



Criminal Justice and Public Order Act 1994

1994 CHAPTER 33

PART II

BAIL

- 25 No bail for defendants charged with or convicted of homicide or rape after previous conviction of such offences.**
- (1) A person who in any proceedings has been charged with or convicted of an offence to which this section applies in circumstances to which it applies [^{F1}shall be granted bail in those proceedings only if the court or, as the case may be, the constable considering the grant of bail [^{F2}is of the opinion] that there are exceptional circumstances which justify it].
- (2) This section applies, subject to subsection (3) below, to the following offences, that is to say—
- (a) murder;
 - (b) attempted murder;
 - (c) manslaughter;
 - [^{F3}(d) rape under the law of Scotland ^{F4} ...;
 - (e) an offence under section 1 of the Sexual Offences Act 1956 (rape);
 - (f) an offence under section 1 of the Sexual Offences Act 2003 (rape);
 - (g) an offence under section 2 of that Act (assault by penetration);
 - (h) an offence under section 4 of that Act (causing a person to engage in sexual activity without consent), where the activity caused involved penetration within subsection (4)(a) to (d) of that section;
 - (i) an offence under section 5 of that Act (rape of a child under 13);
 - (j) an offence under section 6 of that Act (assault of a child under 13 by penetration);

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- (k) an offence under section 8 of that Act (causing or inciting a child under 13 to engage in sexual activity), where an activity involving penetration within subsection (3)(a) to (d) of that section was caused;
- (l) an offence under section 30 of that Act (sexual activity with a person with a mental disorder impeding choice), where the touching involved penetration within subsection (3)(a) to (d) of that section;
- (m) an offence under section 31 of that Act (causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity), where an activity involving penetration within subsection (3)(a) to (d) of that section was caused;
- [^{F5}(ma) an offence under Article 5 of the Sexual Offences (Northern Ireland) Order 2008 (rape);
- (mb) an offence under Article 6 of that Order (assault by penetration);
- (mc) an offence under Article 8 of that Order (causing a person to engage in sexual activity without consent) where the activity caused involved penetration within paragraph (4)(a) to (d) of that Article;
- (md) an offence under Article 12 of that Order (rape of a child under 13);
- (me) an offence under Article 13 of that Order (assault of a child under 13 by penetration);
- (mf) an offence under Article 15 of that Order (causing or inciting a child under 13 to engage in sexual activity) where an activity involving penetration within paragraph (2)(a) to (d) of that Article was caused;
- (mg) an offence under Article 43 of that Order (sexual activity with a person with a mental disorder impeding choice) where the touching involved penetration within paragraph (3)(a) to (d) of that Article;
- (mh) an offence under Article 44 of that Order (causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity) where an activity involving penetration within paragraph (3)(a) to (d) of that Article was caused;]
- (n) an attempt to commit an offence within any of paragraphs (d) to [^{F6}(mh)].]

[^{F7}(3) This section applies in the circumstances described in subsection (3A) or (3B) only.

(3A) This section applies where—

- (a) the person has been previously convicted by or before a court in any part of the United Kingdom of any offence within subsection (2) or of culpable homicide, and
- (b) if that previous conviction is one of manslaughter or culpable homicide—
 - (i) the person was then a child or young person, and was sentenced to long-term detention under any of the relevant enactments, or
 - (ii) the person was not then a child or young person, and was sentenced to imprisonment or detention.

