b)**, 182(5) (with s. 180); S.I. 2010/145, art. 2(2), Sch. para. 7

[[F183]9A(1) This paragraph applies if—

(a) the defendant is **[**[F184]a child or young person**]**, and

(b) it appears to the court that he was on bail in criminal proceedings on the date of the offence.

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

(2) In deciding for the purposes of paragraph 2(1) of this Part of this Schedule whether it is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not), would commit an offence while on bail, the court shall give particular weight to the fact that the defendant was on bail in criminal proceedings on the date of the offence.**]**

Textual Amendments

F183 Sch. 1 para. 9AA inserted (1.1.2007 for specified purposes) by Criminal Justice Act 2003 (c. 44), **ss. 14(2)**, 336(3)(4) (with s. 141); S.I. 2006/3217, art. 2(a) (with art. 3(1))

F184 Words in Sch. 1 Pt. 1 para. 9AA(1)(a) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 20**; S.I. 2012/2906, **art. 2(i)**

[[F185]9AB (1) Subject to sub-paragraph (2) below, this paragraph applies if—

(a) the defendant is **[**[F186]a child or young person**]**, and

(b) it appears to the court that, having been released on bail in or in connection with the proceedings for the offence, he failed to surrender to custody.

(2) Where it appears to the court that the defendant had reasonable cause for his failure to surrender to custody, this paragraph does not apply unless it also appears to the court that he failed to surrender to custody at the appointed place as soon as reasonably practicable after the appointed time.

(3) In deciding for the purposes of paragraph 2(1) of this Part of this Schedule whether it is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not), would fail to surrender to custody, the court shall give particular weight to—

(a) where the defendant did not have reasonable cause for his failure to surrender to custody, the fact that he failed to surrender to custody, or

(b) where he did have reasonable cause for his failure to surrender to custody, the fact that he failed to surrender to custody at the appointed place as soon as reasonably practicable after the appointed time.

(4) For the purposes of this paragraph, a failure to give to the defendant a copy of the record of the decision to grant him bail shall not constitute a reasonable cause for his failure to surrender to custody.**]**

Textual Amendments

F185 Sch. 1 para. 9AB inserted (1.1.2007 for specified purposes) by Criminal Justice Act 2003 (c. 44), **ss. 15(2)**, 336(3)(4) (with s. 141); S.I. 2006/3217, art. 2(a) (with art. 3(2))

F186 Words in Sch. 1 Pt. 1 para. 9AB(1)(a) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 21**; S.I. 2012/2906, **art. 2(i)**

[F187]9A . . . . . .

Textual Amendments

F187 Sch. 1 para. 9A repealed (1.8.2001) by 2000 c. 16, ss. 129(4), 137, **Sch. 7 Pt. 6**; S.I. 2001/2223, **art. 3(i)(m)**

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

[F188 Cases under section 128A of Magistrates' Courts Act 1980

Textual Amendments

F188 Sch. 1 paras. 9A, 9B inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 153, 155(2), **Sch. 8 para. 16**

9B Where the court is considering exercising the power conferred by section 128A of the Magistrates' Courts Act 1980 (power to remand in custody for more than 8 clear days), it shall have regard to the total length of time which the accused would spend in custody if it were to exercise the power.**]**

[F189PART 1A

DEFENDANTS ACCUSED OR CONVICTED OF IMPRISONABLE OFFENCES TO WHICH PART 1 DOES NOT APPLY

Textual Amendments

F189 Sch. 1 Pt. 1A inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 12 para. 6**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 27

Defendants to whom Part 1A applies

1 **[**F190Subject to paragraph 1A, the**]** following provisions of this Part apply to the defendant if—

(a) the offence or one of the offences of which he is accused or convicted is punishable with imprisonment, but

(b) Part 1 does not apply to him by virtue of paragraph 1(2) of that Part.

Textual Amendments

F190 Words in Sch. 1 Pt. 1A para. 1 substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 24**; S.I. 2012/2906, art. 2(i)

Exceptions to right to bail

2 The defendant need not be granted bail if—

(a) it appears to the court that, having been previously granted bail in criminal proceedings, he has failed to surrender to custody in accordance with his obligations under the grant of bail; and

(b) the court believes, in view of that failure, that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody.

3 The defendant need not be granted bail if—

(a) it appears to the court that the defendant was on bail in criminal proceedings on the date of the offence; and

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Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

(b) the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would commit an offence while on bail.

