

SCHEDULES

SCHEDULE 4

PRE-CHARGE BAIL

PART 1

GRANT OF PRE-CHARGE BAIL

Amendments to the Police and Criminal Evidence Act 1984 (c. 60)

- 1 The Police and Criminal Evidence Act 1984 is amended as follows.
- 2 (1) Section 30A (release of a person arrested elsewhere than at a police station) is amended as follows.
 - (2) For subsection (1) substitute—

“(1) If subsection (1A) applies, a constable may release on bail a person who is arrested or taken into custody in the circumstances mentioned in section 30(1).”
 - (3) In subsection (1A)(b), for “a police officer of the rank of inspector or above” substitute “a custody officer”.
 - (4) Before subsection (2) insert—

“(1C) If subsection (1A) does not apply, a constable may release without bail a person who is arrested or taken into custody in the circumstances mentioned in section 30(1).”
 - (5) In subsection (2), after “subsection (1)” insert “or (1C)”.
- 3 (1) Section 34 (limitations on police detention) is amended as follows.
 - (2) For subsection (5) substitute—

“(5) A person whose release is ordered under subsection (2) must be released on bail if subsection (5A) applies.”
 - (3) After subsection (5A) insert—

“(5AA) A person whose release is ordered under subsection (2) must be released without bail if subsection (5A) does not apply.”
 - (4) In subsection (5B)(a), after “subsection (5)” insert “or (5AA)”.
- 4 In section 36 (custody officers at police stations), after subsection (7B) insert—

Status: This is the original version (as it was originally enacted).

“(7C) The reference to a custody officer in section 30A(1A)(b) includes a reference to an officer other than a custody officer who is performing the functions of a custody officer by virtue of subsection (4) above.”

- 5 (1) Section 37 (duties of custody officer before charge) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) If—
- (a) the custody officer (“C”) determines that C does not have such evidence before C, and
- (b) the pre-conditions for bail are satisfied,
- the person arrested must be released on bail (subject to subsection (3)).”
- (3) After subsection (2) insert—
- “(2A) If—
- (a) the custody officer (“C”) determines that C does not have such evidence before C, and
- (b) the pre-conditions for bail are not satisfied,
- the person arrested must be released without bail (subject to subsection (3)).”
- (4) In subsection (6A)(a), after “subsection (2)” insert “or (2A)”.
- (5) In subsection (7), for paragraphs (b) and (c) (including the “or” at the end of paragraph (c)) substitute—
- “(b) shall be released—
- (i) without charge, and
- (ii) if the pre-conditions for bail are satisfied, on bail,
- but not for the purpose mentioned in paragraph (a),
- (c) shall be released—
- (i) without charge, and
- (ii) if the pre-conditions for bail are not satisfied, without bail,
- or”.
- (6) In subsection (8A)(b), for “(c)” substitute “(b)”.
- 6 (1) Section 37CA (breach of bail following release under section 37(7)(c)) is amended as follows.
- (2) In the section heading, for “section 37(7)(c)” substitute “section 37(7)(b)”.
- (3) In subsection (1), for “section 37(7)(c)” substitute “section 37(7)(b)”.
- (4) In subsection (2), for paragraph (b) substitute—
- “(b) shall be released—
- (i) without charge, and
- (ii) if the pre-conditions for bail are satisfied, on bail, or
- (c) shall be released—
- (i) without charge, and
- (ii) if the pre-conditions for bail are not satisfied, without bail.”
- 7 In section 37D(4A) (release on bail under section 37: further provision), for “section 37(7)(c)” substitute “section 37(7)(b)”.

Status: This is the original version (as it was originally enacted).

- 8 In section 41(7) (release following period of detention without charge), for paragraphs (a) and (b) substitute—
 “(a) on bail, if the pre-conditions for bail are satisfied, or
 (b) without bail, if those pre-conditions are not satisfied.”
- 9 In section 42(10) (release following continued detention without charge), for paragraphs (a) and (b) and the words following those paragraphs substitute—
 “(a) on bail, if the pre-conditions for bail are satisfied, or
 (b) without bail, if those pre-conditions are not satisfied,

 subject to subsection (10A).”
- 10 (1) Section 43 (warrants of further detention) is amended as follows.
 (2) In subsection (15), for paragraphs (a) and (b) substitute—
 “(a) on bail, if the pre-conditions for bail are satisfied, or
 (b) without bail, if those pre-conditions are not satisfied.”
 (3) In subsection (18), for paragraphs (a) and (b) substitute—
 “(a) on bail, if the pre-conditions for bail are satisfied, or
 (b) without bail, if those pre-conditions are not satisfied.”
- 11 In section 44(7) (release following extension of warrants of further detention), for paragraphs (a) and (b) substitute—
 “(a) on bail, if the pre-conditions for bail are satisfied, or
 (b) without bail, if those pre-conditions are not satisfied.”
- 12 (1) Section 47ZC (applicable bail period: conditions A to D) is amended as follows.
 (2) In subsection (3)(a), for “section 37(7)(c)” substitute “section 37(7)(b)”.
 (3) In subsection (4)(a), for “section 37(7)(c)” substitute “section 37(7)(b)”.
- 13 In section 50A (interpretation of references to pre-conditions for bail), for paragraph (b) substitute—
 “(b) that the custody officer has considered any representations made by the person or the person’s legal representative.”

Amendments to the Criminal Justice Act 2003 (c. 44)

- 14 The Criminal Justice Act 2003 is amended as follows.
- 15 (1) Section 24A (arrest for failure to comply with conditions attached to conditional caution) is amended as follows.
 (2) In subsection (2), for paragraphs (b) and (c) substitute—
 “(b) released without charge and on bail if—
 (i) the release is to enable a decision to be made as to whether the person should be charged with the offence, and
 (ii) the pre-conditions for bail are satisfied, or
 (c) released without charge and without bail (with or without any variation in the conditions attached to the caution) if paragraph (b) does not apply.”
 (3) In subsection (3)(a), for “subsection (2)(c)” substitute “subsection (2)(b)”.

Status: This is the original version (as it was originally enacted).

- (4) In subsection (4), for “subsection (2)(c)” substitute “subsection (2)(b)”.
- 16 In section 24B(5) (application of PACE provisions), for “section 24A(2)(c)” substitute “section 24A(2)(b)”.