
STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART XI

RECOGNIZANCES AND BAIL

Recognizances to keep the peace or to be of good behaviour

Power to bind over

127.—(1) Subject to this Article, a magistrates' court may order a person to enter into a recognizance to keep the peace or to be of good behaviour or to keep the peace and be of good behaviour—

- (a) upon a complaint that such person should be called upon to show cause why he should not be ordered to be so bound; or
- (b) upon convicting a person of an offence and in lieu of or in addition to any sentence which the court may lawfully impose; or
- (c) in the case of a person present before such court without any formal application to the court to make such order.

(2) The period during which a person may be ordered to be bound by a recognizance under paragraph (1) shall not exceed two years.

(3) A complaint under paragraph (1)(a) may be laid before a justice of the peace where the person against whom the complaint is made resides or is found or is believed to be within the jurisdiction of such justice or where the conduct to which the complaint relates has occurred or is expected to occur within that jurisdiction.

(4) Subject to paragraph (3), a summons to the person against whom such complaint is made or a warrant for his arrest (whether in the first instance or in default of appearance) may in all respects be issued as if the complaint were one alleging the commission of a summary offence.

(5) Without prejudice to Article 18(4)—

- (a) proceedings upon the hearing of a complaint under this Article shall be conducted, and
- (b) the person against whom the complaint is made and such witnesses as he may call may give evidence and be cross-examined,

in the same manner as in proceedings for a summary offence and the court may remand such person, whether in custody or on bail, for the same period and subject to the same conditions as in such last-mentioned proceedings.

(6) Any order against such person for the payment of costs made in proceedings under this Article shall be enforceable in the same manner as an order for the payment of a sum adjudged to be paid by a conviction of a magistrates' court.

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(7) If any person ordered to enter into a recognizance by a magistrates' court under this Article fails to comply with the order, the court may commit him to prison for a period not exceeding six months or until he complies with the order, whichever is the shorter.

(8) Nothing in this Article shall derogate from the provisions of [F1 Article 36(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998] or section 7(1) of the Probation Act (Northern Ireland) 1950 or any other enactment authorising a magistrates' court to require a person to give security for good behaviour or for keeping the peace.

F1 1998 NI 9

Discharge of recognizances to be of good behaviour, etc., on application by surety

128.—(1) Where a surety to a recognizance to keep the peace or to be of good behaviour, or to keep the peace and to be of good behaviour, has reason to suspect that the person bound as principal has been or is about to be guilty of conduct which was or would be a breach of the conditions of the recognizance, he may make a complaint to any justice of the peace having jurisdiction either—

- (a) in the place in which the said person resides or is believed by the complainant to be; or
- (b) in the petty sessions district in which the recognizance was ordered to be entered into;

and that justice may, either issue a warrant against the said person to bring him before a resident magistrate out of petty sessions, or issue a summons to him to appear before a court of summary jurisdiction.

(2) The resident magistrate before whom the said person is brought under any such warrant or the court of summary jurisdiction before which he appears in answer to any such summons may order him—

- (a) to enter into a new recognizance; or
- (b) deal with him as if he were a person who had failed to comply with an order to enter into a recognizance;

and may in any case order that the first-mentioned recognizance shall be discharged.

(3) A warrant shall not be issued under this Article unless the complaint is in writing and substantiated on oath.

Bail on arrest

Endorsement on warrant as to release on bail

129.—(1) A justice of the peace on issuing a warrant for the arrest of any person may by endorsement on the warrant, direct that the person named, described or otherwise identified in the warrant shall on arrest be released on his entering into such recognizance as may be specified in the endorsement; and the endorsement shall fix the amounts in which the principal and the sureties, if any, are to be bound or the amount of any security permitted to be deposited in lieu of sureties.

[F2(2) Where a warrant has been endorsed for bail under paragraph (1)—

- (a) where the person arrested is to be released on bail on his entering into a recognizance without sureties, it shall not be necessary to take him to a police station, but if he is so taken, he shall be released from custody on his entering into the recognizance; and
- (b) where he is to be released on his entering into a recognizance with sureties, he shall be taken to a police station on his arrest, and the custody officer there shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.]

F2 1989 NI 12

Arts. 130, 131 rep. by 1989 NI 12

Powers of resident magistrate or other justice in relation to persons not released on bail

132. Without prejudice to any other provision of this Order, any resident magistrate or other justice of the peace before whom a person arrested for any offence is brought, where he is satisfied that the offence is not of a serious nature, may, without prejudice to further proceedings being brought against such person by way of summons or otherwise, release such person from custody without requiring him to enter into any recognizance.

