



Bail Act 1976

1976 CHAPTER 63

Preliminary

1 Meaning of “bail in criminal proceedings”.

- (1) In this Act “bail in criminal proceedings” means—
 - (a) bail grantable in or in connection with proceedings for an offence to a person who is accused or convicted of the offence, or
 - (b) bail grantable in connection with an offence to a person who is under arrest for the offence or for whose arrest for the offence a warrant (endorsed for bail) is being issued.^[F¹] or
 - (c) bail grantable in connection with extradition proceedings in respect of an offence.]
- (2) In this Act “bail” means bail grantable under the law (including common law) for the time being in force.
- (3) Except as provided by section 13(3) of this Act, this section does not apply to bail in or in connection with proceedings outside England and Wales.
- ^{F²}(4)
- (5) This section applies—
 - (a) Whether the offence was committed in England or Wales or elsewhere, and
 - (b) whether it is an offence under the law of England and Wales, or of any other country or territory.
- (6) Bail in criminal proceedings shall be granted (and in particular shall be granted unconditionally or conditionally) in accordance with this Act.

Extent Information

E1 For extent of s. 1 see s. 13(3)(4)

Changes to legislation: Bail Act 1976 is up to date with all changes known to be in force on or before 24 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

Textual Amendments

- F1** S. 1(1)(c) and word inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\), ss. 198\(2\), 221](#); [S.I. 2003/3103, art. 2](#) (with [arts. 3, 4](#)) (as amended (18.12.2003) by [S.I. 2003/3312, art. 2](#))
- F2** S. 1(4) repealed (10.4.1995) by [1994 c. 33, s. 168\(3\), Sch.11](#); [S.I. 1995/721, art. 2, Sch.](#) AppendixB

Modifications etc. (not altering text)

- C1** Definition in s. 1 applied (1. 4. 1991) by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s. 7A\(4\)](#); [S.I. 1991/608, art. 2, Sch.](#)

2 Other definitions.

- (1) In this Act, unless the context otherwise requires, “conviction” includes—
- (a) a finding of guilt,
 - (b) a finding that a person is not guilty by reason of insanity,
 - (c) a finding under [^{F3}section 11(1) of the Powers of Criminal Courts (Sentencing) Act 2000](remand for medical examination) that the person in question did the act or made the omission charged, and
 - (d) a conviction of an offence for which an order is made ^{F4}... discharging [^{F5}the offender] absolutely or conditionally,
- and “convicted” shall be construed accordingly.
- (2) In this Act, unless the context otherwise requires—
- [^{F6}“bail hostel” means premises for the accommodation of persons remanded on bail,]
- [^{F7}“bail in non-extradition proceedings” means bail in criminal proceedings of the kind mentioned in section 1(1)(a),]
- “child” means a person under the age of fourteen,
- ^{F8} ...
- “court” includes a judge of a court, [^{F9}or a justice of the peace] and, in the case of a specified court, includes a judge or (as the case may be) justice having powers to act in connection with proceedings before that court,
- [^{F10}“Court Martial Appeal Rules” means rules made under section 49 of the Court Martial Appeals Act 1968,]
- [^{F7}“custodial sentence” means a sentence or order mentioned in [^{F11}section 222(1) of the Sentencing Code] or any corresponding sentence or order imposed or made under any earlier enactment,]
- ^{F12} ...
- [^{F13}“extradition proceedings” means proceedings under the Extradition Act 2003;]
- ^{F12} ...
- [^{F7}“imprisonable offence” means an offence punishable in the case of an adult with imprisonment,]
- “offence” includes an alleged offence,
- [^{F14}“probation hostel” means premises for the accommodation of persons who may be required to reside there [^{F15}by a community order under Chapter 2 of Part 9 of the Sentencing Code],]
- ^{F16} ...

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[^{F13}“prosecutor”, in relation to extradition proceedings, means the person acting on behalf of the territory to which extradition is sought;]

[^{F7}“sexual offence” means an offence specified in Part 2 of [^{F17}Schedule 18 to the Sentencing Code].]

^{F12}
...

“surrender to custody” means, in relation to a person released on bail, surrendering himself into the custody of the court or of the constable (according to the requirements of the grant of bail) at the time and place for the time being appointed for him to do so,

[^{F18}“terrorism offence” means an offence specified in Part 3 of [^{F19}Schedule 18 to the Sentencing Code].]

“vary”, in relation to bail, means imposing further conditions after bail is granted, or varying or rescinding conditions,

[^{F7}“violent offence” means murder or an offence specified in Part 1 of [^{F20}Schedule 18 to the Sentencing Code].]

“young person” means a person who has attained the age of fourteen and is under the age of [^{F21}eighteen].

- (3) Where an enactment (whenever passed) which relates to bail in criminal proceedings refers to the person bailed appearing before a court it is to be construed unless the context otherwise requires as referring to his surrendering himself into the custody of the court.
- (4) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

Textual Amendments

- F3** Words in s. 2(1)(c) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 50(2)**
- F4** Words in s. 2(1)(d) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 32 para. 21(2)(a)**, **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), **Sch. 1 paras. 42(12), 44(4)(e)** (with **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F5** Words in s. 2(1)(d) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 32 para. 21(2)(b)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 42(12)** (with **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F6** Words in s. 2(2) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 50(3)(a)**
- F7** Words in s. 2(2) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 11 para. 2(a)**; S.I. 2012/2906, art. 2(i)
- F8** Words in s. 2(2) repealed by [Criminal Law Act 1977 \(c. 45\)](#), **Sch. 13**
- F9** Words ins. 2(2) substituted by [Criminal Law Act 1977 \(c. 45\)](#), **Sch. 12**
- F10** Words in s. 2(2) 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. 73**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F11** Words in s. 2(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 35(a)** (with **Sch. 27**); S.I. 2020/1236, reg. 2

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- F12** Words in s. 2 repealed (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 180, **Sch. 10**; S.I. 2004/2066, art. 2(d)(iii) (with art. 3)
- F13** Words in s. 2(2) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(3)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)
- F14** Definition of “probation hostel” inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 50(3)(b)**
- F15** Words in s. 2(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 35(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F16** Words in s. 2(2) repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 198(3), 221, **Sch. 4**; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)
- F17** Words in s. 2(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 35(c)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F18** Words in s. 2(2) inserted (12.4.2019) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(3), **Sch. 4 para. 3(2)** (with s. 25(3)(4))
- F19** Words in s. 2(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 35(d)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F20** Words in s. 2(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 35(e)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F21** Word in s. 2(2) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 2(b)**; S.I. 2012/2906, art. 2(i)

Incidents of bail in criminal proceedings

3 General provisions.

- (1) A person granted bail in criminal proceedings shall be under a duty to surrender to custody, and that duty is enforceable in accordance with section 6 of this Act.
- (2) No recognizance for his surrender to custody shall be taken from him.
- (3) Except as provided by this section—
 - (a) no security for his surrender to custody shall be taken from him,
 - (b) he shall not be required to provide a surety or sureties for his surrender to custody, and
 - (c) no other requirement shall be imposed on him as a condition of bail.
- (4) He may be required, before release on bail, to provide a surety or sureties to secure his surrender to custody.
- (5) ^{F22} . . . he may be required, before release on bail, to give security for his surrender to custody.

The security may be given by him or on his behalf.

- (6) He may be required ^{F23}... to comply, before release on bail or later, with such requirements as appear to the court to be necessary ^{F24}...—
 - (a) [^{F25}to secure that] he surrenders to custody,
 - (b) [^{F25}to secure that] he does not commit an offence while on bail,
 - (c) [^{F25}to secure that] he does not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person,
 - [^{F26}(ca) for his own protection or, if he is a child or young person, for his own welfare or in his own interests,]

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(d) [^{F25}to secure that] he makes himself available for the purpose of enabling inquiries or a report to be made to assist the court in dealing with him for the offence.

