



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART III

#### BAIL

PROSPECTIVE

*Routine bail hearings*

.....

PROSPECTIVE

*Procedure*

.....

*Bail hearings under other enactments*

#### **53 Applications for bail in immigration cases.**

- (1) The Secretary of State may by regulations make new provision in relation to applications for bail by persons detained under the 1971 Act [<sup>F2</sup>or under section 62 of the Nationality, Immigration and Asylum Act 2002].
- (2) The regulations may confer a right to be released on bail in prescribed circumstances.
- (3) The regulations may, in particular, make provision—
  - (a) creating or transferring jurisdiction to hear an application for bail by a person detained under the 1971 Act [<sup>F3</sup>or under section 62 of the Nationality, Immigration and Asylum Act 2002];
  - (b) as to the places in which such an application may be held;

*Status: This version of this part contains provisions that are prospective.*

**Changes to legislation:** Immigration and Asylum Act 1999, Part III is up to date with all changes known to be in force on or before 16 May 2018. 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)

- (c) as to the procedure to be followed on, or in connection with, such an application;
  - (d) as to circumstances in which, and conditions (including financial conditions) on which, an applicant may be released on bail;
  - (e) amending or repealing any enactment so far as it relates to such an application.
- <sup>F4</sup>(4) .....
- <sup>F5</sup>(5) .....
- (6) Regulations under this section require the approval of the Lord Chancellor.
- <sup>F6</sup>(6A) In so far as regulations under this section relate to England and Wales, the Lord Chancellor must consult the Lord Chief Justice of England and Wales before giving his approval.
- (6B) In so far as regulations under this section relate to Northern Ireland, the Lord Chancellor must consult the Lord Chief Justice of Northern Ireland [<sup>F7</sup>and the Department of Justice in Northern Ireland] before giving his approval.]
- (7) In so far as regulations under this section relate to the sheriff or the Court of Session, the Lord Chancellor must obtain the consent of the Scottish Ministers before giving his approval.
- <sup>F8</sup>(8) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.
- (9) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Annotations:

##### Amendments (Textual)

- F2** Words in s. 53(1) added (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 62\(13\)\(a\)](#), [162\(1\)](#) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F3** Words in s. 53(3)(a) added (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 62\(13\)\(b\)](#), [162\(1\)](#) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F4** S. 53(4) omitted (15.1.2018) by virtue of [Immigration Act 2016 \(c. 19\)](#), s. 94(1), [Sch. 10 para. 28](#); S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)
- F5** S. 53(5) repealed (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 68\(6\)\(b\)](#), [162\(1\)](#), [Sch. 9](#) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F6** S. 53(6A)(6B) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 284\(2\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(x)
- F7** Words in s. 53(6B) inserted (18.10.2012) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2012 \(S.I. 2012/2595\)](#), arts. 1(2), [9\(2\)](#) (with arts. 24-28)
- F8** S. 53(8)(9) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 284\(3\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(x)

##### Commencement Information

- I1** S. 53(1)-(4)(6)(7) in force at 10.2.2003 by S.I. 2003/2, art. 2, [Sch.](#)

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**54 Extension of right to apply for bail in deportation cases.**

(1) Paragraph 2 of Schedule 3 to the 1971 Act (detention or control pending deportation) is amended as follows.

(2) In sub-paragraph (1), at the end insert “ or he is released on bail ”.

(3) In sub-paragraph (3), after “unless” insert “ he is released on bail or ”.

(4) After sub-paragraph (4) insert—

“(4A) Paragraphs 22 to 25 of Schedule 2 to this Act apply in relation to a person detained under sub-paragraph (1), (2) or (3) as they apply in relation to a person detained under paragraph 16 of that Schedule.”

**Annotations:**

**Commencement Information**

**I2** [S. 54](#) in force at 10.2.2003 by [S.I. 2003/2](#), [art. 2](#), [Sch.](#)

PROSPECTIVE

*Grants*

**Status:**

This version of this part contains provisions that are prospective.

**Changes to legislation:**

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

- Act amendment to earlier affecting provision S.I. 1994/1405, art. 7 by [S.I. 2007/3579 art. 3\(c\)](#)

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

- s. 72(10) repealed by [2004 c. 19 Sch. 4](#)
- s. 94(2A)-(2C) inserted by [2016 c. 19 Sch. 11 para. 3\(3\)](#)
- s. 94(2D) inserted by [2016 c. 19 Sch. 11 para. 7\(4\)](#)
- s. 94(3)(3A) substituted for s. 94(3) by [2002 c. 41 s. 44\(4\)](#) (This amendment is repealed (prosp.) by [2016 c. 19, Sch. 11 para. 41](#))
- s. 94(3A)-(3D) inserted by [2016 c. 19 Sch. 11 para. 3\(5\)](#)
- s. 95A inserted by [2016 c. 19 Sch. 11 para. 9](#)
- s. 96(1A) inserted by [2016 c. 19 Sch. 11 para. 10\(3\)](#)
- s. 97(8)(9) inserted by [2016 c. 19 Sch. 11 para. 11\(4\)](#)
- s. 98A inserted by [2016 c. 19 Sch. 11 para. 13](#)
- s. 103(4)(a) words substituted by [2004 c. 19 s. 10\(4\)\(b\)](#)
- s. 103(5)(b) word substituted by [S.I. 2008/2833 Sch. 3 para. 183\(ii\)](#)
- s. 103A(1) words substituted by [2004 c. 19 s. 10\(5\)](#)
- s. 103A(1) heading words substituted by [2004 c. 19 s. 10\(5\)](#)
- s. 103A(1) words substituted by [S.I. 2008/2833 Sch. 3 para. 184](#)
- s. 125(2)(ba) inserted by [2016 c. 19 Sch. 11 para. 22\(3\)\(b\)](#)
- s. 146(2)(za) inserted by [2016 c. 19 s. 44\(9\)](#)
- s. 166(5)(ca) substituted for word in s. 166(5)(c) by [2016 c. 19 Sch. 11 para. 24\(2\)](#)
- s. 166(5A)(5B) inserted by [2016 c. 19 Sch. 11 para. 24\(3\)](#)
- s. 166(6)(aa) substituted for word in s. 166(6)(a) by [2016 c. 19 Sch. 11 para. 24\(4\)](#)
- Sch. 2 para. 21 modified by [2002 c. 41 s. 23\(2\)\(a\)](#)
- Sch. 3 para. 2(5) modified by [2002 c. 41 s. 23\(2\)\(b\)](#)