



Bail Act 1976

1976 CHAPTER 63

Supplementary

5 Supplementary provisions about decisions on bail.

(1) Subject to subsection (2) below, where—

- (a) a court or constable grants bail in criminal proceedings, or
- (b) a court withholds bail in criminal proceedings from a person to whom section 4 of this act applies, or
- (c) a court, officer of a court or constable appoints a time or place or ^{F1}... a different time or place for a person granted bail in criminal proceedings to surrender to custody, or
- (d) a court [^{F2}or constable] varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings,

that court, officer or constable shall make a record of the decision in the prescribed manner and containing the prescribed particulars and, if requested to do so by the person in relation to whom the decision was taken, shall cause him to be given a copy of the record of the decision as soon as practicable after the record is made.

(2) Where bail in criminal proceedings is granted by endorsing a warrant of arrest for bail the constable who releases on bail the person arrested shall make the record required by subsection (1) above instead of the judge or justice who issued the warrant.

[^{F3}(2A) Where a magistrates' court or the Crown Court grants bail in criminal proceedings to a person to whom section 4 of this Act applies after hearing representations from the prosecutor in favour of withholding bail, then the court shall give reasons for granting bail.

(2B) A court which is by virtue of subsection (2A) above required to give reasons for its decision shall include a note of those reasons in the record of its decision and, if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of the record of the decision as soon as practicable after the record is made.]

(3) Where a magistrates' court or the Crown Court—
(a) withholds bail in criminal proceedings, or

Changes to legislation: Bail Act 1976, Section 5 is up to date with all changes known to be in force on or before 25 May 2024. 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) View outstanding changes

- (b) imposes conditions in granting bail in criminal proceedings, or
- (c) varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings,

and does so in relation to a person to whom section 4 of this Act applies, then the court shall, ^{F4}..., give reasons for withholding bail or for imposing or varying the conditions.

- (4) A court which is by virtue of subsection (3) above required to give reasons for its decision shall include a note of those reasons in the record of its decision and shall (except in a case where, by virtue of subsection (5) below, this need not be done) give a copy of that note to the person in relation to whom the decision was taken.
- (5) The Crown Court need not give a copy of the note of the reasons for its decision to the person in relation to whom the decision was taken where that person [^{F5}has legal representation unless his legal representative] requests the court to do so.
- (6) Where a magistrates' court withholds bail in criminal proceedings from a person who [^{F6}does not have legal representation], the court shall—
 - (a) if it is [^{F7}sending] him for trial to the Crown Court [^{F8}or if it issues a certificate under subsection (6A) below], inform him that he may apply ^{F9}... to the Crown Court to be granted bail;

^{F10}(b)

[^{F11}(6A) Where in criminal proceedings—

- (a) a magistrates' court remands a person in custody under [^{F12}section 52(5) of the Crime and Disorder Act 1998,][^{F13}section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand for medical examination) or] any of the following provisions of the Magistrates' Courts Act 1980—

^{F14}(i)

(ii) section 10 (adjournment of trial); [^{F15}or]

[section 17C (intention as to plea: adjournment);]

^{F16}(ia)

[section 18 (initial procedure on information against adult for offence

^{F17}(iii) triable either way),][^{F18}or

(iv) section 24C (intention as to plea by child or young person: adjournment),]

after hearing full argument on an application for bail from him; and

- (b) either—
 - (i) it has not previously heard such argument on an application for bail from him in those proceedings; or
 - (ii) it has previously heard full argument from him on such an application but it is satisfied that there has been a change in his circumstances or that new considerations have been placed before it,

it shall be the duty of the court to issue a certificate in the prescribed form that they heard full argument on his application for bail before they refused the application.

- (6B) Where the court issues a certificate under subsection (6A) above in a case to which paragraph (b)(ii) of that subsection applies, it shall state in the certificate the nature of the change of circumstances or the new considerations which caused it to hear a further fully argued bail application.

Changes to legislation: *Bail Act 1976, Section 5 is up to date with all changes known to be in force on or before 25 May 2024. 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) View outstanding changes*