[^{F27}(e) [^{F25}to secure that] before the time appointed for him to surrender to custody, he attends an interview with [^{F28}a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act);]]

[^{F29}and, in any Act, “the normal powers to impose conditions of bail” means the powers to impose conditions under paragraph (a), (b) [^{F30}, (c) or (ca)] above]

[^{F31}(6ZAA) The requirements which may be imposed under subsection (6) include electronic monitoring requirements.

The imposition of electronic monitoring requirements is subject to section 3AA (in the case of a child or young [^{F32}person granted bail in criminal proceedings of the kind mentioned in section 1(1)(a) or (b)), section 3AAA (in the case of a child or young person granted bail in connection with extradition proceedings),] section 3AB (in the case of other persons) and section 3AC (in all cases).

(6ZAB) In this section and sections 3AA to 3AC “electronic monitoring requirements” means requirements imposed for the purpose of securing the electronic monitoring of a person's compliance with any other requirement imposed on him as a condition of bail.]

[^{F33}(6ZA) Where he is required under subsection (6) above to reside in a bail hostel or probation hostel, he may also be required to comply with the rules of the hostel.]

[^{F34}(6A) In the case of a person accused of murder the court granting bail shall, unless it considers that satisfactory reports on his mental condition have already been obtained, impose as conditions of bail—

- (a) a requirement that the accused shall undergo examination by two medical practitioners for the purpose of enabling such reports to be prepared; and
- (b) a requirement that he shall for that purpose attend such an institution or place as the court directs and comply with any other directions which may be given to him for that purpose by either of those practitioners.

(6B) Of the medical practitioners referred to in subsection (6A) above at least one shall be a practitioner approved for the purposes of [^{F35}section 12 of the Mental Health Act 1983].]

[^{F36}(6C) Subsection (6D) below applies where—

- (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 [^{F37}local justice area] in which it appears to the court that the person referred to in subsection (6D) would reside if granted bail; and
- (b) the notice has not been withdrawn.

(6D) In the case of a person (“P”)—

- (a) in relation to whom paragraphs (a) to (c) of paragraph 6B(1) of Part 1 of Schedule 1 to this Act apply [^{F38}(including where P is a person to whom the provisions of Part 1A of Schedule 1 apply)];

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- (b) who, after analysis of the sample referred to in paragraph (b) of that paragraph, has been offered a relevant assessment or, if a relevant assessment has been carried out, has had relevant follow-up proposed to him; and
- (c) who has agreed to undergo the relevant assessment or, as the case may be, to participate in the relevant follow-up,

the court, if it grants bail, shall impose as a condition of bail that P both undergo the relevant assessment and participate in any relevant follow-up proposed to him or, if a relevant assessment has been carried out, that P participate in the relevant follow-up.

(6E) In subsections (6C) and (6D) above—

- (a) “relevant assessment” means an assessment conducted by a suitably qualified person of whether P is dependent upon or has a propensity to misuse any specified Class A drugs;
- (b) “relevant follow-up” means, in a case where the person who conducted the relevant assessment believes P to have such a dependency or propensity, such further assessment, and such assistance or treatment (or both) in connection with the dependency or propensity, as the person who conducted the relevant assessment (or conducts any later assessment) considers to be appropriate in P’s case,

and in paragraph (a) above “Class A drug” and “misuse” have the same meaning as in the Misuse of Drugs Act 1971, and “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.

(6F) In subsection (6E)(a) above, “suitably qualified person” means a person who has such qualifications or experience as are from time to time specified by the Secretary of State for the purposes of this subsection.]

(7) If a parent or guardian of [^{F39}a person under the age of seventeen] consents to be surety for [^{F40}the person] for the purposes of this subsection, the parent or guardian may be required to secure that [^{F40}the person] complies with any requirement imposed on him by virtue of [^{F41}subsection (6) [^{F42}, (6ZAA)] or (6A) above], but—

- (a) no requirement shall be imposed on the parent or the guardian ^{F43}... by virtue of this subsection where it appears that the ^{F44}... person will attain the age of seventeen before the time to be appointed for him to surrender to custody; and
- (b) the parent or guardian shall not be required to secure compliance with any requirement to which his consent does not extend and shall not, in respect of those requirements to which his consent does extend, be bound in a sum greater than £50.

(8) Where a court has granted bail in criminal proceedings [^{F45}that court or, where that court has [^{F46}sent] a person on bail to the Crown Court for trial or [^{F47}committed him on bail to the Crown Court] to be sentenced or otherwise dealt with, that court or the Crown Court may] on application—

- (a) by or on behalf of the person to whom [^{F45}bail was] granted, or
- (b) by the prosecutor or a constable,

vary the conditions of bail or impose conditions in respect of bail which [^{F45}has been] granted unconditionally.

^{F48}(8A)

^{F49}(8B)

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(9) This section is subject to ^{F50}subsection (3) of section 11 of the Powers of Criminal Courts (Sentencing) Act 2000] (conditions of bail on remand for medical examination).

^{F51}(10) This section is subject, in its application to bail granted by a constable, to section 3A of this Act.]

^{F52}(10)

Textual Amendments

- F22** Words in s. 3(5) repealed (30.9.1998) by 1998 c. 37, ss. 54(1), 120(2), **Sch. 10**; S.I. 1998/2327, **art. 2(3)(n)**
- F23** Words in s. 3(6) repealed (10.4.1995) by 1994 c. 33, ss. 27(2)(a), 168(3), **Sch. 11**; S.I. 1995/721, art. 2, **Sch.** Appendix B
- F24** Words in s. 3(6) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 13(1)(a), 336(3)(4), **Sch. 37 Pt. 2** (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)(i)(ii)
- F25** Words in s. 3(6)(a)-(e) inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 13(1)(b)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)
- F26** S. 3(6)(ca) inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 13(1)(c)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)
- F27** S. 3(6)(e) inserted (30.9.1998) by 1998 c. 37, **s. 54(2)**; S.I. 1998/2327, **art. 2(1)(n)**
- F28** Words in s. 3(6)(e) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 21 para. 34** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)
- F29** Words at the end of s. 3(6) inserted (10.4.1995) by 1994 c. 33, **s. 27(2)(b)**; S.I. 1995/721, art. 2, **Sch.**
- F30** Words in s. 3(6) substituted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 13(1)(d)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)
- F31** S. 3(6ZAA)(6ZAB) substituted for s. 3(6ZAA) (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 11 para. 2**; S.I. 2008/2712, art. 2, Sch. para. 15
- F32** Words in s. 3(6ZAA) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 3(2)**; S.I. 2012/2906, art. 2(i)
- F33** S. 3(6ZA) inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 131(1), **Sch. 8 para. 16**
- F34** S. 3(6A)(6B) inserted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **s. 34(2)**
- F35** Words substituted by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 4 para. 46**
- F36** S. 3(6C)-(6F) inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 19(2)**, 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)
- F37** Words in s. 3(6C)(a) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 1, **Sch. para. 40**
- F38** Words in s. 3(6D)(a) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 12 para. 2**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 27
- F39** Words in s. 3(7) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 3(3)(a)**; S.I. 2012/2906, art. 2(i)
- F40** Words in s. 3(7) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 3(3)(b)**; S.I. 2012/2906, art. 2(i)
- F41** Words substituted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **s. 34(3)**
- F42** Words in s. 3(7) inserted (1.3.2002) by 2001 c. 16, **s. 131(3)**; S.I. 2002/344, **art. 2** (with transitional provisions in art. 4)
- F43** Words in s. 3(7)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 3(3)(c)(i)**; S.I. 2012/2906, art. 2(i)
- F44** Word in s. 3(7)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 3(3)(c)(ii)**; S.I. 2012/2906, art. 2(i)
- F45** Words substituted by Criminal Law Act 1977 (c. 45), **Sch. 12**

