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SCHEDULES

SCHEDULE 1

PERSONS ENTITLED TO BAIL: SUPPLEMENTARY PROVISIONS

PART I

DEFENDANTS ACCUSED OR CONVICTED OF IMPRISONABLE OFFENCES

[^{F1}Application of Part 1]

Textual Amendments

- F1** 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)

[^{F2}][^{F3}(1)] [^{F4}Subject to sub-paragraph (2),][^{F5}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.

[^{F6}(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

- F2** Sch. 1 Pt. 1 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).
- F3** Sch. 1 Pt. 1 para. 1: renumbered as Sch. 1 Pt. 1 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
- F4** Words in Sch. 1 Pt. 1 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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- F5** 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\(i\)](#)
- F6** 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](#)

- [^{F7}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

- F7** 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 [^{F8}(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.
- [^{F9}(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

- F8** 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))
- F9** 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\(i\)](#)

- [^{F10}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

F10 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)

- [^{F11}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

F11 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)

- [^{F12}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

F12 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 [^{F13}a sentence of a court or a sentence imposed by an officer under the Armed Forces Act 2006.]

Textual Amendments

F13 Words in Sch. 1 Pt. 1 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)

- C1** 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.

[^{F146} 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

- F14** 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\(i\)](#)

[^{F15}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

- F15** 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](#)

[^{F16}Exception applicable to drug users in certain areas

Textual Amendments

- F16** 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 [^{F17}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

- F17** 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)

- C2** 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 [F18]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.]

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Textual Amendments

- F18** 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 [F19(4) to (6B) or (7)] [F20(except subsection (6)(d) [F21or (e)])] of section 3 of this Act unless it appears to the court [F22that 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.]

[F23(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) [F24Sub-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 [F25sub-paragraph (1A)] above shall not [F26apply to the conditions required to be imposed under section 3(6A) of this Act or] operate to override the direction in [F27section 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 [F28the said section 11(3)] in the circumstances so specified.

Textual Amendments

- F19** 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)
- F20** 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**.
- F21** 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)**.
- F22** 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)
- F23** 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**.
- F24** 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**.

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- F25** 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**.
- F26** Words inserted by **Mental Health (Amendment) Act 1982 (c. 51, SIF 85)**, s. 34(4)
- F27** Words in Sch. 1 Pt. 1 para. 8(3) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 54(2)(a)**
- F28** Words in Sch. 1 Pt. 1 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 [F29]2(1), or in deciding whether it is satisfied as mentioned in paragraph [F30]2ZA(1), [F31] or of the opinion mentioned in paragraph 6ZA [F32] 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,
 - [F33](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

- F29** 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))
- F30** 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)
- F31** 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
- F32** 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)
- F33** 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

[F34]9A(1) This paragraph applies if—

- (a) the defendant is [F35] 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.

(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

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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

- F34** 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\(1\)](#))
- F35** 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\(i\)](#)

[^{F36}9A(1)] Subject to sub-paragraph (2) below, this paragraph applies if—

- (a) the defendant is [^{F37}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

- F36** 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\(2\)](#))
- F37** 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\(i\)](#)

^{F38}9A

Textual Amendments

- F38** 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\(i\)\(m\)](#)

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[^{F39} Cases under section 128A of Magistrates' Courts Act 1980

Textual Amendments

F39 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.]

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