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## SCHEDULES

### SCHEDULE 1

#### PERSONS ENTITLED TO BAIL: SUPPLEMENTARY PROVISIONS

##### PART I

##### DEFENDANTS ACCUSED OR CONVICTED OF IMPRISONABLE OFFENCES

###### *Defendants to whom Part I applies*

- [<sup>F1</sup>1] The following provisions of this Part of this Schedule apply to the defendant if—
- (a) the offence or one of the offences of which he is accused or convicted in the proceedings is punishable with imprisonment, or
  - (b) his extradition is sought in respect of an offence.]

###### **Textual Amendments**

- F1** Sch. 1 Pt. I para. 1 substituted (1.1.2004) by [Extradition Act 2003 \(c. 41\), ss. 198\(12\), 221](#); S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2).

###### *Exceptions to right to bail*

- 2 [<sup>F2</sup>(1)] The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would—
- (a) fail to surrender to custody, or
  - (b) commit an offence while on bail, or
  - (c) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.
- [<sup>F3</sup>(2)] Where the defendant falls within one or more of paragraphs 2A, 6 and 6B of this Part of this Schedule, this paragraph shall not apply unless—
- (a) where the defendant falls within paragraph 2A, the court is satisfied as mentioned in sub-paragraph (1) of that paragraph;
  - (b) where the defendant falls within paragraph 6, the court is satisfied as mentioned in sub-paragraph (1) of that paragraph;
  - (c) where the defendant falls within paragraph 6B, the court is satisfied as mentioned in paragraph 6A of this Part of this Schedule or paragraph 6A does not apply by virtue of paragraph 6C of this Part of this Schedule.]

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#### Textual Amendments

- F2** Sch. 1 Pt.1 para 2 renumbered as Sch. 1 Pt. 1 para. 2(1) (5.4.2004) by virtue of [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 20\(1\)](#), 336(3) (with s. 141); S.I. 2004/829, art. 2(1)(2) (with art. 2(3))
- F3** Sch. 1 Pt.1 para 2(2) inserted (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 20\(1\)](#), 336(3) (with s. 141); S.I. 2004/829, art. 2(1)(2) (with art. 2(3))

- [<sup>F4</sup>2A The defendant need not be granted bail if—
- (a) the offence is an indictable offence or an offence triable either way; and
  - (b) it appears to the court that he was on bail in criminal proceedings on the date of the offence.]

#### Textual Amendments

- F4** Sch. 1 Pt. 1 para. 2A inserted (10.4.1995) by [1994 c. 33, s. 26\(a\)](#); S.I. 1995/721, [art. 2](#), Sch.

- [<sup>F5</sup>2B The defendant need not be granted bail in connection with extradition proceedings if—
- (a) the conduct constituting the offence would, if carried out by the defendant in England and Wales, constitute an indictable offence or an offence triable either way; and
  - (b) it appears to the court that the defendant was on bail on the date of the offence.]

#### Textual Amendments

- F5** Sch. 1 para. 2B inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), [ss. 198\(13\)](#), 221; S.I. 2003/3103, [art. 2](#) (with [arts. 3, 4](#)) (as amended (18.12.2003) by S.I. 2003/3312, [art. 2](#))

- 3 The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.
- 4 The defendant need not be granted bail if he is in custody in pursuance of the sentence of a court or of any authority acting under any of the Services Acts.
- 5 The defendant need not be granted bail where the court is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this Part of this Schedule for want of time since the institution of the proceedings against him.
- 6 The defendant need not be granted bail if, having been released on bail in or in connection with the proceedings for the offence [<sup>F6</sup> or the extradition proceedings], he has been arrested in pursuance of section 7 of this Act.