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- F46** Word in s. 3(8) 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\(2\)\(a\)\(i\)](#); S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; 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)
- F47** Words in s. 3(8) 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\(2\)\(a\)\(ii\)](#); 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)
- F48** S. 3(8A) 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\(2\)\(b\), 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)
- F49** S. 3(8B) 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\(2\)\(b\), 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)
- F50** Words in s. 3(9) substituted (25.8.2000) by [2000 c. 6, ss. 165\(1\), 168\(1\), Sch. 9 para. 51](#)
- F51** S. 3(10) beginning "This section is" inserted (10.4.1995) by [1994 c. 33, s. 27\(2\)\(c\)](#); S.I. 1995/721, art. 2, [Sch.](#)
- F52** S. 3(10) (which was inserted by [1994 c. 33, Sch. 9 para. 12\(b\)](#)) 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\(2\)\(b\), 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)

Modifications etc. (not altering text)

- C2** S. 3(6D) modified (1.12.2005 for specified purposes, 1.4.2007 in so far as not already in force) by [Drugs Act 2005 \(c. 17\), ss. 17\(2\), 24\(3\)](#) (with s. 17(4)); S.I. 2005/3053, art. 2(2)(d), S.I. 2007/562, art. 2(2)(d)

[^{F53}3AA [^{F54}C **Conditions for the imposition of electronic monitoring requirements: children and young persons** [^{F55}released on bail other than in extradition proceedings]]

[^{F56}(1) A court may not impose electronic monitoring requirements on a child or young person [^{F57}released on bail in criminal proceedings of the kind mentioned in section 1(1)(a) or (b)] unless each of the following conditions is met.]

(2) The first condition is that the child or young person has attained the age of twelve years.

(3) The second condition is that—

- (a) the child or young person is charged with or has been convicted of a violent [^{F58}, sexual or terrorism] offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
- (b) he is charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings—

(i) amount, or

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(ii) would, if he were convicted of the offences with which he is charged, amount,

to a recent history of repeatedly committing imprisonable offences while remanded on bail or [^{F59}subject to a custodial remand].

[^{F60}(4) The third condition is that the court is satisfied that the necessary provision for dealing with the person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in each local justice area which is a relevant area.]

(5) The fourth condition is that a youth offending team has informed the court that in its opinion the imposition of [^{F61}electronic monitoring requirements] will be suitable in the case of the child or young person.

^{F62}(6)

^{F62}(7)

^{F62}(8)

^{F62}(9)

^{F62}(10)

[^{F63}(11) The references in subsection (3)(b) to an imprisonable offence include a reference to an offence—

- (a) of which the child or young person has been convicted outside England and Wales, and
- (b) which is equivalent to an offence that is punishable with imprisonment in England and Wales.

(12) The reference in subsection (3)(b) to a child or young person being subject to a custodial remand is to the child or young person being—

- (a) remanded to local authority accommodation or youth detention accommodation under section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,
- (b) remanded to local authority accommodation under section 23 of the Children and Young Persons Act 1969 or to prison under that section as modified by section 98 of the Crime and Disorder Act 1998 or under section 27 of the Criminal Justice Act 1948, or
- (c) subject to a form of custodial detention in a country or territory outside England and Wales while awaiting trial or sentence in that country or territory or during a trial in that country or territory.]]

Textual Amendments

F53 S. 3AA inserted (1.3.2002) by 2001 c. 16, s. 131(2); S.I. 2002/344, art. 2 (with transitional provisions in art. 4)

F54 S. 3AA heading substituted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 11 para. 3(2); S.I. 2008/2712, art. 2, Sch. para. 15

F55 Words in s. 3AA heading inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 11 para. 4(2); S.I. 2012/2906, art. 2(i)

F56 S. 3AA(1) substituted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 11 para. 3(3); S.I. 2008/2712, art. 2, Sch. para. 15

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- F57** Words in s. 3AA(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 11 para. 4\(3\)](#); S.I. 2012/2906, art. 2(i)
- F58** Words in s. 3AA(3)(a) substituted (12.4.2019) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\), s. 27\(3\), Sch. 4 para. 3\(3\)](#) (with s. 25(3)(4))
- F59** Words in s. 3AA(3)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 12 para. 15\(2\)](#); S.I. 2012/2906, art. 2(j)
- F60** S. 3AA(4) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 11 para. 3\(4\)](#); S.I. 2008/2712, art. 2, Sch. para. 15
- F61** Words in s. 3AA(5) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 11 para. 3\(5\)](#); S.I. 2008/2712, art. 2, Sch. para. 15
- F62** S. 3AA(6)-(10) repealed (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 11 para. 3\(6\), Sch. 28 Pt. 4](#); S.I. 2008/2712, art. 2, Sch. paras. 1519(3)(b)
- F63** S. 3AA(11)(12) substituted for s. 3AA(11) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 12 para. 15\(3\)](#); S.I. 2012/2906, art. 2(j) [Editorial note: a previous subsection (12) was repealed (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 11 para. 3\(6\), Sch. 28 Pt. 4](#); S.I. 2008/2712, art. 2, Sch. paras. 1519(3)(b)]

Modifications etc. (not altering text)

- C3** S. 3AA applied (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\), regs. 1\(b\), 88\(4\)\(b\)](#)
- C4** S. 3AA(4) modified (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\), regs. 1\(b\), 78\(3\)\(a\)](#)

[^{F64}3AA] Conditions for the imposition of electronic monitoring requirements: children and young persons released on bail in extradition proceedings

- (1) A court may not impose electronic monitoring requirements on a child or young person released on bail in connection with extradition proceedings unless each of the following conditions is met.
- (2) The first condition is that the child or young person has attained the age of twelve years.
- (3) The second condition is that—
 - (a) the conduct constituting the offence to which the extradition proceedings relate, or one or more of those offences, would, if committed in England and Wales, constitute a violent [^{F65}, sexual or terrorism] offence or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more, or
 - (b) the offence or offences to which the extradition proceedings relate, together with any other imprisonable offences of which the child or young person has been convicted in any proceedings—
 - (i) amount, or
 - (ii) would, if the child or young person were convicted of that offence or those offences, amount,

to a recent history of committing imprisonable offences while on bail or subject to a custodial remand.
- (4) The third condition is that the court is satisfied that the necessary provision for dealing with the child or young person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in each local justice area which is a relevant area.

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- (5) The fourth condition is that a youth offending team has informed the court that in its opinion the imposition of electronic monitoring requirements will be suitable in the case of the child or young person.
- (6) The references in subsection (3)(b) to an imprisonable offence include a reference to an offence—
 - (a) of which the child or young person has been accused or convicted outside England and Wales, and
 - (b) which is equivalent to an offence that is punishable with imprisonment in England and Wales.
- (7) The reference in subsection (3)(b) to a child or young person being subject to a custodial remand is to the child or young person being—
 - (a) remanded to local authority accommodation or youth detention accommodation under section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,
 - (b) remanded to local authority accommodation under section 23 of the Children and Young Persons Act 1969 or to prison under that section as modified by section 98 of the Crime and Disorder Act 1998 or under section 27 of the Criminal Justice Act 1948, or
 - (c) subject to a form of custodial detention in a country or territory outside England and Wales while awaiting trial or sentence in that country or territory or during a trial in that country or territory.]

Textual Amendments

- F64** S. 3AAA inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 11 para. 5](#); S.I. 2012/2906, art. 2(i)
- F65** Words in s. 3AAA(3)(a) substituted (12.4.2019) by [Counter-Terrorism and Border Security Act 2019](#) (c. 3), s. 27(3), [Sch. 4 para. 3\(4\)](#) (with s. 25(3)(4))

[^{F66}3AB Conditions for the imposition of electronic monitoring requirements: other persons

- (1) A court may not impose electronic monitoring requirements on a person who has attained the age of [^{F67}eighteen] unless each of the following conditions is met.
- (2) The first condition is that the court is satisfied that without the electronic monitoring requirements the person would not be granted bail.
- (3) The second condition is that the court is satisfied that the necessary provision for dealing with the person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in each local justice area which is a relevant area.