(3B) This section applies where—

- (a) the person has been previously convicted by or before a court in another member State of any relevant foreign offence corresponding to an offence within subsection (2) or to culpable homicide, and
- (b) if the previous conviction is of a relevant foreign offence corresponding to the offence of manslaughter or culpable homicide—
 - (i) the person was then a child or young person, and was sentenced to detention for a period in excess of 2 years, or

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- (ii) the person was not then a child or young person, and was sentenced to detention.]
- (4) This section applies whether or not an appeal is pending against conviction or sentence.
- (5) In this section—
- “conviction” includes—
- (a) a finding that a person is not guilty by reason of insanity;
 - (b) a finding under section 4A(3) of the^{M1}Criminal Procedure (Insanity) Act 1964 (cases of unfitness to plead) that a person did the act or made the omission charged against him; and
 - (c) a conviction of an offence for which an order is made^{F8} . . . discharging [^{F9}the offender] absolutely or conditionally;
- and “convicted” shall be construed accordingly;^{F10} . . .
- [^{F11} “relevant foreign offence”, in relation to a member State other than the United Kingdom, means an offence under the law in force in that member State.]
- “the relevant enactments” means—
- (a) as respects England and Wales, [^{F12}section 91 of the Powers of Criminal Courts (Sentencing) Act 2000][^{F13}or section 250 of the Sentencing Code];
 - [^{F14}(b) as respects Scotland, sections 205(1) to (3) and 208 of the Criminal Procedure (Scotland) Act 1995;]
 - (c) as respects Northern Ireland, section 73(2) of the^{M2}Children and Young Persons Act (Northern Ireland) 1968.
- [^{F15}(5A) For the purposes of subsection (3B), a relevant foreign offence corresponds to another offence if the relevant foreign offence would have constituted that other offence if it had been done in any part of the United Kingdom at the time when the relevant foreign offence was committed.]
- (6) This section does not apply in relation to proceedings instituted before its commencement.

Textual Amendments

- F1** Words in s. 25(1) substituted (30.9.1998) by 1998 c. 37, s. 56 (with Sch. 9); S.I. 1998/2327, art. 2(1)(n)
- F2** Words in s. 25(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 11 para. 33; S.I. 2012/2906, art. 2(i)
- F3** S. 25(2)(d)-(n) substituted (1.5.2004) for s. 25(2)(d)(e) by Sexual Offences Act 2003 (c. 42), ss. 141, 139, Sch. 6 para. 32(2); S.I. 2004/874, art. 2
- F4** Words in s. 25(2)(d) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), 16(2)
- F5** S. 25(2)(ma)-(mh) inserted (2.2.2009) by The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), 16(3)(a)
- F6** Word in s. 25(2)(n) substituted (2.2.2009) by The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), 16(3)(b)
- F7** S. 25(3)-(3B) substituted for s. 25(3) (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), Sch. 17 para. 3(2) (with s. 180); S.I. 2010/1858, art. 3(d)(ii)
- F8** Words in s. 25(5) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 332, 336, Sch. 32 para. 67(a), Sch. 37 Pt. 7; S.I. 2005/950, art. 2, Sch. 1 paras. 23, 42(27), 44(4)(m) (subject to art. 2(2) and Sch. 2) (as amended by S.I. 2005/2122, art. 2)

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- F9** Words in s. 25(5) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, **Sch. 32 para. 67(b)**; S.I. 2005/950, **art. 2**, Sch. 1 paras. 23, 42(27) (subject to art. 2(2) and Sch. 2) (as amended by S.I. 2005/2122, art. 2)
- F10** Word in s. 25(5) repealed (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), Sch. 17 para. 3(3), **Sch. 23 Pt. 5** (with s. 180); S.I. 2010/1858, art. 3(d)(f)(ii)
- F11** Words in s. 25(5) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 3(3)** (with s. 180); S.I. 2010/1858, art. 3(d)(ii)
- F12** S. 25(5): Words in para. (a) of the definition of “the relevant enactments” substituted (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 9 para. 160**
- F13** Words in s. 25(5) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 129** (with Sch. 27); S.I. 2020/1236, reg. 2
- F14** S. 25(5): sub-para.(b) in definition of “the relevant enactments” substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(2)** (with s. 4, Sch. 3)
- F15** S. 25(5A) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 3(4)** (with s. 180); S.I. 2010/1858, art. 3(d)(ii)

Marginal Citations

- M1** 1964 c. 84.
- M2** 1968 c. 34 (N.I.).

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