#### Textual Amendments

- F6** Words in Sch. 1 para. 6 inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), [ss. 198\(14\)](#), 221; S.I. 2003/3103, [art. 2](#) (with [arts. 3, 4](#)) (as amended (18.12.2003) by S.I. 2003/3312, [art. 2](#))

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*[<sup>F7</sup>Exception applicable to drug users in certain areas*

**Textual Amendments**

**F7** Sch. 1 paras. 6A-6C and headings inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 19(4)(a), 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

6A Subject to paragraph 6C below, a defendant who falls within paragraph 6B below may not be granted bail unless the court is satisfied that there is no significant risk of his committing an offence while on bail (whether subject to conditions or not).

*Exception applicable to drug users in certain areas*

- 6B (1) A defendant falls within this paragraph if—
- (a) he is aged 18 or over;
  - (b) a sample taken—
    - (i) under section 63B of the Police and Criminal Evidence Act 1984 (testing for presence of Class A drugs) in connection with the offence; or
    - (ii) under section 161 of the Criminal Justice Act 2003 (drug testing after conviction of an offence but before sentence),has revealed the presence in his body of a specified Class A drug;
  - (c) either the offence is one under section 5(2) or (3) of the Misuse of Drugs Act 1971 and relates to a specified Class A drug, or the court is satisfied that there are substantial grounds for believing—
    - (i) that misuse by him of any specified Class A drug caused or contributed to the offence; or
    - (ii) (even if it did not) that the offence was motivated wholly or partly by his intended misuse of such a drug; and
  - (d) the condition set out in sub-paragraph (2) below is satisfied or (if the court is considering on a second or subsequent occasion whether or not to grant bail) has been, and continues to be, satisfied.
- (2) The condition referred to is that after the taking and analysis of the sample—
- (a) a relevant assessment has been offered to the defendant but he does not agree to undergo it; or
  - (b) he has undergone a relevant assessment, and relevant follow-up has been proposed to him, but he does not agree to participate in it.
- (3) In this paragraph and paragraph 6C below—
- (a) “Class A drug” and “misuse” have the same meaning as in the Misuse of Drugs Act 1971;
  - (b) “relevant assessment” and “relevant follow-up” have the meaning given by section 3(6E) of this Act;
  - (c) “specified” (in relation to a Class A drug) has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000.

*Exception applicable to drug users in certain areas*

6C Paragraph 6A above does not apply unless—

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- (a) the court has been notified by the Secretary of State that arrangements for conducting a relevant assessment or, as the case may be, providing relevant follow-up have been made for the petty sessions area in which it appears to the court that the defendant would reside if granted bail; and
- (b) the notice has not been withdrawn.]

*Exception applicable only to defendant whose case is adjourned for inquiries or a report*

- 7 Where his case is adjourned for inquiries or a report, the defendant need not be granted bail if it appears to the court that it would be impracticable to complete the inquiries or make the report without keeping the defendant in custody.

*Restriction of conditions of bail*

- 8 (1) Subject to sub-paragraph (3) below, where the defendant is granted bail, no conditions shall be imposed under subsections [F<sup>8</sup>(4) to (6B) or (7)] [F<sup>9</sup>(except subsection (6)(d) [F<sup>10</sup>or (e)])] of section 3 of this Act unless it appears to the court [F<sup>11</sup>that it is necessary to do so—
- (a) for the purpose of preventing the occurrence of any of the events mentioned in paragraph 2(1) of this Part of this Schedule, or
  - (b) for the defendant’s own protection or, if he is a child or young person, for his own welfare or in his own interests.]

F<sup>12</sup>[(1A) No condition shall be imposed under section 3(6)(d) of this Act unless it appears to be necessary to do so for the purpose of enabling inquiries or a report to be made.]

- (2) [F<sup>13</sup>Sub-paragraphs (1) and (1A) above also apply] on any application to the court to vary the conditions of bail or to impose conditions in respect of bail which has been granted unconditionally.