4 **[**F191(1)**]** The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not), would commit an offence while on bail by engaging in conduct that would, or would be likely to, cause—

(a) physical or mental injury to **[**F192an associated person**]**; or

(b) **[**F192an associated person**]** to fear physical or mental injury.

[F193(2) In sub-paragraph (1) "associated person" means a person who is associated with the defendant within the meaning of section 62 of the Family Law Act 1996.**]**

Textual Amendments

F191 Sch. 1 Pt. 1A para. 4 renumbered Sch. 1 Pt. 1A para. 4(1) (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 26(2)**; S.I. 2012/2906, art. 2(i)

F192 Words in Sch. 1 Pt. 1A para. 4(1)(a)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 26(3)**; S.I. 2012/2906, art. 2(i)

F193 Sch. 1 Pt. 1A para. 4(2) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 26(4)**; S.I. 2012/2906, art. 2(i)

5 The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.

6 The defendant need not be granted bail if he is in custody in pursuance of a sentence of a court or a sentence imposed by an officer under the Armed Forces Act 2006.

7 The defendant need not be granted bail if —

(a) having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 7 of this Act; and

(b) the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody, commit an offence while on bail or interfere with witnesses or otherwise obstruct the course of justice (whether in relation to himself or any other person).

8 The defendant need not be granted bail where the court is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this Part of this Schedule for want of time since the institution of the proceedings against him.

Application of paragraphs 6A to 6C of Part 1

9 Paragraphs 6A to 6C of Part 1 (exception applicable to drug users in certain areas and related provisions) apply to a defendant to whom this Part applies as they apply to a defendant to whom that Part applies.**]**

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

PART II

DEFENDANTS ACCUSED OR CONVICTED OF NON-IMPRISONABLE OFFENCES

Defendants to whom Part II applies

1 Where the offence or every offence of which the defendant is accused or convicted in the proceedings is one which is not punishable with imprisonment the following provisions of this Part of this Schedule apply.

Exceptions to right to bail

2 The defendant need not be granted bail if—

[F194(za) the defendant—

(i) is a child or young person, or

(ii) has been convicted in the proceedings of an offence;]

(a) it appears to the court that, having been previously granted bail in criminal proceedings, he has failed to surrender to custody in accordance with his obligations under the grant of bail; and

(b) the court believes, in view of that failure, that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody.

Textual Amendments

F194 Sch. 1 Pt. 2 para. 2(za) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 28**; S.I. 2012/2906, **art. 2(i)**

3 The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.

4 The defendant need not be granted bail if he is in custody in pursuance of [F195a sentence of a court or a sentence imposed by an officer under the Armed Forces Act 2006.]

Textual Amendments

F195 Words in Sch. 1 Pt. II para. 4 substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 78(a)**; S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Modifications etc. (not altering text)

C12 Sch. 1 Pt. II para. 4 modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), art. 1(3), **Sch. 1 para. 15**

[F1965 The defendant need not be granted bail if—

[F197(za) the defendant—

(i) is a child or young person, or

(ii) has been convicted in the proceedings of an offence;]

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

(a) having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 7 of this Act; and

(b) the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody, commit an offence on bail or interfere with witnesses or otherwise obstruct the course of justice (whether in relation to himself or any other person).**]**

Textual Amendments

F196 Sch. 1 Pt.2 para 5 substituted (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 13(4). 336(3) (with s. 141); S.I. 2004/829, art. 2(1)(2) (subject to art. 2(3)-(6))

F197 Sch. 1 Pt. 2 para. 5(za) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 29**; S.I. 2012/2906, **art. 2(i)**

[F1986 (1) The defendant need not be granted bail if—

(a) having been released on bail in, or in connection with, the proceedings for the offence, the defendant has been arrested in pursuance of section 7, and

(b) the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not), would commit an offence while on bail by engaging in conduct that would, or would be likely to, cause—

(i) physical or mental injury to an associated person, or

(ii) an associated person to fear physical or mental injury.

(2) In sub-paragraph (1) "associated person" means a person who is associated with the defendant within the meaning of section 62 of the Family Law Act 1996.**]**

Textual Amendments

F198 Sch. 1 Pt. 2 para. 6 inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 29**; S.I. 2012/2906, **art. 2(i)**

[F199PART IIA

DECISIONS WHERE BAIL REFUSED ON PREVIOUS HEARING

Textual Amendments

F199 Sch. 1 Pt. IIA inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 153, 155(2), **Sch. 8 para. 16**

1 If the court decides not to grant the defendant bail, it is the court's duty to consider, at each subsequent hearing while the defendant is a person to whom section 4 above applies and remains in custody, whether he ought to be granted bail.