^{F68}(4)

Textual Amendments

- F66** Ss. 3AB, 3AC inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008](#) (c. 4), s. 153(7), [Sch. 11 para. 4](#); S.I. 2008/2712, art. 2, Sch. para. 15

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- F67** Word in s. 3AB(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 6(2)**; S.I. 2012/2906, art. 2(i)
- F68** S. 3AB(4) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 6(3)**; S.I. 2012/2906, art. 2(i)

Modifications etc. (not altering text)

- C5** S. 3AB(1) applied (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), regs. 1(b), **88(4)(b)**
- C6** S. 3AB(3) modified (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), regs. 1(b), **78(3)(a)**
- C7** S. 3AB(3) applied (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), regs. 1(b), **88(4)(b)**

3AC Electronic monitoring: general provisions

- (1) Where a court imposes electronic monitoring requirements as a condition of bail, the requirements must include provision for making a person responsible for the monitoring.
- (2) A person may not be made responsible for the electronic monitoring of a person on bail unless he is of a description specified in an order made by the Secretary of State.
- (3) The Secretary of State may make rules for regulating—
 - (a) the electronic monitoring of persons on bail;
 - (b) without prejudice to the generality of paragraph (a), the functions of persons made responsible for such monitoring.
- (4) The rules may make different provision for different cases.
- (5) Any power of the Secretary of State to make an order or rules under this section is exercisable by statutory instrument.
- (6) A statutory instrument containing rules under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) For the purposes of section 3AA [^{F69}, 3AAA] or 3AB a local justice area is a relevant area in relation to a proposed electronic monitoring requirement if the court considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area.
- (8) Nothing in sections 3, 3AA [^{F69}, 3AAA] or 3AB is to be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of persons released on bail.]

Textual Amendments

- F66** Ss. 3AB, 3AC inserted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 11 para. 4**; S.I. 2008/2712, art. 2, Sch. para. 15
- F69** Words in s. 3AC(7)(8) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 7**; S.I. 2012/2906, art. 2(i)

Modifications etc. (not altering text)

- C8** S. 3AC modified (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), regs. 1(b), **78(3)(b)**

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- C9** S. 3AC(1) applied (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), regs. 1(b), **88(4)(b)**
- C10** S. 3AC(2) applied (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), regs. 1(b), **88(4)(c)**

[^{F70}3A Conditions of bail in case of police bail.

- (1) Section 3 of this Act applies, in relation to bail granted by a custody officer under Part IV of the ^{M1}Police and Criminal Evidence Act 1984 [^{F71} or Part 3 of the Criminal Justice Act 2003] in cases where the normal powers to impose conditions of bail are available to him, subject to the following modifications.
- (2) Subsection (6) does not authorise the imposition of a requirement to reside in a bail hostel or any requirement under [^{F72}paragraph (d) or (e)].
- (3) Subsections [^{F73}(6ZAA),](6ZA) [^{F74}and (6A) to (6F)] shall be omitted.
- (4) For subsection (8), substitute the following—
 - (”) Where a custody officer has granted bail in criminal proceedings he or another custody officer serving at the same police station may, at the request of the person to whom it was granted, vary the conditions of bail; and in doing so he may impose conditions or more onerous conditions.”.
- (5) Where a constable grants bail to a person no conditions shall be imposed under subsections (4), (5), (6) or (7) of section 3 of this Act unless it appears to the constable that it is necessary to do so ^{F75}...—
 - (a) [^{F76}for the purpose of preventing that person from] failing to surrender to custody, or
 - (b) [^{F76}for the purpose of preventing that person from] committing an offence while on bail, or
 - (c) [^{F76}for the purpose of preventing that person from] interfering with witnesses or otherwise obstructing the course of justice, whether in relation to himself or any other person. [^{F77}or
 - (d) for that person’s own protection or, if he is a child or young person, for his own welfare or in his own interests.]
- (6) Subsection (5) above also applies on any request to a custody officer under subsection (8) of section 3 of this Act to vary the conditions of bail.]
- [^{F78}(7) For further provision about the grant of bail by a custody officer under Part 4 of the Police and Criminal Evidence Act 1984 or the variation by a custody officer of the conditions of bail granted under that Part, see section 47ZZA of that Act.]

Textual Amendments

- F70** S. 3A inserted (10.4.1995) by 1994 c. 33, s. 27(3); S.I. 1995/721, art. 2, **Sch.**
- F71** Words in s. 3A(1) inserted (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 14 para. 5(a)**; S.I. 2007/709, art. 3(p) (with art. 6)
- F72** Words in s. 3A(2) substituted (30.9.1998) by 1998 c. 37, s. 54(3); S.I. 1998/2327, art. 2(1)(n)
- F73** Words in s. 3A(3) inserted (1.3.2002) by 2001 c. 16, s. 131(4); S.I. 2002/344, art. 2 (with transitional provisions in art. 4)

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- F74** Words in s. 3A(3) substituted (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 19(3), 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)
- F75** Words in s. 3A(5) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 13(2)(a), 336(3)(4), Sch. 37 Pt. 2 (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)(1)(ii)
- F76** Words in s. 3A(5)(a)-(c) inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 13(2)(b), 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)
- F77** S. 3A(5)(d) and word inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 13(2)(c), 336(3)(4) (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)
- F78** S. 3A(7) inserted (28.10.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), Sch. 4 para. 19 (with s. 45(3)); S.I. 2022/1075, reg. 4(b)

Marginal Citations

- M1** 1984 c. 60.

Bail for accused persons and others

4 General right to bail of accused persons and others.

- (1) A person to whom this section applies shall be granted bail except as provided in Schedule 1 to this Act.
- (2) This section applies to a person who is accused of an offence when—
- he appears or is brought before a magistrates' court or the Crown Court in the course of or in connection with proceedings for the offence, or
 - he applies to a court for bail [^{F79}or for a variation of the conditions of bail] in connection with the proceedings.

This subsection does not apply as respects proceedings on or after a person's conviction of the offence ^{F80}....

[^{F81}(2A) This section also applies to a person whose extradition is sought in respect of an offence, when—

- he appears or is brought before a court in the course of or in connection with extradition proceedings in respect of the offence, or
- he applies to a court for bail or for a variation of the conditions of bail in connection with the proceedings.

(2B) But subsection (2A) above does not apply if the person is alleged [^{F82}to have been convicted] of the offence.]

(3) This section also applies to a person who, having been convicted of an offence, appears or is brought before a magistrates' court [^{F83}or the Crown Court ^{F84}... under—

- [^{F85}(za) [^{F86}Schedule 4 to the Sentencing Code] (referral orders: referral back to appropriate court),
- [^{F87}Schedule 5 to that Code] (breach of reparation order).]
- [^{F88}(a) [^{F89}Schedule 7 to that Code] (breach, revocation or amendment of youth rehabilitation orders), ^{F90}...]
- Part 2 of [^{F91}Schedule 10 to that Code] (breach of requirement of community order)] [^{F92}, or
- the Schedule to the Street Offences Act 1959 (breach of orders under section 1(2A) of that Act)].

