



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.
- (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.
- (4) This section does not apply to bail granted before the coming into force of this Act.
- (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.

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,

Status: This is the original version (as it was originally enacted).

- (c) a finding under section 26(1) of the Magistrates' Courts Act 1952 (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 placing the offender on probation or discharging him absolutely or conditionally,
- and " convicted " shall be construed accordingly.
- (2) In this Act, unless the context otherwise requires—
- " child " means a person under the age of fourteen,
 - " coroners' rules " means rules made under any provision of the Coroners (Amendment) Act 1926,
 - " court " includes a judge of a court, a justice of the peace or a coroner 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,
 - " Courts-Martial Appeal rules " means rules made under section 49 of the Courts-Martial (Appeals) Act 1968,
 - " Crown Court rules " means rules made under section 15 of the Courts Act 1971,
 - " magistrates' courts rules " means rules made under section 15 of the Justices of the Peace Act 1949,
 - " offence " includes an alleged offence,
 - " proceedings against a fugitive offender " means proceedings under section 9 of the Extradition Act 1870, section 7 of the Fugitive Offenders Act 1967 or section 2(1) or 4(3) of the Backing of Warrants (Republic of Ireland) Act 1965,
 - " Supreme Court rules " means rules made under section 99 of the Supreme Court of Judicature (Consolidation) Act 1925,
 - " 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,
 - " vary ", in relation to bail, means imposing further conditions after bail is granted, or varying or rescinding conditions,
 - " young person " means a person who has attained the age of fourteen and is under the age of seventeen.
- (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.

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) If it appears that he is unlikely to remain in Great Britain until the time appointed for him to surrender to custody, 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 (but only by a court) to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that—
 - (a) he surrenders to custody,
 - (b) he does not commit an offence while on bail,
 - (c) he does not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person,
 - (d) 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.
- (7) If a parent or guardian of a child or young person consents to be surety for the child or young person for the purposes of this subsection, the parent or guardian may be required to secure that the child or young person complies with any requirement imposed on him by virtue of subsection (6) above, but—
 - (a) no requirement shall be imposed on the parent or the guardian of a young person by virtue of this subsection where it appears that the young 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 it may on application—
 - (a) by or on behalf of the person to whom it was granted, or
 - (b) by the prosecutor or a constable,vary the conditions of bail or impose conditions in respect of bail which it has granted unconditionally.
- (9) This section is subject to subsection (3) of section 26 of the Magistrates' Courts Act 1952 (conditions of bail on remand for medical examination).

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—
 - (a) 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
 - (b) he applies to a court for bail in connection with the proceedings.

This subsection does not apply as respects proceedings on or after a person's conviction of the offence or proceedings against a fugitive offender for 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 to be dealt with under section 6 or section 16 of the Powers of Criminal Courts Act 1973 (breach of requirement of probation or community service order).
- (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 section 8 of the Magistrates' Courts Act 1952 (restriction of bail by magistrates' court in cases of treason).

Supplementary

5 Supplementary provisions about decisions on bail

- (1) Subject to subsection (2) below, where—
 - (a) a court or constable grants bail in criminal proceedings, or
 - (b) a court withholds bail in criminal proceedings from a person to whom section 4 of this Act applies, or
 - (c) a court, officer of a court or constable appoints a time or place or a court or officer of a court appoints a different time or place for a person granted bail in criminal proceedings to surrender to custody, or
 - (d) a court 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.
- (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, with a view to enabling him to consider making an application in the matter to another court, 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 is represented by counsel or a solicitor unless his counsel or solicitor requests the court to do so.
- (6) Where a magistrates' court withholds bail in criminal proceedings from a person who is not represented by counsel or a solicitor, the court shall—
- (a) if it is committing him for trial to the Crown Court, inform him that he may apply to the High Court or to the Crown Court to be granted bail;
 - (b) in any other case, inform him that he may apply to the High Court for that purpose.
- (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.
- (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.
- (10) In this section "prescribed" means, in relation to the decision of a court or an officer of a court, prescribed by Supreme Court rules, Courts-Martial Appeal rules, Crown Court rules or magistrates' courts rules, as the case requires or, in relation to a decision of a constable, prescribed by direction of the Secretary of State.

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 commits 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 £400 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 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.
- (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 justices' clerk or such other officer as may be authorised by him to act for the purpose ;

- (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 Courts-Martial Appeal Court, the registrar or such other officer as may be authorised by him to act for the purpose.

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.
- (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 for the petty sessions area in which he was arrested ; and
 - (b) in the said excepted case shall be brought before the court at which he was to have surrendered to custody.
- (5) A justice of the peace before whom a person is brought under subsection (4) above may, subject to subsection (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.