- (6C) Where a court issues a certificate under subsection (6A) above it shall cause the person to whom it refuses bail to be given a copy of the certificate.]
- (7) Where a person has given security in pursuance of section 3(5) above and a court is satisfied that he failed to surrender to custody then, unless it appears that he had reasonable cause for his failure, the court may order the forfeiture of the security.
- (8) If a court orders the forfeiture of a security under subsection (7) above, the court may declare that the forfeiture extends to such amount less than the full value of the security as it thinks fit to order.
- [^{F19}(8A) An order under subsection (7) above shall, unless previously revoked, have effect at the end of twenty-one days beginning with the day on which it is made.
- (8B) A court which has ordered the forfeiture of a security under subsection (7) above may, if satisfied on an application made by or on behalf of the person who gave it that he did after all have reasonable cause for his failure to surrender to custody, by order remit the forfeiture or declare that it extends to such amount less than the full value of the security as it thinks fit to order.
- (8C) An application under subsection (8B) above may be made before or after the order for forfeiture has taken effect, but shall not be entertained unless the court is satisfied that the prosecution was given reasonable notice of the applicant's intention to make it.]
- (9) A security which has been ordered to be forfeited by a court under subsection (7) above shall, to the extent of the forfeiture—
- (a) if it consists of money, be accounted for and paid in the same manner as a fine imposed by that court would be;
 - (b) if it does not consist of money, be enforced by such magistrates' court as may be specified in the order.
- [^{F20}(9A) Where an order is made under subsection (8B) above after the order for forfeiture of the security in question has taken effect, any money which would have fallen to be repaid or paid over to the person who gave the security if the order under subsection (8B) had been made before the order for forfeiture took effect shall be repaid or paid over to him.]
- (10) In this section “prescribed” means, in relation to the decision of a court or an officer of a court, prescribed by [^{F21}Civil Procedure Rules, [^{F22}Court Martial Appeal Rules] or Criminal Procedure Rules], as the case requires or, in relation to a decision of a constable, prescribed by direction of the Secretary of State.
- [^{F23}(11) This section is subject, in its application to bail granted by a constable, to section 5A of this Act.]

Textual Amendments

- F1** Words in s. 5(1)(c) repealed (15.12.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 12](#); [S.I. 2004/3033](#), art. 3(1)(2)(aa)(e)(ii)
- F2** Words in s. 5(1)(d) inserted (10.4.1995) by [1994 c. 33](#), s. 27(4), [Sch. 3 para. 1\(a\)](#); [S.I. 1995/721](#), art. 2, [Sch.](#)
- F3** S. 5(2A)(2B) inserted (1.8.2001) by [2001 c. 16](#), s. 129(1); [S.I. 2001/2223](#), art. 3(i)
- F4** Words in s. 5(3) repealed (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 2](#); [S.I. 2004/829](#), art. 2(1)(2)(l)(ii)

Changes to legislation: Bail Act 1976, Section 5 is up to date with all changes known to be in force on or before 25 May 2024. 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) View outstanding changes

- F5** Words in s. 5(5) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 21 para. 35(a)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)
- F6** Words in s. 5(6) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 21 para. 35(b)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)
- F7** Word in s. 5(6)(a) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(3)(a)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F8** Words inserted as provided by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(2)(3)**
- F9** Words in s. 5(6)(a) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 2**; S.I. 2004/829, art. 2(1)(2)(i)(ii)
- F10** S. 5(6)(b) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 2**; S.I. 2004/829, art. 2(1)(2)(i)(ii)
- F11** S. 5(6A)–(6C) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(2)(3)**
- F12** Words in s. 5(6A)(a) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(3)(b)(i)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F13** Words in s. 5(6A)(a) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 53(a)**
- F14** S. 5(6A)(a)(i) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(3)(b)(ii)**, **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)
- F15** Word in s. 5(6A)(a)(ii) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 53(b)**
- F16** S. 5(6A)(a)(iia) inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(3)(b)(iii)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F17** S. 5(6A)(a)(iii) substituted (25.8.2000) for s. 5(6A)(a)(iii)(iv) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 53(c)**
- F18** S. 5(6A)(a)(iv) and word inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 48(3)(b)(iv)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F19** S. 5(8A)–(8C) inserted by Criminal Law Act 1977 (c. 45), **Sch. 12**
- F20** S. 5(9A) inserted by Criminal Law Act 1977 (c. 45), **Sch. 12**
- F21** Words in s. 5(10) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 182**; S.I. 2004/2066, art. 2(c)(ix) (with art. 3)
- F22** Words in s. 5(10) 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. 74**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F23** S. 5(11) inserted (10.4.1995) by 1994 c. 33, s. 27(4), **Sch. 3 para. 1(b)**; S.I. 1995/721, art. 2, **Sch.**

Changes to legislation:

Bail Act 1976, Section 5 is up to date with all changes known to be in force on or before 25 May 2024. 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.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- s. 5(6A)(a) words inserted by [2003 c. 44 Sch. 36 para. 2\(2\)](#)

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

- Act words substituted by [2005 c. 4 Sch. 11 para. 4](#)
- Blanket Amendment words substituted by [2005 c. 4 Sch. 11 para. 1\(2\)](#)

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

- s. 5(6A)(a)(iia) inserted by [2003 c. 44 Sch. 36 para. 2\(3\)](#)
- s. 5(6A)(a)(iia) and word inserted by [2003 c. 44 Sch. 36 para. 2\(4\)](#)