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- (4) This section also applies to a person who has been convicted of an offence and whose case is adjourned by the court for the purpose of enabling inquiries or a report to be made to assist the court in dealing with him for the offence.
- (5) Schedule 1 to this Act also has effect as respects conditions of bail for a person to whom this section applies.
- (6) In Schedule 1 to this Act “the defendant” means a person to whom this section applies and any reference to a defendant whose case is adjourned for inquiries or a report is a reference to a person to whom this section applies by virtue of subsection (4) above.
- (7) This section is subject to [F93section 41 of the Magistrates’ Courts Act 1980] (restriction of bail by magistrates’ court in cases of treason) [F94and section 115(1) of the Coroners and Justice Act 2009 (bail decisions in murder cases to be made by Crown Court judge)].
- [F95(8) This section is subject to section 25 of the Criminal Justice and Public Order Act 1994 (exclusion of bail in cases of homicide and rape).]
- [F96(9) In taking any decisions required by Part I or II of Schedule 1 to this Act, the considerations to which the court is to have regard include, so far as relevant, any misuse of controlled drugs by the defendant (“controlled drugs” and “misuse” having the same meanings as in the M2Misuse of Drugs Act 1971).]

Textual Amendments

- F79** Words in s. 4(2)(b) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 33**; S.I. 1995/721, art. 2, **Sch. Appendix A**
- F80** Words in s. 4(2) repealed (1.1.2004) by **Extradition Act 2003 (c. 41)**, ss. 198(4), 221, **Sch. 4**; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)
- F81** S. 4(2A)(2B) inserted (1.1.2004) by **Extradition Act 2003 (c. 41)**, ss. 198(5), 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)
- F82** Words in s. 4(2B) substituted (15.1.2007) by **Police and Justice Act 2006 (c. 48)**, s. 53(1), **Sch. 13 para. 34**; S.I. 2006/3364, art. 2(e)
- F83** Words in s. 4(3) substituted (4.4.2005) by **Criminal Justice Act 2003 (c. 44)**, s. 336(3)(4), **Sch. 32 para. 22**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 42(12)** (with **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F84** Words in s. 4(3) repealed (30.11.2009) by **Criminal Justice and Immigration Act 2008 (c. 4)**, s. 153(7), **Sch. 4 para. 23(a)**, **Sch. 28 Pt. 1** (with **Sch. 27 paras. 1, 5**); S.I. 2009/3074, art. 2(p)(iii)(u)
- F85** S. 4(3)(za)(zb) inserted (30.11.2009) by **Criminal Justice and Immigration Act 2008 (c. 4)**, s. 153(7), **Sch. 4 para. 102** (with **Sch. 27 paras. 1, 5**); S.I. 2009/3074, art. 2(p)(xv)
- F86** Words in s. 4(3)(za) substituted (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 24 para. 36(a)** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, reg. 2
- F87** Words in s. 4(3)(zb) substituted (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 24 para. 36(b)** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, reg. 2
- F88** S. 4(3)(a) substituted (30.11.2009) by **Criminal Justice and Immigration Act 2008 (c. 4)**, s. 153(7), **Sch. 4 para. 23(b)** (with **Sch. 27 paras. 1, 5**); S.I. 2009/3074, art. 2(p)(iii)
- F89** Words in s. 4(3)(a) substituted (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 24 para. 36(c)** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, reg. 2
- F90** Word in s. 4(3)(a) repealed (1.4.2010) by **Policing and Crime Act 2009 (c. 26)**, s. 116(1), Sch. 7 para. 19, **Sch. 8 Pt. 2**; S.I. 2010/507, art. 5(v)(x)

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- F91** Words in s. 4(3)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 36(d)** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, reg. 2
- F92** S. 4(3)(c) and word inserted (1.4.2010) by Policing and Crime Act 2009 (c. 26), s. 116(1), **Sch. 7 para. 19**; S.I. 2010/507, art. 5(v)
- F93** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 7 para. 145**
- F94** Words in s. 4(7) added (1.2.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 74(a)** (with s. 180); S.I. 2010/145, art. 2(2), **Sch. para. 25(b)**
- F95** S. 4(8) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 32**; S.I. 1995/721, art. 2, **Sch. Appendix A**
- F96** S. 4(9) inserted (2.7.2001) by 2000 c. 43, s. 58; S.I. 2001/2232, art. 2(g)

Modifications etc. (not altering text)

- C11** S. 4 applied (with modifications) (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 90(4), 336(3)(4)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 5** (with **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

Marginal Citations

- M2** 1971 c. 38.

Supplementary

5 Supplementary provisions about decisions on bail.

- (1) Subject to subsection (2) below, where—
- a court or constable grants bail in criminal proceedings, or
 - a court withholds bail in criminal proceedings from a person to whom section 4 of this act applies, or
 - a court, officer of a court or constable appoints a time or place or ^{F97}... a different time or place for a person granted bail in criminal proceedings to surrender to custody, or
 - a court [^{F98}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.

[^{F99}(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.]

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- (3) Where a magistrates' court or the Crown Court—
- (a) withholds bail in criminal proceedings, or
 - (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, ^{F100} ..., 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 [^{F101}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 [^{F102}does not have legal representation], the court shall—

- (a) if it is [^{F103}sending] him for trial to the Crown Court [^{F104}or if it issues a certificate under subsection (6A) below], inform him that he may apply ^{F105} ... to the Crown Court to be granted bail;

^{F106}(b)

^{F107}(6A) Where in criminal proceedings—

- (a) a magistrates' court remands a person in custody under [^{F108}section 52(5) of the Crime and Disorder Act 1998,] [^{F109}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—

^{F110}(i)

(ii) section 10 (adjournment of trial); [^{F111}or]

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

^{F112}(ia)

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

^{F113}(iii) triable either way),] [^{F114}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

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of the change of circumstances or the new considerations which caused it to hear a further fully argued bail application.

- (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.
- [^{F115}(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.
- [^{F116}(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 [^{F117}Civil Procedure Rules, [^{F118}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.
- [^{F119}(11) This section is subject, in its application to bail granted by a constable, to section 5A of this Act.]

Textual Amendments

- F97** 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)
- F98** 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.](#)
- F99** S. 5(2A)(2B) inserted (1.8.2001) by [2001 c. 16](#), s. 129(1); [S.I. 2001/2223](#), art. 3(i)

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- F100** 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)(i)(ii)
- F101** 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)
- F102** 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)
- F103** 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)
- F104** Words inserted as provided by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(2)(3)**
- F105** 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)
- F106** 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)
- F107** S. 5(6A)–(6C) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(2)(3)**
- F108** 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)
- F109** Words in s. 5(6A)(a) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 53(a)**
- F110** 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)
- F111** 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)**
- F112** 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)
- F113** 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)**
- F114** 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)
- F115** S. 5(8A)–(8C) inserted by Criminal Law Act 1977 (c. 45), **Sch. 12**
- F116** S. 5(9A) inserted by Criminal Law Act 1977 (c. 45), **Sch. 12**
- F117** 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)
- F118** 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
- F119** 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.**

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[^{F120}5A Supplementary provisions in cases of police bail.

- (1) Section 5 of this Act applies, in relation to bail granted by a custody officer under Part IV of the Police and Criminal Evidence Act 1984 [^{F121} or Part 3 of the Criminal Justice Act 2003] in cases where the normal powers to impose conditions of bail are available to him, subject to the following modifications.

^{F122}(1A) [Subsections (2A) and (2B) shall be omitted.]

- (2) For subsection (3) substitute the following—

(“) Where a custody officer, in relation to any person,—

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

the custody officer shall, ^{F123}... give reasons for imposing or varying the conditions.”.

- (3) For subsection (4) substitute the following—

(“) A custody officer who is by virtue of subsection (3) above required to give reasons for his decision shall include a note of those reasons in the custody record and shall give a copy of that note to the person in relation to whom the decision was taken.”.

- (4) Subsections (5) and (6) shall be omitted.]

Textual Amendments

F120 S. 5A inserted (10.4.1995) by 1994 c. 33, s. 27(4), Sch. 3 para. 2; S.I. 1995/721, art. 2, Sch.

F121 Words in s. 5A(1) inserted (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), Sch. 14 para. 5(b); S.I. 2007/709, art. 3(p) (with art. 6)

F122 S. 5A(1A) inserted (1.8.2001) by 2001 c. 16, s. 129(2); S.I. 2001/2223, art. 3(i)

F123 Words in s. 5A(2) 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)

[5B Reconsideration of decisions granting bail.