- (6) Where the person so brought before the justice 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 section 23 of the Children and Young Persons Act 1969 (remands to the care of local authorities).

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, a justices' clerk or a police officer who either is of the rank of inspector or above or is in charge of a police station or, if magistrates' courts 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 Crown Court rules so provide, by a person of such other description as is specified in the rules ;
 - (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 Supreme Court rules so provide, by a person of such other description as is specified in the rules ;
 - (d) where the decision is taken by the Courts-Martial Appeal Court, before any of the persons specified in paragraph (a) above or, if Courts-Martial Appeal rules so provide, by a person of such other description as is specified in the rules;
- and Supreme Court rules, Crown Court rules, Courts-Martial Appeal rules or magistrates' courts 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 for the petty sessions area in which he resides, 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 Police (Scotland) Act 1967, 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.

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 commits 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.

10 Extension and exercise of coroners' powers to grant bail

- (1) In section 5 of the Coroners Act 1887 (procedure and powers of coroner to grant bail where coroner's inquisition charges homicide), for subsections (1) and (2) there shall be substituted—

Status: This is the original version (as it was originally enacted).

- “(1) Where a coroner's inquisition charges a person with the offence of murder, manslaughter or infanticide, the coroner shall issue his warrant for arresting that person if a warrant has not previously been issued.
- (2) The coroner may grant bail to a person so charged with such an offence subject to a duty to appear before the Crown Court.”
- (2) The foregoing provisions of this Act shall, in their application to proceedings before a coroner and to persons charged on a coroner's inquisition, have effect as if—
 - (a) in section 4(2) there were substituted for paragraph (a) the following—
 - “(a) he is present at an inquest held by a coroner at which he is charged with the offence”;
 - (b) in section 6(9) there were substituted for paragraph (b) the following—
 - “(b) the copy of the prescribed record is duly certified if it is certified by the coroner or his deputy;”
 - (c) the references in section 5(3) and (6) and in section 8(4) to a magistrates' court were references to a coroner; and
 - (d) the references in sections 5(10) and 8(4) to magistrates' courts rules were references to coroners' rules.

11 Legal aid for bail decisions in certain cases and for persons kept in custody for inquiries or reports

- (1) Part II of the Legal Aid Act 1974 shall have effect subject to the amendments made by this section.
- (2) In section 28(1) (exercise of powers to grant legal aid), for the words " subsections (2) to (4) " there shall be substituted the words " subsections (1A) to (4) ".
- (3) At the end of section 28(2) (power of magistrates' court to make a legal aid order in criminal proceedings), there shall be added the words " or, in the circumstances mentioned in paragraph (c) of section 29(1) below, for the purpose of so much of those proceedings as relates to the grant of bail ".
- (4) After paragraphs (a) and (b) of section 29(1) (which specify the cases in which a legal aid order must be made if a person's means qualify him for it), there shall be added a paragraph (preceded by the word " or ") as follows—
 - “(c) where a person charged with an offence before a magistrates' court is brought before the court in pursuance of a remand in custody on an occasion when he may be again remanded or committed in custody and is not (but wishes to be) legally represented before the court, not having been legally represented before the court when he was so remanded”.
- (5) After paragraph (c) of section 29(1) inserted by subsection (4) above, there shall be added a further paragraph (preceded by the word " or ") as follows—
 - “(d) where a person who is to be sentenced or dealt with for an offence by a magistrates' court or the Crown Court is to be kept in custody to enable inquiries or a report to be made to assist the court in sentencing or dealing with him for the offence ;”
- (6) After section 29(1) there shall be inserted the following subsection—

“(1A) Nothing in subsection (1) above shall require a magistrates' court, in the circumstances mentioned in paragraph (c) of that subsection, to order that the person charged before it be given legal aid for the purposes of the proceedings before that court and any juvenile court (as distinct from legal aid for the purpose of so much of those proceedings as relates to the grant of bail) or, in those circumstances, to make a legal aid order after the conviction of that person.”;

(7) After section 29(5) there shall be inserted the following subsection—

“(5A) Paragraphs (c) and (d) of subsection (1) above shall have effect in their application to a person who has not attained the age of eighteen as if the references to a remand in custody and to being remanded, committed or kept in custody included references to being committed under section 23 of the Children and Young Persons Act 1969 to the care of a local authority or to a remand centre.”;

(8) In section 30(2) (scope of legal aid before magistrates' courts) there shall be added at the end the words " and legal aid ordered to be given for the purpose of so much of any proceedings before a magistrates' court as relates to the grant of bail shall not include representation by counsel. "

(9) In section 30(12) (interpretation), for the words "In section 28 above " there shall be inserted the words " In sections 28 and 29 above ".

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.

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 Courts-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.