2 At the first hearing after that at which the court decided not to grant the defendant bail he may support an application for bail with any argument as to fact or law that he desires (whether or not he has advanced that argument previously).

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

3 At subsequent hearings the court need not hear arguments as to fact or law which it has heard previously.**]**

PART III

INTERPRETATION

1 For the purposes of this Schedule the question whether an offence is one which is punishable with imprisonment shall be determined without regard to any enactment prohibiting or restricting the imprisonment of young offenders or first offenders.

[[F200]2 References in this Schedule to previous grants of bail include—

(a) bail granted before the coming into force of this Act;

(b) as respects the reference in paragraph 2A of Part 1 of this Schedule (as substituted by **[**[F201]paragraph 16 of Schedule 11 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012**]**), bail granted before the coming into force of that paragraph;

(c) as respects the references in paragraph 6 of Part 1 of this Schedule (as substituted by **[**[F202]paragraph 17 of Schedule 11 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012**]**), bail granted before the coming into force of that paragraph;

(d) as respects the references in paragraph 9AA of Part 1 of this Schedule, bail granted before the coming into force of that paragraph;

(e) as respects the references in paragraph 9AB of Part 1 of this Schedule, bail granted before the coming into force of that paragraph;

(f) as respects the reference in paragraph 5 of Part 2 of this Schedule (as substituted by section 13(4) of the Criminal Justice Act 2003), bail granted before the coming into force of that paragraph**][**[F203];

(g) as respects the reference in paragraph 6 of Part 2 of this Schedule, bail granted before the coming into force of that paragraph.**]**

Textual Amendments

F200 Sch. 1 Pt. III para. 2 substituted (1.1.2007) by Criminal Justice Act 2003 (c. 44), s. 336(3), **Sch. 36 para. 3**; S.I. 2006/3217, art. 2(b) (with art. 3)

F201 Words in Sch. 1 Pt. 3 para. 2(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 31(2)**; S.I. 2012/2906, **art. 2(i)**

F202 Words in Sch. 1 Pt. 3 para. 2(c) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 31(2)**; S.I. 2012/2906, **art. 2(i)**

F203 Sch. 1 Pt. 3 para. 2(g) and semicolon inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 31(4)**; S.I. 2012/2906, **art. 2(i)**

3 References in this Schedule to a defendant's being kept in custody or being in custody include (where the defendant is a child or young person) references to his being kept or being in **[**[F204]accommodation pursuant to a remand under section 91(3) or (4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (remands to local authority accommodation or youth detention accommodation).**]**

Status: *Point in time view as at 28/05/2013.*
Changes to legislation: *Bail Act 1976 is up to date with all changes known to be in force on or before 19 May 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)*

Textual Amendments

F204 Words in Sch. 1 Pt. 3 para. 3 substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 17**; S.I. 2012/2906, **art. 2(j)** (with art. 7(2)(3))

4 In this Schedule—

"court", in the expression "sentence of a court", includes a service court as defined in section 12(1) of the [M3]Visiting Forces Act 1952 and "sentence", in that expression, shall be construed in accordance with that definition;

"default", in relation to the defendant, means the default for which he is to be dealt with under **[**[F205]Part 2 of Schedule 8 to the Criminal Justice Act 2003 (breach of requirement of order)**]**;

[F206]…

Textual Amendments

F205 Sch. 1 Pt. 3 para. 4 words substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3), **Sch. 32 para. 23**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(12) (with art. 2(2), Sch. 2).

F206 Words in Sch. 1 Pt. 3 para. 4 repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 78(b)**; S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Marginal Citations

M3 1952 c. 67.

SCHEDULE 2

Section 12.

CONSEQUENTIAL AND OTHER AMENDMENTS OF ACTS

Modifications etc. (not altering text)

C13 The text of Schedule 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M4]*Habeas Corpus Act 1679*

Marginal Citations

M4 1679 c. 2.

1 In section 2 of the Habeas Corpus Act 1679 (bail for ersons released from custody under habeas corpus while awaiting trial) for the words from "discharge the said prisoner" to "his ot their appearance in" there shall be substituted the words "grant bail in accordance with the Bail Act 1976 to the said prisoner subject to a duty to appear before" and for the words "and the said recognizance or recognizances"

Status: *Point in time view as at 28/05/2013.*
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there shall be substituted the words "together with the recognizance of any surety for him".