^{F124}(A1) This section applies in any of these cases—

- (a) a magistrates' court has granted bail in criminal proceedings in connection with an offence to which this section applies or proceedings for such an offence;
- (b) a constable has granted bail in criminal proceedings in connection with proceedings for such an offence;
- (c) a magistrates' court or a constable has granted bail in connection with extradition proceedings.

- (1) The court or the appropriate court in relation to the constable may, on application by the prosecutor for the decision to be reconsidered—

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

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- (2) The offences to which this section applies are offences triable on indictment and offences triable either way.
- (3) No application for the reconsideration of a decision under this section shall be made unless it is based on information which was not available to the court or constable when the decision was taken.
- (4) Whether or not the person to whom the application relates appears before it, the magistrates' court shall take the decision in accordance with section 4(1) (and Schedule 1) of this Act.
- (5) Where the decision of the court on a reconsideration under this section 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, and
 - (b) if that person is not before the court, order him to surrender himself forthwith into the custody of the court.
- (6) Where a person surrenders himself into the custody of the court in compliance with an order under subsection (5) above, the court shall remand him in custody.
- (7) A person who has been ordered to surrender to custody under subsection (5) above may be arrested without warrant by a constable if he fails without reasonable cause to surrender to custody in accordance with the order.
- (8) A person arrested in pursuance of subsection (7) above shall be brought as soon as practicable, and in any event within 24 hours after his arrest, before a justice of the peace^{F125} ... and the justice shall remand him in custody.

In reckoning for the purposes of this subsection any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.

[Where the court, on a reconsideration under this section, refuses to withhold bail^{F126}(8A) from a relevant person after hearing representations from the prosecutor in favour of withholding bail, then the court shall give reasons for refusing to withhold bail.

(8B) In subsection (8A) above, “relevant person” means a person to whom section 4(1) (and Schedule 1) of this Act is applicable in accordance with subsection (4) above.

(8C) A court which is by virtue of subsection (8A) above required to give reasons for its decision shall include a note of those reasons in any record of its decision and, if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of any such record as soon as practicable after the record is made.]
- (9) [^{F127}Criminal Procedure Rules] shall include provision—
 - (a) requiring notice of an application under this section and of the grounds for it to be given to the person affected, including notice of the powers available to the court under it;
 - (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; and
 - (c) designating the court which is the appropriate court in relation to the decision of any constable to grant bail.]

Extent Information

E2 S. 5B inserted (10.4.1995) by 1994 c. 33, s. 30; S.I. 1995/721, art. 2, Sch.

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Textual Amendments

- F124** S. 5B(A1)(1) substituted for s. 5B(1) (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), **ss. 198(6)**, 221; S.I. 2003/3103, **art. 2** (with **arts. 3, 4**) (as amended (18.12.2003) by S.I. 2003/3312, **art. 2**)
- F125** Words in s. 5B(8) repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), **Sch. 8 para. 183(2)**, **Sch. 10**; S.I. 2005/910, **art. 3(y)**
- F126** S. 5B(8A)-(8C) inserted (1.8.2001) by [2001 c. 16](#), **s. 129(3)**; S.I. 2001/2223, **art. 3(i)**
- F127** Words in s. 5B(9) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), **Sch. 8 para. 183(3)**; S.I. 2004/2066, **art. 2(c)(ix)** (with **art. 3**)

6 Offence of absconding by person released on bail.

- (1) If a person who has been released on bail in criminal proceedings fails without reasonable cause to surrender to custody he shall be guilty of an offence.
- (2) If a person who—
 - (a) has been released on bail in criminal proceedings, and
 - (b) having reasonable cause therefor, has failed to surrender to custody,
 fails to surrender to custody at the appointed place as soon after the appointed time as is reasonably practicable he shall be guilty of an offence.
- (3) It shall be for the accused to prove that he had reasonable cause for his failure to surrender to custody.
- (4) A failure to give to a person granted bail in criminal proceedings a copy of the record of the decision shall not constitute a reasonable cause for that person's failure to surrender to custody.
- (5) An offence under subsection (1) or (2) above shall be punishable either on summary conviction or as if it were a criminal contempt of court.
- (6) Where a magistrates' court convicts a person of an offence under subsection (1) or (2) above the court may, if it thinks—
 - (a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than the court has power to inflict, or
 - (b) in a case where it ^{F128}sends] that person for trial to the Crown Court for another offence, that it would be appropriate for him to be dealt with for the offence under subsection (1) or (2) above by the court before which he is tried for the other offence,
 commit him in custody or on bail to the Crown Court for sentence.
- (7) A person who is convicted summarily of an offence under subsection (1) or (2) above and is not committed to the Crown Court for sentence shall be liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding ^{F129}level 5 on the standard scale] or to both and a person who is so committed for sentence or is dealt with as for such a contempt shall be liable to imprisonment for a term not exceeding ^{F130}12 months] or to a fine or to both.
- (8) In any proceedings for an offence under subsection (1) or (2) above a document purporting to be a copy of the part of the prescribed record which relates to the time and place appointed for the person specified in the record to surrender to custody and to be duly certified to be a true copy of that part of the record shall be evidence of the time and place appointed for that person to surrender to custody.

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- (9) For the purposes of subsection (8) above—
- (a) “the prescribed record” means the record of the decision of the court, officer or constable made in pursuance of section 5(1) of this Act;
 - (b) the copy of the prescribed record is duly certified if it is certified by the appropriate officer of the court or, as the case may be, by the constable who took the decision or a constable designated for the purpose by the officer in charge of the police station from which the person to whom the record relates was released;
 - (c) “the appropriate officer” of the court is—
 - (i) in the case of a magistrates’ court, the [^{F131}designated officer for the court];
 - (ii) in the case of the Crown Court, such officer as may be designated for the purpose in accordance with arrangements made by the Lord Chancellor;
 - (iii) in the case of the High Court, such officer as may be designated for the purpose in accordance with arrangements made by the Lord Chancellor;
 - (iv) in the case of the Court of Appeal, the registrar of criminal appeals or such other officer as may be authorised by him to act for the purpose;
 - (v) in the case of the [^{F132}Court Martial Appeal Court], the registrar or such other officer as may be authorised by him to act for the purpose.

[^{F133}(10) Section 127 of the Magistrates' Courts Act 1980 shall not apply in relation to an offence under subsection (1) or (2) above.

- (11) Where a person has been released on bail in criminal proceedings and that bail was granted by a constable, a magistrates' court shall not try that person for an offence under subsection (1) or (2) above in relation to that bail (the “relevant offence”) unless either or both of subsections (12) and (13) below applies.
- (12) This subsection applies if an information is laid for the relevant offence within 6 months from the time of the commission of the relevant offence.
- (13) This subsection applies if an information is laid for the relevant offence no later than 3 months from the time of the occurrence of the first of the events mentioned in subsection (14) below to occur after the commission of the relevant offence.
- (14) Those events are—
- (a) the person surrenders to custody at the appointed place;
 - (b) the person is arrested, or attends at a police station, in connection with the relevant offence or the offence for which he was granted bail;
 - (c) the person appears or is brought before a court in connection with the relevant offence or the offence for which he was granted bail.]

