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SCHEDULES

SCHEDULE 1

Section 4.

PERSONS ENTITLED TO BAIL: SUPPLEMENTARY PROVISIONS

PART I

DEFENDANTS ACCUSED OR CONVICTED OF IMPRISONABLE OFFENCES

Defendants to whom Part I applies

- [^{F1}1] 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.]

Textual Amendments

- F1** 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).

Exceptions to right to bail

- 2 [^{F2}(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.
- [^{F3}(2)] Where the defendant falls within one or more of paragraphs 2A, 6 and 6B of this Part of this Schedule, this paragraph shall not apply unless—
- (a) where the defendant falls within paragraph 2A, the court is satisfied as mentioned in sub-paragraph (1) of that paragraph;
 - (b) where the defendant falls within paragraph 6, the court is satisfied as mentioned in sub-paragraph (1) of that paragraph;
 - (c) where the defendant falls within paragraph 6B, the court is satisfied as mentioned in paragraph 6A of this Part of this Schedule or paragraph 6A does not apply by virtue of paragraph 6C of this Part of this Schedule.]

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Textual Amendments

- F2** 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))
- F3** Sch. 1 Pt.1 para 2(2) inserted (5.4.2004) by [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))

[^{F4}2^{F5}(1) If the defendant falls within this paragraph he may not be granted bail unless the court is satisfied that there is no significant risk of his committing an offence while on bail (whether subject to conditions or not).

(2) The defendant falls within this paragraph if—

- (a) he is aged 18 or over, and
- (b) it appears to the court that he was on bail in criminal proceedings on the date of the offence.]

Textual Amendments

- F4** Sch. 1 Pt. I para. 2A inserted (10.4.1995) by [1994 c. 33, s. 26\(a\)](#); S.I. 1995/721, **art. 2**, Sch.
- F5** Sch. 1 Pt. I para. 2A substituted (1.1.2007 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 14(1)**, 336(3)(4) (with s. 141); S.I. 2006/3217, **art. 2(a)** (with art. 3(1))

[^{F6}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

- F6** 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 the sentence of a court or of any authority acting under any of the Services Acts.

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.

6 [^{F7}(1) If the defendant falls within this paragraph, he may not be granted bail unless the court is satisfied that there is no significant risk that, if released on bail (whether subject to conditions or not), he would fail to surrender to custody.

(2) Subject to sub-paragraph (3) below, the defendant falls within this paragraph if—

- (a) he is aged 18 or over, and

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- (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.
- (3) Where it appears to the court that the defendant had reasonable cause for his failure to surrender to custody, he does not fall within this paragraph 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.
- (4) For the purposes of sub-paragraph (3) above, 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

- F7** Sch. 1 para. 6(1)-(4) substituted for Sch. 1 para. 6 (1.1.2007 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 15(1)**, 336(3)(4) (with s. 141); [S.I. 2006/3217](#), art. 2(a) (with art. 3(2))

[^{F8}Exception applicable to drug users in certain areas

Textual Amendments

- F8** 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 is satisfied that there is no significant risk of his committing an offence while on bail (whether subject to conditions or not).

Exception applicable to drug users in certain areas

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

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- (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)

- C1** Sch. 1 para. 6B(2)(b) modified (1.12.2005 for specified purposes) by [Drugs Act 2005 \(c. 17\)](#), **ss. 17(3), 24(3)** (with [s. 17\(4\)](#)); [S.I. 2005/3053](#), **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 [^{F9}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.]

Textual Amendments

- F9** 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 [^{F10}(4) to (6B) or (7)] [^{F11}(except subsection (6)(d) [^{F12}or (e)])] of section 3 of this Act unless it appears to the court [^{F13}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.]

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- ^{F14}[(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) [^{F15}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 [^{F16}sub-paragraph (1A)] above shall not [^{F17}apply to the conditions required to be imposed under section 3(6A) of this Act or] operate to override the direction in [^{F18}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 [^{F19}the said section 11(3)] in the circumstances so specified.

Textual Amendments

- F10** 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\(1\)\(2\)\(b\)](#)
- F11** 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.](#)
- F12** 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\(2\)\(m\).](#)
- F13** 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\(1\)\(2\)\(b\)](#)
- F14** 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.](#)
- F15** 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.](#)
- F16** 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.](#)
- F17** Words inserted by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\), s. 34\(4\)](#)
- F18** 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\(2\)\(a\)](#)
- F19** 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 [^{F20}2(1), or in deciding whether it is satisfied as mentioned in paragraph 2A(1), 6(1) 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—
- the nature and seriousness of the offence or default (and the probable method of dealing with the defendant for it),
 - the character, antecedents, associations and community ties of the defendant,
 - the defendant's record as respects the fulfilment of his obligations under previous grants of bail in criminal proceedings,
 - 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,

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

Textual Amendments

F20 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)**)

[^{F21}9A(1)] This paragraph applies if—

- (a) the defendant is under the age of 18, and
- (b) it appears to the court that he was on bail in criminal proceedings on the date of the offence.

- (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

F21 [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)**)

[^{F22}9A(1)] Subject to sub-paragraph (2) below, this paragraph applies if—

- (a) the defendant is under the age of 18, 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

F22 [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)**)

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^{F23}9A

Textual Amendments

F23 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)**

^{F24} *Cases under section 128A of Magistrates' Courts Act 1980*

Textual Amendments

F24 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.]

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—
(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 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 the sentence of a court or of any authority acting under any of the Services Acts.

^{F25} 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

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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

F25 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))

[^{F26}**PART IIA**

DECISIONS WHERE BAIL REFUSED ON PREVIOUS HEARING

Textual Amendments

F26 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).
- 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.
- [^{F272} 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 section 14(1) of the Criminal Justice Act 2003), 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 section 15(1) of the Criminal Justice Act 2003), 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;

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- (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.]

Textual Amendments

F27 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)

- 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 the care of a local authority in pursuance of a warrant of commitment under section 23(1) of the ^{M1}Children and Young Persons Act 1969.

Marginal Citations

M1 [1969 c. 54](#).

- 4 In this Schedule—
“court”, in the expression “sentence of a court”, includes a service court as defined in section 12(1) of the ^{M2}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 [^{F28}Part 2 of Schedule 8 to the Criminal Justice Act 2003 (breach of requirement of order)];
“the Services Acts” means the ^{M3}Army Act 1955, the ^{M4}Air Force Act 1955 and the ^{M5}Naval Discipline Act 1957.

Textual Amendments

F28 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).

Marginal Citations

M2 [1952 c. 67](#).

M3 [1955 c. 18](#).

M4 [1955 c. 19](#).

M5 [1957 c. 53](#).

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