
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 14

BAIL AND CUSTODY TIME LIMITS

GENERAL RULES

When this Part applies

14.1.—(1) This Part applies where—

- (a) a magistrates' court or the Crown Court can—
 - (i) grant or withhold bail, or impose or vary a condition of bail, and
 - (ii) where bail has been withheld, extend a custody time limit; and
- (b) a magistrates' court can monitor and enforce compliance with a supervision measure imposed in another European Union member State.

(2) Rules 14.20, 14.21 and 14.22 apply where a magistrates' court can authorise an extension of the period for which a defendant is released on bail before being charged with an offence.

(3) In this Part, 'defendant' includes a person who has been granted bail by a police officer.

[Note. See in particular—

- (a) *the Bail Act 1976***(1)**;
- (b) *section 128 of the Magistrates' Courts Act 1980***(2)** (*general powers of magistrates' courts in relation to bail*);
- (c) *section 81 of the Senior Courts Act 1981***(3)** (*general powers of the Crown Court in relation to bail*);
- (d) *section 115 of the Coroners and Justice Act 2009***(4)** (*exclusive power of the Crown Court to grant bail to a defendant charged with murder*);

(1) 1976 c. 63.

(2) 1980 c. 43; section 128 was amended by section 59 to, and paragraphs 2, 3 and 4 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48), section 48 of the Police and Criminal Evidence Act 1984 (c. 60), section 170(1) of, and paragraphs 65 and 69 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33), section 125(3) of, and paragraph 25 of Schedule 18 to, the Courts and Legal Services Act 1990 (c. 41), sections 49, 52 and 80 of, and Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25), paragraph 75 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and paragraph 51 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44). It is modified by section 91(5) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(3) 1981 c. 54; section 81(1) was amended by sections 29 and 60 of the Criminal Justice Act 1982 (c. 48), section 15 of, and paragraph 2 of Schedule 12 to, the Criminal Justice Act 1987 (c. 38), section 168 of, and paragraph 19 of Schedule 9 and paragraph 48 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 119 of, and paragraph 48 of Schedule 8 and Schedule 10 to, the Crime and Disorder Act 1998 (c. 37), section 165 of, and paragraph 87 of Schedule 9 and Schedule 12 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), paragraph 54 of Schedule 3, paragraph 4 of Schedule 36 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), articles 2 and 6 of S.I. 2004/1033 and section 177(1) of, and paragraph 76 of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25).

(4) 2009 c. 25.

- (e) *Part 7 of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014*(5), which gives effect to Council Framework Decision 2009/829/JHA of 23rd October, 2009, on the application, between member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (bail conditions pending trial);
- (f) *section 22 of the Prosecution of Offences Act 1985*(6) (provision for custody time limits);
- (g) *the Prosecution of Offences (Custody Time Limits) Regulations 1987*(7) (maximum periods during which a defendant may be kept in custody pending trial); and
- (h) *sections 47ZF and 47ZG of the Police and Criminal Evidence Act 1984*(8) (extensions by court of pre-charge bail time limit).

At the end of this Part there is—

- (a) *a summary of the general entitlement to bail, and of the exceptions to that entitlement; and*
- (b) *a list of the types of supervision measure to which Part 7 of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 applies, and a list of the grounds for refusing to monitor and enforce such a measure.]*

Exercise of court's powers: general

- 14.2.**—(1) The court must not make a decision to which this Part applies unless—
- (a) each party to the decision and any surety directly affected by the decision—
 - (i) is present, in person or by live link, or
 - (ii) has had an opportunity to make representations;
 - (b) on an application for bail by a defendant who is absent and in custody, the court is satisfied that the defendant—
 - (i) has waived the right to attend, or
 - (ii) was present when a court withheld bail in the case on a previous occasion and has been in custody continuously since then;
 - (c) on a prosecutor's appeal against a grant of bail, application to extend a custody time limit or appeal against a refusal to extend such a time limit—
 - (i) the court is satisfied that a defendant who is absent has waived the right to attend, or
 - (ii) the court is satisfied that it would be just to proceed even though the defendant is absent; and
 - (d) the court is satisfied that sufficient time has been allowed—
 - (i) for the defendant to consider the information provided by the prosecutor under rule 14.5(2), and
 - (ii) for the court to consider the parties' representations and make the decision required.
- (2) The court may make a decision to which this Part applies at a hearing, in public or in private.