Extent Information

E3 For extent of s. 6 see s. 13(3)

Textual Amendments

F128 Word in s. 6(6)(b) 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\(4\)](#); S.I. 2005/1267, art. 2(1)(2)(a), [Sch. Pt. 1](#); S.I. 2012/1320,

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- 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)
- F129** Words substituted: (E.W.) by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**; (S.) by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G**; and (N.I.) by virtue of S.I. 1984/703 (N.I. 3), **arts. 5, 6**
- F130** Words in s. 6(7) restored following an earlier amendment which was made in error and earlier amending provision in S.I. 2023/149, **Sch. Pt. 1** revoked (18.10.2023) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) (Revocation and Amendment) Regulations 2023 (S.I. 2023/1108), regs. 1(2), 2
- F131** Words in s. 6(9)(c)(i) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 184**; S.I. 2005/910, art. 3(y)
- F132** Words in s. 6(9)(c)(v) 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. 75**; S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F133** S. 6(10)-(14) inserted (E.W.) (5.4.2004) by Criminal Justice Act 2003 (c. 44), **ss. 15(3), 336(3)(4)** (with s. 141); S.I. 2004/829, art. 2(1)(2)(b)

7 Liability to arrest for absconding or breaking conditions of bail.

- (1) If a person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a court fails to surrender to custody at the time appointed for him to do so the court may issue a warrant for his arrest.

[^{F134}(1A) Subsection (1B) applies if—

- (a) a person has been released on bail in connection with extradition proceedings,
- (b) the person is under a duty to surrender into the custody of a constable, and
- (c) the person fails to surrender to custody at the time appointed for him to do so.

(1B) A magistrates' court may issue a warrant for the person's arrest.]

- (2) If a person who has been released on bail in criminal proceedings absents himself from the court at any time after he has surrendered into the custody of the court and before the court is ready to begin or to resume the hearing of the proceedings, the court may issue a warrant for his arrest; but no warrant shall be issued under this subsection where that person is absent in accordance with leave given to him by or on behalf of the court.
- (3) A person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a court may be arrested without warrant by a constable—
- (a) if the constable has reasonable grounds for believing that that person is not likely to surrender to custody;
 - (b) if the constable has reasonable grounds for believing that that person is likely to break any of the conditions of his bail or has reasonable grounds for suspecting that that person has broken any of those conditions; or
 - (c) in a case where that person was released on bail with one or more surety or sureties, if a surety notifies a constable in writing that that person is unlikely to surrender to custody and that for that reason the surety wishes to be relieved of his obligations as a surety.
- (4) a person arrested in pursuance of subsection (3) above—
- (a) shall, except where he was arrested within 24 hours of the time appointed for him to surrender to custody, be brought as soon as practicable and in any event within 24 hours after his arrest before a justice of the peace ^{F135}...; and

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- (b) in the said excepted case shall be brought before the court at which he was to have surrendered to custody.

F136
....

[^{F137}(4A) A person who has been released on bail in connection with extradition proceedings and is under a duty to surrender into the custody of a constable may be arrested without warrant by a constable on any of the grounds set out in paragraphs (a) to (c) of subsection (3).

(4B) A person arrested in pursuance of subsection (4A) above shall be brought as soon as practicable and in any event within 24 hours after his arrest before a justice of the peace for the petty sessions area in which he was arrested.]

(5) A justice of the peace before whom a person is brought under subsection (4) [^{F138} or (4B)] above may, subject to [^{F139}subsections (5A) and (6)] below, if of the opinion that that person—

- (a) is not likely to surrender to custody, or
(b) has broken or is likely to break any condition of his bail,

remand him in custody or commit him to custody, as the case may require, or alternatively, grant him bail subject to the same or to different conditions, but if not of that opinion shall grant him bail subject to the same conditions (if any) as were originally imposed.

[^{F140}(5A) A justice of the peace may not remand a person in, or commit a person to, custody under subsection (5) if—

- (a) the person has attained the age of eighteen,
(b) the person was released on bail in non-extradition proceedings,
(c) the person has not been convicted of an offence in those proceedings, and
(d) it appears to the justice of the peace that there is no real prospect that the person will be sentenced to a custodial sentence in the proceedings.]

(6) Where [^{F141}a person brought before a justice under subsection (4) or (4B)] is a child or young person and the justice does not grant him bail, subsection (5) above shall have effect subject to the provisions of [^{F142}section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (remands of children otherwise than on bail)].

[^{F143}(7) In reckoning for the purposes of this section any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.]

[^{F144}(8) In the case of a person charged with murder or with murder and one or more other offences—

- (a) subsections (4) and (5) have effect as if for “justice of the peace” there were substituted “judge of the Crown Court”,
(b) subsection (6) has effect as if for “justice” (in both places) there were substituted “judge”, and
(c) subsection (7) has effect, for the purposes of subsection (7) (4), as if at the end there were added “, Saturday or bank holiday.”]

Textual Amendments

F134 S. 7(1A)(1B) inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), ss. **198(7)**, 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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- F135** Words in s. 7(4)(a) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 185, **Sch. 10**; S.I. 2005/910, art. 3(y)
- F136** Words in s. 7(4) repealed (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(8)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)
- F137** S. 7(4A)(4B) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(9)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)
- F138** Words in s. 7(5) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(10)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)
- F139** Words in s. 7(5) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 8(2)**; S.I. 2012/2906, art. 2(i)
- F140** S. 7(5A) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 8(3)**; S.I. 2012/2906, art. 2(i)
- F141** Words in s. 7(6) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 8(4)**; S.I. 2012/2906, art. 2(i)
- F142** Words in s. 7(6) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 16**; S.I. 2012/2906, art. 2(j)
- F143** S. 7(7) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 198(11)**, 221; S.I. 2003/3103, art. 2 (with arts. 3, 4) (as amended (18.12.2003) by S.I. 2003/3312, art. 2)
- F144** S. 7(8) added (1.2.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 74(b)** (with s. 180); S.I. 2010/145, art. 2(2), Sch. para. 25(b)

8 Bail with sureties.

- (1) This section applies where a person is granted bail in criminal proceedings on condition that he provides one or more surety or sureties for the purpose of securing that he surrenders to custody.
- (2) In considering the suitability for that purpose of a proposed surety, regard may be had (amongst other things) to—
 - (a) the surety's financial resources;
 - (b) his character and any previous convictions of his; and
 - (c) his proximity (whether in point of kinship, place of residence or otherwise) to the person for whom he is to be surety.
- (3) Where a court grants a person bail in criminal proceedings on such a condition but is unable to release him because no surety or no suitable surety is available, the court shall fix the amount in which the surety is to be bound and subsections (4) and (5) below, or in a case where the proposed surety resides in Scotland subsection (6) below, shall apply for the purpose of enabling the recognizance of the surety to be entered into subsequently.
- (4) Where this subsection applies the recognizance of the surety may be entered into before such of the following persons or descriptions of persons as the court may by order specify or, if it makes no such order, before any of the following persons, that is to say—
 - (a) where the decision is taken by a magistrates' court, before a justice of the peace^{F145}... or a police officer who either is of the rank of inspector or above or is in charge of a police station or, if [^{F146}Criminal Procedure Rules] so provide, by a person of such other description as is specified in the rules;
 - (b) where the decision is taken by the Crown Court, before any of the persons specified in paragraph (a) above or, if [^{F147}Criminal Procedure Rules] so provide, by a person of such other description as is specified in the rules;

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- (c) where the decision is taken by the High Court or the Court of Appeal, before any of the persons specified in paragraph (a) above or, if [F148Civil Procedure Rules or Criminal Procedure Rules] so provide, by a person of such other description as is specified in the rules;
- (d) where the decision is taken by the [F149Court Martial Appeal Court], before any of the persons specified in paragraph (a) above or, if [F150Court Martial Appeal Rules] so provide, by a person of such other description as is specified in the rules;
- and [F151Civil Procedure Rules, Criminal Procedure Rules or F152Court Martial Appeal Rules]] may also prescribe the manner in which a recognizance which is to be entered into before such a person is to be entered into and the persons by whom and the manner in which the recognizance may be enforced.
- (5) Where a surety seeks to enter into his recognizance before any person in accordance with subsection (4) above but that person declines to take his recognizance because he is not satisfied of the surety's suitability, the surety may apply to—
- (a) the court which fixed the amount of the recognizance in which the surety was to be bound, or
- (b) a magistrates' court F153 ...,
- for that court to take his recognizance and that court shall, if satisfied of his suitability, take his recognizance.
- (6) Where this subsection applies, the court, if satisfied of the suitability of the proposed surety, may direct that arrangements be made for the recognizance of the surety to be entered into in Scotland before any constable, within the meaning of the [F154Police and Fire Reform (Scotland) Act 2012], having charge at any police office or station in like manner as the recognizance would be entered into in England or Wales.
- (7) Where, in pursuance of subsection (4) or (6) above, a recognizance is entered into otherwise than before the court that fixed the amount of the recognizance, the same consequences shall follow as if it had been entered into before that court.