- (3) The restriction imposed by [F<sup>14</sup>sub-paragraph (1A)] above shall not [F<sup>15</sup>apply to the conditions required to be imposed under section 3(6A) of this Act or] operate to override the direction in [F<sup>16</sup>section 11(3) of the Powers of Criminal Courts (Sentencing) Act 2000] to a magistrates’ court to impose conditions of bail under section 3(6)(d) of this Act of the description specified in [F<sup>17</sup>the said section 11(3)] in the circumstances so specified.

#### Textual Amendments

- F8** Words in Sch. 1 para. 8(1) substituted (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\), ss. 19\(4\)\(b\), 336\(3\)\(4\)](#) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)
- F9** Words in Sch. 1 para. 8 inserted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\), s. 100, Sch. 11, para. 22\(2\)](#); S.I. 1992/333, art. 2(2), [Sch. 2](#).
- F10** Words in Sch. 1 para. 8(1) inserted (30.9.1998) by [1998 c. 37 s. 119, Sch. 8 para. 38](#); S.I. 1998/2327, [art. 2\(2\)\(m\)](#).
- F11** Sch. 1 para. 8(1)(a)(b) substituted for words (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\), ss. 13\(3\), 336\(3\)\(4\)](#) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)
- F12** Sch. 1 para. 8(1A) inserted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\), s. 100, Sch. 11 para. 22\(3\)](#); S.I. 1992/333, art. 2(2), [Sch. 2](#).
- F13** Words in Sch. 1 para. 8(2) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\), s. 100, Sch. 11 para. 22\(4\)](#); S.I. 1992/333, art. 2(2), [Sch. 2](#).

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- F14** Words in Sch. 1 para. 8(3) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 100, [Sch. 11 para. 22\(5\)](#); [S.I. 1992/333](#), art. 2(2), [Sch. 2](#).
- F15** Words inserted by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), s. 34(4)
- F16** Words in Sch. 1 Pt. I para. 8(3) substituted (25.8.2000) by [2000 c. 6](#), ss. 165(1), 168(1), [Sch. 9 para. 54\(2\)\(a\)](#)
- F17** Words in Sch. 1 Pt. I para. 8(3) substituted (25.8.2000) by [2000 c. 6](#), ss. 165(1), 168(1), [Sch. 9 para. 54\(2\)\(b\)](#)

### *Decisions under paragraph 2*

9 In taking the decisions required by paragraph [<sup>F18</sup>2(1), or in deciding whether it is satisfied as mentioned in paragraph 2A(1), 6(1) or 6A,] of this Part of this Schedule, the court shall have regard to such of the following considerations as appear to it to be relevant, that is to say—

- (a) the nature and seriousness of the offence or default (and the probable method of dealing with the defendant for it),
- (b) the character, antecedents, associations and community ties of the defendant,
- (c) the defendant’s record as respects the fulfilment of his obligations under previous grants of bail in criminal proceedings,
- (d) except in the case of a defendant whose case is adjourned for inquiries or a report, the strength of the evidence of his having committed the offence or having defaulted,

as well as to any others which appear to be relevant.

#### **Textual Amendments**

- F18** Words in [Sch. 1 para. 9](#) substituted (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 20(2), 336(3)(4) (with s. 141); [S.I. 2004/829](#), art. 2(1)(2)(b) (with art. 2(3))

<sup>F19</sup>9A .....

#### **Textual Amendments**

- F19** Sch. 1 para. 9A repealed (1.8.2001) by [2000 c. 16](#), ss. 129(4), 137, [Sch. 7 Pt. 6](#); [S.I. 2001/2223](#), art. 3(i)(m)

### *[<sup>F20</sup> Cases under section 128A of Magistrates’ Courts Act 1980*

#### **Textual Amendments**

- F20** Sch. 1 paras. 9A, 9B inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 153, 155(2), [Sch. 8 para. 16](#)

9B Where the court is considering exercising the power conferred by section 128A of the Magistrates’ Courts Act 1980 (power to remand in custody for more than 8 clear days), it shall have regard to the total length of time which the accused would spend in custody if it were to exercise the power.]

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