2 . . . . . F207

Textual Amendments
F207 Sch. 2 para. 2 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1**

M5 *Criminal Law Amendment Act 1867*

Marginal Citations
M5 1867 c. 35.

3 In section 10 of the Criminal Law Amendment Act 1867 (production from prison without habeas corpus where recognizances for appearance have been taken) for the words from the beginning to "such court" there shall be substituted the words "Where a person who has been granted bail in criminal proceedings is, while awaiting for trial for the offence before the Crown Court, in prison".

4 . . . . . F208

Textual Amendments
F208 Sch. 2 para. 4 repealed by Criminal Law Act 1977 (c. 45), **Sch. 13**

5 . . . . . F209

Textual Amendments
F209 Sch. 2 para. 5 repealed by Interpretation Act 1978 (c. 30, SIF 115:1), **Sch. 3**

6 . . . . . F210

Textual Amendments
F210 Sch. 2 para. 6 repealed by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(6), **Sch. 2**

M6 *Criminal Justice Administration Act 1914*

Marginal Citations
M6 1914 c. 58.

7 In section 19 of the Criminal Justice Administration Act 1914 (continuous bail otherwise than in proceedings in magistrates' courts), for the words "the recognizance may be conditioned" there shall be substituted the words "the court may, where it remands him on bail in criminal proceedings (within the meaning

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of the Bail Act 1976) direct him to appear or, in any other case, direct that his recognizance be conditioned".

[M7]*Indictments Act 1915*

Marginal Citations
M7 1915 c. 90

8 In section 5(5)(c) of the Indictment Act 1915 (bail where seperate trial or postponed trial ordered) for the words "admitting the accused person to bail" there shall be substituted the words "granting the accused person bail".

[M8]*Children and Young Persons Act 1933*

Marginal Citations
M8 1933 c. 12.

9 In section 13(2) of the Children and Young Persons Act 1933 (police bail for person arrested for serious offence against juvenile) for the words from "on his entering" to the end there shall be substituted the words "on bail in accordance with the Bail Act 1976 subject to a duty to appear at the hearing of the charge".

[M9]*Public Order Act 1936*

Marginal Citations
M9 1 Edw. 8 & 1 Geo. 6. c. 6.

10 In section 1(2) of the Public Order Act 1936 (right to release on bail in certain circumstances of persons charged with wearing uniforms in public) for the words "dischrged from custody on entering into a recognizance" there shall be substituted the words "realesed on bail".

[M10]*Criminal Justice Act 1948*

Marginal Citations
M10 1948 c. 58.

11 (1) Section 37 of the Criminal Justice Act 1948 (powers of High Court to grant bail on appeals against and other proceedings questioning convictions or sentences) shall be amended as follows.

(2) In subsection (1), in paragraph (b), for the words "release on bail" there shall be substituted the words "grant bail to".

(3) In subsection (1), for paragraph (d), there shall be substituted the following.

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"(d) the High Court may grant bail to a person who has been convicted or sentenced by a magistrates' court and has applied to the High Court for an order of certiorari to remove the proceedings into the High Court or has applied to the High Court for leave to make such an application ;".

(4) After subsection (1) there shall be inserted the following subsection—

"(1A) Where the court grants bail to a person under paragraph (d) of subsection (1) above—

(a) the time at which he is to appear in the event of the conviction or sentence not being quashed by the High Court shall be such time within ten days after the judgement of the High Court has been given as may be specified by the High Court ; and

(b) the place at which he is to appear in that event shall be a magistrates' court acting for the same petty sessions area as the court which convicted or sentenced him."

(5) In subsection (6), for the words "admitted to" wherever occurring there shall be substituted the words "released on".

12 . . . . . F211

Textual Amendments

F211 Sch. 2 para. 12 repealed by Representation of the People Act 1983 (c. 2, SIF 42), **Sch. 9 Pt. II**

13 . . . . . F212

Textual Amendments

F212 Sch. 2 para. 13 repealed by Animal Health Act 1981 (c. 22, SIF 4:4), **Sch. 7**

14—29. . . . . F213

Textual Amendments

F213 Sch. 2 paras. 14–29 repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 9**

[M11] *Administration of Justice Act 1960*

Marginal Citations

M11 1960 c. 65.