(5) S.I. 2014/3141.

(6) 1985 c. 23; section 22 was amended by paragraph 104 of Schedule 15 to the Criminal Justice Act 1988 (c. 33), section 43 of the Crime and Disorder Act 1998 (c. 37), paragraph 36 of Schedule 11 to the Criminal Justice Act 1991 (c. 53), paragraph 27 of Schedule 9 to the Criminal Justice and Public Order Act 1994 (c. 33), section 71 of the Criminal Procedure and Investigations Act 1996 (c. 25), section 67(3) of the Access to Justice Act 1999 (c. 22), section 70 of, and paragraph 57 of Schedule 3 and paragraphs 49 and 51 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44), section 59 of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4) and paragraph 22 of Schedule 12 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(7) S.I. 1987/299; amended by sections 71 and 80 of, and paragraph 8 of Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25) and S.I. 1989/767, 1991/1515, 1995/555, 1999/2744, 2000/3284, 2012/1344.

(8) 1984 c. 60; sections 47ZF and 47ZG were inserted by section 63 of the Policing and Crime Act 2017 (c. 3).

- (3) The court may determine without a hearing an application to vary a condition of bail if—
- (a) the parties to the application have agreed the terms of the variation proposed; or
 - (b) on an application by a defendant, the court determines the application no sooner than the fifth business day after the application was served.

(4) The court may adjourn a determination to which this Part applies, if that is necessary to obtain information sufficient to allow the court to make the decision required.

(5) At any hearing at which the court makes one of the following decisions, the court must announce in terms the defendant can understand (with help, if necessary), and by reference to the circumstances of the defendant and the case, its reasons for—

- (a) withholding bail, or imposing or varying a bail condition;
- (b) granting bail, where the prosecutor opposed the grant; or
- (c) where the defendant is under 18—
 - (i) imposing or varying a bail condition when ordering the defendant to be detained in local authority accommodation, or
 - (ii) ordering the defendant to be detained in youth detention accommodation.

(6) At any hearing at which the court grants bail, the court must—

- (a) tell the defendant where and when to surrender to custody; or
- (b) arrange for the court officer to give the defendant, as soon as practicable, notice of where and when to surrender to custody.

(7) This rule does not apply on an application to a magistrates' court to authorise an extension of pre-charge bail.

[Note. See section 5 of the Bail Act 1976 and sections 93(7) and 102(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(9).

Under sections 57A and 57B of the Crime and Disorder Act 1998(10) and under regulation 79(3) of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014(11), a defendant is to be treated as present in court when, by virtue of a live link direction within the meaning of those provisions, he or she attends a hearing through a live link.

Under section 91 of the 2012 Act, instead of granting bail to a defendant under 18 the court may—

- (a) *remand him or her to local authority accommodation and, after consulting with that authority, impose on the defendant a condition that the court could impose if granting bail; or*
- (b) *remand him or her to youth detention accommodation, if the defendant is at least 12 years old and the other conditions, about the offence and the defendant, prescribed by the Act are met.*

See also rule 14.20 (Exercise of court's powers: extension of pre-charge bail).]

Duty of justices' legal adviser

14.3.—(1) This rule applies—

(9) 2012 c. 10.

(10) 1998 c. 37; sections 57A to 57E were substituted for section 57 as originally enacted by section 45 of the Police and Justice Act 2006 (c. 48), and amended by sections 106, 109 and 178 of, and Part 3 of Schedule 23 to, the Coroners and Justice Act 2009 (c. 25). Section 57A was further amended by paragraphs 36 and 39 of Schedule 12 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(11) S.I. 2014/3141.