VALID FROM 12/03/2007

Power to grant bail where police bail has been granted

[^{F3}**132A.**—(1) Where a custody officer—

- (a) grants bail to any person under Part V of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12) and imposes conditions; or
- (b) varies, in relation to any person, conditions of bail under Article 48(3E) of that Order, a magistrates' court may, on application by or on behalf of that person, grant bail or vary the conditions.

(2) On an application under paragraph (1), the court, if it grants bail and imposes conditions or if it varies the conditions, may impose more onerous conditions.

(3) On determining an application under paragraph (1), the court shall remand the applicant in custody or on bail in accordance with the determination and, where the court withholds bail or grants bail, the grant of bail by the custody officer shall lapse.]

F3 Art. 132A inserted (12.3.2007) by [Criminal Justice \(Northern Ireland\) Order 2003 \(S.I. 2003/1247 \(N.I. 13\)\)](#), arts. 1(3), 9; S.R. 2007/56, [art. 2\(a\)](#)

Conditions on admission to bail

133. Without prejudice to any other power to impose conditions on admission to bail, a magistrates' court may impose such conditions on admitting a person to bail as appear to the court to be likely to result in that person's appearance at the time and place required or to be necessary in the interests of justice or for the prevention of crime.

VALID FROM 12/03/2007

[^{F4}Reconsideration of decisions granting bail

133A.—(1) Where a magistrates' court has granted bail in connection with an offence, or proceedings for an offence, to which this Article applies, or a custody officer has granted bail in connection with proceedings for an offence, a magistrates' court may, on an application by the prosecution for the decision to be reconsidered—

- (a) vary or rescind the conditions of bail or impose further conditions;

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- (b) impose conditions in respect of bail which has been granted unconditionally, or
- (c) withhold bail.

(2) This Article applies to offences which are punishable on conviction on indictment (whether or not punishable only on conviction on indictment).

(3) No application for the reconsideration of a decision under this Article shall be made unless it is based on information which was not available to the court or custody officer when the decision was taken.

(4) Where the decision of the court on a reconsideration under this Article is to withhold bail from the person to whom it was originally granted, the court shall—

- (a) if that person is before the court, remand him in custody; or
- (b) if that person is not before the court, order him to surrender himself forthwith into the custody of the court.

(5) Where a person surrenders himself into the custody of the court in compliance with an order under paragraph (4), the court shall remand him in custody.

(6) A person who has been ordered to surrender to custody under paragraph (4) may be arrested without warrant by a constable if he fails without reasonable cause to surrender to custody in accordance with the order.

(7) A person arrested in pursuance of paragraph (6) shall be brought before a magistrates' court as soon as practicable after the arrest and in any event not later than the day next following the day on which he is arrested and the court shall remand him in custody.

(8) Where the day next following the day on which that person is arrested is Christmas Day, Good Friday or a Sunday, he shall be brought before a magistrates' court not later than the next following day which is not one of those days.

(9) Magistrates' courts rules shall include provision—

- (a) requiring notice of an application under this Article and of the grounds for it to be given to the person affected, including notice of the powers available to the court under it; and
- (b) for securing that any representations made by the person affected (whether in writing or orally) are considered by the court before making its decision.

(10) In this Article custody officer includes an officer who is performing the functions of a custody officer by virtue of Article 37(4) or (7) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12).]

F4 Art. 133A inserted (12.3.2007) by Criminal Justice (Northern Ireland) Order 2003 (S.I. 2003/1247 (N.I. 13)), arts. 1(3), 10; S.R. 2007/56, art. 2(a)

Discharge of recognizance of surety where person committed for trial

Provision where person committed for trial about to abscond

134.—(1) Where a person has entered into a recognizance to appear before a magistrates' court or been committed for trial on bail, a surety for such person may make a complaint in writing and upon oath before a justice of the peace that he suspects that such person is about to abscond for the purpose of evading that appearance or trial and the justice may issue a warrant for the arrest of that person and requiring him to be brought before a resident magistrate.

(2) The resident magistrate before whom a person is brought under paragraph (1) may commit such person to prison until his next appearance before a magistrates' court or his trial or until he finds another surety and the recognizance entered into by the original surety shall be discharged.

General provisions with regard to recognizances

Amount of recognizance

135. A recognizance shall be in such amount as appears sufficient to ensure the performance of its conditions.

General power to order sureties to any recognizance

136. Any power of a magistrates' court or of a member of the Royal Ulster Constabulary to require or authorise a recognizance of any kind to be entered into or to fix the amount of any recognizance shall include the power to require or, as the case may be, authorise the recognizance to be entered into with a surety or sureties.