30 In section 4(2) of the Administration of Justice Act 1960 (power to grant bail in appeals from Divisional Courts), after the words "in relation to" there shall be inserted the words "the time and the placeof appearance appointed and" and, after the words "entered into", there shall be inserted the words "by any surety".

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31 In section 6(1) of the Administration of Justice Act 1960 (computation of sentence where bail granted in appeals to House of Lords) for the words "admitted to" there shall be susbtituted the words "granted" and for the words "at large after being so admitted" there shall be substituted the words "released on bail".

32 . . . . . F214

Textual Amendments

F214 Sch. 2 para. 32 repealed by Supreme Court Act 1981 (c. 54, SIF 37), **Sch. 7**

M12 *Backing of Warrants (Republic of Ireland) Act 1965*

Marginal Citations

M12 1965 c. 45.

F215 33 . . . . . .

Textual Amendments

F215 Sch. 2 para. 33 repealed (1.1.2004) by Extradition Act 2003 (c. 41), s. 221, **Sch. 4**; S.I. 2003/3103, art. 2 (with arts. 3-5) (as amended (11.12.2003) by S.I. 2003/3258, art. 2 and (18.12.2003) by S.I. 2003/3312, art. 2)

M13 *Criminal Justice Act 1967*

Marginal Citations

M13 1967 c. 80.

34 Section 18 of the Criminal Justice Act 1967 (restrictions on refusal of bail by magistrates' courts in criminal proceedings) shall be omitted.

35 . . . . . F216

Textual Amendments

F216 Sch. 2 para. 35 repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 9**

36 Section 21 of the Criminal Justice Act 1967 (power to impose special conditions of bail) shall be omitted.

37 (1) Section 22 of the Criminal Justice Act 1967 (extension of power of High Court to grant, or vary conditions of, bail) shall be amended as follows.

(2) For subsections (1) and (2) there shall be substituted the following—

"(1) Where an inferior court withholds bail in criminal proceedings or imposes conditions in granting bail in criminal proceedings, the High Court may grant bail or vary the conditions.

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(2) Wher the High Court grants a person bail under this section it may direct him to appear at a time and place which the inferior court may have directed and the recognizance of any surety shall be conditioned accordingly."

(3) In subsection (3) for the words "admitted to" wherever occurring there shall be substituted the word "granted".

(4) At the end of subsection (4) there shall be added the words "and "bail in criminal proceedings" and "vary"have the same meaning as they have in the Bail Act 1976."

[M14]*Criminal Appeal Act 1968*

Marginal Citations
M14 1968 c. 19.

38 In section 8(2) and (3) of the Criminal Appeal Act 1968 (bail etc on retrial), in paragraph (a), for the words "admission to" there shall be substituted the words "released on".

[F217]39 . . . . . .

Textual Amendments
F217 Sch. 2 para. 39 repealed (1.1.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), s. 8(3), **Sch. 4**; S.I. 1991/2488, **art.2**

40—42. . . . . [F218]

Textual Amendments
F218 Sch. 2 paras. 40–42 repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 16**

43 In section 36 of the Criminal Appeal Act 1968 (bail on appeal from Court of Appeal) for the words "admit him to" there shall be substituted the words "grant him".

44 In section 43(1) of the Criminal Appeal Act 1968 (computation of sentence where bail granted on appeal to House of Lords) for the words "admitted to" there shall be substituted the word "granted" and for the words "at large after being so admitted" there shall be substituted the words "released on bail".

45 In Schedule 2 to the Criminal Appeal Act 1968 (provisions about retrial) in paragraph 2(3)(b) for the words "at large after being admitted to bail" there shall be substituted the words "released on bail".

[M15]*Courts-Martial (Appeals) Act 1968*

Marginal Citations
M15 1968 c. 20.

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46 In section 45(2) of the Courts-Martial (Appeals) Act 1968 (computation of sentence where bail granted on appeal to House of Lords) for the words "admitted to" there shall be substituted the word "granted" and for the words "at large after being so admitted" there shall be substituted the words "released on bail".

[M16]*Children and Young Persons Act 1969*

Marginal Citations
M16 1969 c. 54.

47 In section 29 of the Children and Young Perons Act 1969 (release or further detention of arrested child or young person), for subsection (2), there shall be substituted the following—

"(2) Where a parent or guardian enters into a recognizance to secure that the child or young person appears at the hearing of the charge, the recognizance may, if the said officer thinks fit, be conditioned for the attendance of the parent or guardian at the hearing in addition to the person arrested."and subsection (6) shall be omitted.