- (a) only in a magistrates' court; and
- (b) unless the court—
 - (i) includes a District Judge (Magistrates' Courts), and
 - (ii) otherwise directs.
- (2) A justices' legal adviser must—
 - (a) assist an unrepresented defendant;
 - (b) give the court such advice as is required to enable it to exercise its powers; and
 - (c) if required, attend the members of the court outside the courtroom to give such advice, but inform the parties of any advice so given.

[Note. For the functions of a justices' legal adviser, see sections 28 and 29 of the Courts Act 2003(12).]

General duties of court officer

- 14.4.**—(1) The court officer must arrange for a note or other record to be made of—
- (a) the parties' representations about bail; and
 - (b) the court's reasons for a decision—
 - (i) to withhold bail, or to impose or vary a bail condition,
 - (ii) to grant bail, where the prosecutor opposed the grant, or
 - (iii) on an application to which rule 14.21 applies (Application to authorise extension of pre-charge bail).
- (2) The court officer must serve notice of a decision about bail on—
- (a) the defendant (but, in the Crown Court, only where the defendant's legal representative asks for such a notice, or where the defendant has no legal representative);
 - (b) the prosecutor (but only where the court granted bail, the prosecutor opposed the grant, and the prosecutor asks for such a notice);
 - (c) a party to the decision who was absent when it was made;
 - (d) a surety who is directly affected by the decision;
 - (e) the defendant's custodian, where the defendant is in custody and the decision requires the custodian—
 - (i) to release the defendant (or will do so, if a requirement ordered by the court is met), or
 - (ii) to transfer the defendant to the custody of another custodian; and
 - (f) the court officer for any other court at which the defendant is required by that decision to surrender to custody.
- (3) Where the court postpones the date on which a defendant who is on bail must surrender to custody, the court officer must serve notice of the postponed date on—
- (a) the defendant; and
 - (b) any surety.

(12) 2003 c. 39; section 28 was amended by section 15 of, and paragraphs 308 and 327 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4).

(4) Where a magistrates' court withholds bail in a case to which section 5(6A) of the Bail Act 1976(13) applies (remand in custody after hearing full argument on an application for bail), the court officer must serve on the defendant a certificate that the court heard full argument.

(5) Where the court determines without a hearing an application to which rule 14.21 applies (Application to authorise extension of pre-charge bail), the court officer must—

- (a) if the court allows the application, notify the applicant; and
- (b) if the court refuses the application, notify the applicant and the defendant.

[Note. See section 5 of the Bail Act 1976(14); section 43 of the Magistrates' Courts Act 1980(15); and section 52 of the Mental Health Act 1983(16).]

-
- (13) 1976 c. 63; section 5(6A) was inserted by section 60 of the Criminal Justice Act 1982 (c. 48) and amended by section 165 of, and paragraph 53 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and by paragraph 48 of Schedule 3, paragraphs 1 and 2 of Schedule 36, and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44).
 - (14) 1976 c. 63; section 5 was amended by section 65 of, and Schedule 12 to, the Criminal Law Act 1977 (c. 45), section 60 of the Criminal Justice Act 1982 (c. 48), paragraph 1 of Schedule 3 to the Criminal Justice and Public Order Act 1994 (c. 33), paragraph 53 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 129(1) of the Criminal Justice and Police Act 2001 (c. 16), paragraph 182 of Schedule 8 to the Courts Act 2003 (c. 39), paragraph 48 of Schedule 3, paragraphs 1 and 2 of Schedule 36, and Parts 2, 4 and 12 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) and section 208 of, and paragraphs 33 and 35 of Schedule 21 to, the Legal Services Act 2007 (c. 27).
 - (15) 1980 c. 43; section 43 was substituted by section 47 of the Police and Criminal Evidence Act 1984 (c. 60) and amended by paragraph 43 of Schedule 10 to the Criminal Justice and Public Order Act 1994 (c. 33) and paragraph 206 of Schedule 8 to the Courts Act 2003 (c. 39).
 - (16) 1983 c. 20; section 52 was amended by paragraph 55 of Schedule 3 and Schedule 37 to the Criminal Justice Act 2003 (c. 44), section 11 of the Mental Health Act 2007 (c. 12) and paragraphs 53 and 57 of Schedule 21 to the Legal Services Act 2007 (c. 29).