

POLICE AND JUSTICE ACT 2006

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 5: Miscellaneous

Section 46: Live Link bail

380. *Section 46* amends the Police and Criminal Evidence Act 1984 ('PACE') to create a special class of bail – "live link bail". The amended subsection 47(3) of PACE allows the police to grant bail subject to a duty to appear at a police station for the purpose of a live link hearing (see the amendment made by *subsection (5)* of section 46).

381. Subsection (2) of new section 46ZA of PACE (inserted by *subsection (3)*) provides that persons answering live link bail are not treated as being in police detention. But this is qualified by new section 46ZA(3) and (4) which provide that the accused is to be treated as if he had been arrested for and charged with the offence for which he was given live link bail if -

- the accused informs the police that he does not intend give his consent to a live link direction,
- a live link is not available, or
- the court determines not to give a live link direction (whether because the defendant does not give his consent or for any other reason).

In such cases (and in cases where an accused granted live link bail is arrested under section 46A) section 38 of PACE will operate again in relation to the accused. This means that the defendant may (depending on the circumstances) be detained and brought before a court or granted bail afresh subject to a duty to appear in court in the usual way or to attend again at the police station for the purposes of a live link hearing.

382. Section 46A(1) of PACE allows the police to arrest without warrant a person who fails to attend a police station to answer bail (including the new live link bail). Subsection (1ZA) of section 46A of PACE (inserted by *subsection (4)*) extends this power to cover the case where an accused person does attend a police station in answer to live link bail but leaves the police station before the court has begun to consider giving a live link direction, without informing a constable that he does not intend to give consent to the direction.