Acceptance of deposit of money or valuable security in lieu of sureties to a recognizance

137.—(1) Any magistrates' court or member of the Royal Ulster Constabulary may accept or authorise the acceptance of the deposit of a sum of money or other valuable security in lieu of sureties for the due performance of the conditions of a recognizance.

(2) Where a court of summary jurisdiction estreats the recognizance, it may order the forfeiture of the whole or any part of any sum of money or other valuable security deposited under paragraph (1).

(3) The amount of the sum deposited or the valuable security shall be specified in the recognizance.

(4) Where the condition of the recognizance is duly performed the sum or security shall be repaid or returned to the person who deposited it.

Estreating of recognizances

138.—(1) Without prejudice to Article 151, where the condition of a recognizance is to appear at the Crown Court or county court the recognizance shall be liable upon breach of that condition to be estreated by that court; otherwise recognizances entered into before, or in connection with, proceedings pending in or before a magistrates' court may, without prejudice to any other mode of enforcement, be enforced by a court of summary jurisdiction.

[^{F5}(2) Paragraphs (2A) and (2B) apply where—

- (a) a recognizance to keep the peace or to be of good behaviour or to keep the peace and be of good behaviour has been entered into before a magistrates' court; or
- (b) it is a condition of any recognizance that a person appears before a magistrates' court or at a police station; or
- (c) any other recognizance may be enforced by a court of summary jurisdiction.

(2A) If, in the case of a recognizance a condition of which is that an accused appears before a magistrates' court, the accused fails to appear in accordance with the condition, the court shall—

- (a) order the estreat of the recognizance; and
- (b) direct the issue of a summons to any surety for that person requiring the surety to appear before a court of summary jurisdiction on a date specified in the summons to show cause why he should not pay the sum in which he is bound;

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and on that date the court may proceed in the absence of any surety if it is satisfied that he has been served with the summons.

(2B) If, in any other case falling within paragraph (2), the recognizance appears to the magistrates' court to be forfeited, the court may order the estreat of the recognizance on each person bound by it, whether as principal or surety, but, in a case falling within paragraph (2)(a), the court shall not order the estreat of the recognizance except on complaint.

(3) The power of the court under paragraph (2A) or (2B) to order the estreat of the recognizance includes power to order the estreat of the recognizance to such lesser amount as the court thinks fit and power to remit payment of the amount due under the recognizance.]

(4) Upon ordering the estreat of a recognizance the court may issue a warrant—

- (a) to levy the amount forfeited by distress and sale of the property of any person bound by the recognizance, and
- (b) in default of distress to commit such person to prison as if for default in the payment of a sum adjudged to be paid by a conviction;

and accordingly the period for which such person may be committed shall not exceed that specified in Schedule 3.

(5) Nothing in this Article shall prejudice the power of a magistrates' court to issue a warrant for the arrest of a person who, in breach of his recognizance, has failed to appear before the court.

F5 2003 NI 13

Disposal of deposits in lieu of sureties in certain cases

139.—(1) Where, under any enactment, any sum or security has been deposited with a magistrates' court, or with a member of the Royal Ulster Constabulary, in lieu of sureties for the due performance of the conditions of a recognizance and—

- (a) the conditions of the recognizance have been duly performed but it has not been possible to repay or return the deposit to the person who deposited it; or
- (b) a condition of the recognizance has been broken but it has not been possible to serve a notice of application to estreat the recognizance on the person who made the deposit or to ascertain his usual place of abode;

the clerk of petty sessions for the court or a member of the Royal Ulster Constabulary, as the case may require, shall, after the expiration of twelve months from the date when the deposit has become repayable or returnable or, as the case may be, the condition of the recognizance has been broken, or so soon thereafter as is practicable, apply to a court of summary jurisdiction under Part VII for an order for the disposal of the deposit; and that court may, if in all the circumstances of the case it considers it just to do so, by order, direct the deposit—

- (i) in the case of money, to be transferred to the Consolidated Fund of the United Kingdom; or
- (ii) in the case of any other security, to be sold and the proceeds of the sale transferred to the Consolidated Fund of the United Kingdom.

(2) Notice of any such application, containing particulars of the deposit and of the party who deposited it, shall be exhibited at the police station nearest to the place where the deposit was made for a period of not less than one month before the hearing of the application by the court.

(3) Where a court which has made an order under paragraph (1) is satisfied, at any time after the making of the order, upon an application made in accordance with the said Part VII, that any person claiming to be entitled to the whole or part of any sum transferred to the Consolidated Fund of the United Kingdom in pursuance of that order is so entitled, that court may, by order, so declare;

and the Treasury shall issue out of the Consolidated Fund of the United Kingdom such sums as may appear to it to be necessary to provide for payment of that person accordingly.

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