Textual Amendments

- F145** Words in s. 8(4)(a) omitted (6.4.2020) by virtue of [Courts and Tribunals \(Judiciary and Functions of Staff\) Act 2018 \(c. 33\), s. 4\(3\), Sch. para. 3](#); S.I. 2020/24, reg. 3(b)
- F146** Words in s. 8(4)(a) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\), s. 110\(1\), Sch. 8 para. 186\(2\)\(a\)](#); S.I. 2004/2066, art. 2(c)(ix) (with art. 3)
- F147** Words in s. 8(4)(b) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\), s. 110\(1\), Sch. 8 para. 186\(2\)\(b\)](#); S.I. 2004/2066, art. 2(c)(ix) (with art. 3)
- F148** Words in s. 8(4)(c) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\), s. 110\(1\), Sch. 8 para. 186\(2\)\(c\)](#); S.I. 2004/2066, art. 2(c)(ix) (with art. 3)
- F149** Words in s. 8(4)(d) 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. 76\(a\)\(i\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F150** Words in s. 8(4)(d) 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. 76\(a\)\(ii\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F151** Words in s. 8(4) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\), s. 110\(1\), Sch. 8 para. 186\(2\)\(d\)](#); S.I. 2004/2066, art. 2(c)(ix) (with art. 3)

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- F152** Words in s. 8(4) 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. 76(b)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F153** Words in s. 8(5)(b) repealed (1.4.2005) by **Courts Act 2003 (c. 39)**, s. 110(1), **Sch. 8 para. 186(3)**, **Sch. 10**; S.I. 2005/910, art. 3(y)
- F154** Words in s. 8(6) substituted (1.4.2013) by **The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602)**, art. 1(2), **Sch. 2 para. 13** (with Sch. 3 para. 8)

Miscellaneous

9 Offence of agreeing to indemnify sureties in criminal proceedings.

- (1) If a person agrees with another to indemnify that other against any liability which that other may incur as a surety to secure the surrender to custody of a person accused or convicted of or under arrest for an offence, he and that other person shall be guilty of an offence.
- (2) An offence under subsection (1) above is committed whether the agreement is made before or after the person to be indemnified becomes a surety and whether or not he becomes a surety and whether the agreement contemplates compensation in money or in money's worth.
- (3) Where a magistrates' court convicts a person of an offence under subsection (1) above the court may, if it thinks—
 - (a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than the court has power to inflict, or
 - (b) in a case where it [^{F155}sends] that person for trial to the Crown Court for another offence, that it would be appropriate for him to be dealt with for the offence under subsection (1) above by the court before which he is tried for the other offence,
 commit him in custody or on bail to the Crown Court for sentence.
- (4) A person guilty of an offence under subsection (1) above shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding £400 or to both; or
 - (b) on conviction on indictment or if sentenced by the Crown Court on committal for sentence under subsection (3) above, to imprisonment for a term not exceeding 12 months or to a fine or to both.
- (5) No proceedings for an offence under subsection (1) above shall be instituted except by or with the consent of the Director of Public Prosecutions.

Textual Amendments

- F155** Word in s. 9(3)(b) 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(5)**; 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)

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Modifications etc. (not altering text)

C12 S. 9(5) explained by [Criminal Jurisdiction Act 1975 \(c. 59\), s. 12](#)

[^{F156}9A Bail decisions relating to [^{F157} children or young persons] who are accused of offences mentioned in Schedule 2 to the Magistrates' Courts Act 1980

- (1) This section applies whenever—
 - (a) a magistrates' court is considering whether to withhold or grant bail in relation to a [^{F158} child or young person] who is accused of a scheduled offence; and
 - (b) the trial of that offence has not begun.
- (2) The court shall, before deciding whether to withhold or grant bail, consider whether, having regard to any representations made by the prosecutor or the accused [^{F159} child or young] person, the value involved does not exceed the relevant sum for the purposes of section 22.
- (3) The duty in subsection (2) does not apply in relation to an offence if—
 - (a) a determination under subsection (4) has already been made in relation to that offence; or
 - (b) the accused [^{F160} child or young] person is, in relation to any other offence of which he is accused which is not a scheduled offence, a person to whom Part 1 of Schedule 1 to this Act applies.
- (4) If where the duty in subsection (2) applies it appears to the court clear that, for the offence in question, the amount involved does not exceed the relevant sum, the court shall make a determination to that effect.
- (5) In this section—
 - (a) “relevant sum” has the same meaning as in section 22(1) of the Magistrates' Courts Act 1980 (certain either way offences to be tried summarily if value involved is less than the relevant sum);
 - (b) “scheduled offence” means an offence mentioned in Schedule 2 to that Act (offences for which the value involved is relevant to the mode of trial); and
 - (c) “the value involved” is to be construed in accordance with section 22(10) to (12) of that Act.]

Textual Amendments

- F156** S. 9A inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 12 para. 3](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 27
- F157** Words in s. 9A heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 11 para. 9\(2\)](#); S.I. 2012/2906, art. 2(i)
- F158** Words in s. 9A(1)(a) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 11 para. 9\(3\)](#); S.I. 2012/2906, art. 2(i)
- F159** Words in s. 9A(2) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 11 para. 9\(4\)](#); S.I. 2012/2906, art. 2(i)
- F160** Words in s. 9A(3)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 11 para. 9\(4\)](#); S.I. 2012/2906, art. 2(i)

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Textual Amendments

F161 S. 10 repealed by [Criminal Law Act 1977 \(c. 45\), Sch. 13](#)

11 ^{F162}

Textual Amendments

F162 S. 11 repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\), s. 45, Sch. 6](#)

12 Amendments, repeals and transitional provisions.

- (1) Schedule 2 to this Act (which contains consequential and minor amendments of enactments) shall have effect.
- (2) The enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) The transitional provisions contained in Schedule 4 to this Act shall have effect.

Modifications etc. (not altering text)

C13 The text of s. 12(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

13 Short title, commencement, application and extent.

- (1) This act may be cited as the Bail Act 1976.
- (2) This Act (except this section) shall come into force on such day as the Secretary of State may by order in a statutory instrument appoint.
- (3) Section 1 of this Act applies to bail grantable by the [^{F163}Court Martial Appeal Court] when sitting outside England and Wales and accordingly section 6 of this Act applies to a failure outside England and Wales by a person granted bail by that Court to surrender to custody.
- (4) Except as provided by subsection (3) above and with the exception of so much of section 8 as relates to entering into recognizances in Scotland and paragraphs 31 and 46 of Schedule 2 to this Act, this Act does not extend beyond England and Wales.

Textual Amendments

F163 Words in [s. 13\(3\)](#) 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. 77; S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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Modifications etc. (not altering text)

C14 17.4.1978 appointed under s. 13(2) by [S.I. 1978/132](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 3A(1) words substituted by [2022 c. 32 Sch. 11 para. 5](#)
- s. 5(6A)(a) words inserted by [2003 c. 44 Sch. 36 para. 2\(2\)](#)
- s. 5A(1) words substituted by [2022 c. 32 Sch. 11 para. 6](#)

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)(iiia) and word inserted by [2003 c. 44 Sch. 36 para. 2\(4\)](#)