48 . . . . . [F219]

Textual Amendments
F219 Sch. 2 para. 48 repealed by Supreme Court Act 1981 (c. 54, SIF 37), **Sch. 7**

SCHEDULE 3

Section 12.

REPEALS

Modifications etc. (not altering text)
C14 The text of Schedule 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
31 Chas. 2. c. 2.	The Habeas Corpus Act 1679	In section 5, the words "by recognizance".
32 Geo. 3. c. 56.	The Servants' Characters Act 1792	In section 6, the words "and enter into recognizance".
2 & 3 Vict. c. 47.	The Metropolitan Police Act 1839	In section 69, the words from "to take bail" to the end.
2 & 3 Vict. c. 71.	The Metropolitan Police Courts Act 1839	Section 36.

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52 & 53 Vict. c. 63.	The Interpretation Act 1889.	In section 27, the words from "and shall include" to the end.
11 & 12 Geo. 6. c. 58.	The Criminal Justice Act 1948.	In section 37, subsections (2) and (3) and, in subsection (4), paragraph (a).
15 & 16 Geo 6. & 1 Eliz. 2. c. 55.	The Magistrates' Courts Act 1952.	In section 16(2), the words "to enter into a recognizance or".
		In section 26, subsection (4).
		Section 38(3).
		Section 97.
8 & 9 Eliz. 2. c. 65.	The Administration of Justice Act 1960.	In section 4(3), the words "the applicant or".
1965 c. 45.	The Backing of Warrants (Republic of Ireland) Act 1965.	In section 5(4) the words "in breach of a recognizance takem from him under this section" and "without prejudice to the enforcement of the recognizance".
1967 c. 80.	The Criminal Justice Act 1967.	Sections 18 and 21.
		In section 22(3), the reference to subsection (3) of section 37 of the Criminal Justice Act 1948.
		Section 23.
1969 c. 54.	The Children and Young Persons Act 1969.	In section 29, subsection (6).
1971 c. 23.	The Courts Act 1971.	In section 13, subsection (3).
1972 c. 71.	The Criminal Justice Act 1972.	Section 43.

SCHEDULE 4

Section 12.

TRANSITIONAL PROVISIONS

1 (1) Without prejudice to section 38(2) of the [M17]Interpretation Act 1889 (effect of repeals), nothing in the amendments or repeals effected by section 12 of and Schedules 2 and 3 to this Act shall affect the application of the enactments amended or repealed thereby in relation to recognizances entered into or security given by persons granted bail before the appointed day and the recognizances of any sureties for them.

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(2) Nothing in those amendments or repeals shall, in particular, affect the doing of any of the following things after the appointed day, that is to say—

(a) the enforcement of the recognizance of such a person in the event of a breach of recognizance after the appointed day;

(b) the exercise of any power to issue and the execution of a warrant for the arrest of such a person for breach of his recognizance after the appointed day;

(c) the exercise of any power to enlarge the recognizance of such a person and of any surety for him to a later time in the absence of that person and his surety (if any);

(d) the exercise of any power to vary any conditions on which a person was granted bail before the appointed day or to reduce the amount in which he or any surety is to be bound or to discharge or dispense with any of the sureties;

and no application shall be made under section 3(8) of this Act for the variation of conditions of bail so granted or for the imposition of conditions in respect of bail so granted.

Marginal Citations

M17 1889 c. 63.

2 Where, before the appointed day, a court has—

(a) given a direction that the recognizance of a person to whom it has granted bail may be entered into before another court or any person, or

(b) endorsed a warrant for the arrest of a person with a direction that he be released on his entering into such a recognizance as is specified in the endorsement,

the recognizance may be entered into and taken after the appointed day in accordance with the direction and paragraph 1 above shall apply to such a recognizance as it applies to a recognizance entered into before the appointed day.

3 Where a person has been granted bail before the appointed day and his recognizance (and that of any surety for him) is conditioned for his appearance before a court from time to time, then, on his first appearance before a court after the appointed day—

(a) the recognizance of that person shall be discharged; and

(b) the recognizance of any surety for him shall, as directed by the court, either be discharged or continue in force.

4 In this Schedule “the appointed day” means the day appointed under section 13(2) of this Act for it to come into force.

Status:
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Changes to legislation:
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