



# Bail Act 1976

## 1976 CHAPTER 63

### *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) <sup>F1</sup> . . . 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 <sup>F2</sup>... to comply, before release on bail or later, with such requirements as appear to the court to be necessary <sup>F3</sup>...—
  - (a) [<sup>F4</sup>to secure that] he surrenders to custody,
  - (b) [<sup>F4</sup>to secure that] he does not commit an offence while on bail,
  - (c) [<sup>F4</sup>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,
  - <sup>F5</sup>(ca) for his own protection or, if he is a child or young person, for his own welfare or in his own interests,]
  - (d) [<sup>F4</sup>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.

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[<sup>F6</sup>(e) [<sup>F4</sup>to secure that] before the time appointed for him to surrender to custody, he attends an interview with an authorised advocate or authorised litigator, as defined by section 119(1) of the <sup>M1</sup>Courts and Legal Services Act 1990;]

[<sup>F7</sup>and, in any Act, “the normal powers to impose conditions of bail” means the powers to impose conditions under paragraph (a), (b) [<sup>F8</sup>, (c) or (ca)] above]

[<sup>F9</sup>(6ZAA) Subject to section 3AA below, if he is a child or young person he may be required to comply with requirements imposed for the purpose of securing the electronic monitoring of his compliance with any other requirement imposed on him as a condition of bail.]

[<sup>F10</sup>(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.]

[<sup>F11</sup>(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 [<sup>F12</sup>section 12 of the Mental Health Act 1983].]

[<sup>F13</sup>(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 [<sup>F14</sup>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;
- (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

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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 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 [F15 subsection (6) [F16, (6ZAA)] or (6A) 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 [F17 that court or, where that court has [F18 committed][F18 sent] a person on bail to the Crown Court for trial or 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 [F17 bail was] granted, or
- (b) by the prosecutor or a constable,

vary the conditions of bail or impose conditions in respect of bail which [F17 has been] granted unconditionally.

[F19(8A) Where a notice of transfer is given under [F20 a relevant transfer provision], subsection (8) above shall have effect in relation to a person in relation to whose case the notice is given as if he had been committed on bail to the Crown Court for trial.]

[F21(8B) Subsection (8) above applies where a court has sent a person on bail to the Crown Court for trial under section 51 of the Crime and Disorder Act 1998 as it applies where a court has committed a person on bail to the Crown Court for trial.]

(9) This section is subject to [F22 subsection (3) of section 11 of the Powers of Criminal Courts (Sentencing) Act 2000] (conditions of bail on remand for medical examination).

[F23(10) This section is subject, in its application to bail granted by a constable, to section 3A of this Act.]

[F24(10) In subsection (8A) above "relevant transfer provision" means—

- (a) section 4 of the Criminal Justice Act 1987, or
- (b) section 53 of the Criminal Justice Act 1991.]

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### Textual Amendments

- F1** 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)**
- F2** 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**
- F3** 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)
- F4** 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)
- F5** 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)
- F6** S. 3(6)(e) inserted (30.9.1998) by 1998 c. 37, **s. 54(2)**; S.I. 1998/2327, **art. 2(1)(n)**
- F7** 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.**
- F8** 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)
- F9** S. 3(6ZAA) inserted (1.3.2002) by 2001 c. 16, **s. 131(1)**; S.I. 2002/344, **art. 2** (with transitional provisions in **art. 4**)
- F10** S. 3(6ZA) inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 131(1), **Sch. 8 para. 16**
- F11** S. 3(6A)(6B) inserted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **s. 34(2)**
- F12** Words substituted by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 4 para. 46**
- F13** 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)
- F14** 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**
- F15** Words substituted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **s. 34(3)**
- F16** 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**)
- F17** Words substituted by Criminal Law Act 1977 (c. 45), **Sch. 12**
- F18** Word in s. 3(8) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 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) (see S.I. 2012/2574, arts. 2(1)(c)(2)(3), 4(2), **Sch.** (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) and S.I. 2013/1103, art. 4)
- F19** S. 3(8A) inserted by Criminal Justice Act 1987 (c. 38, SIF 39:1), s. 15, **Sch. 2 para. 9**
- F20** Words in s. 3(8A) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 12(a)**; S.I. 1995/127, art. 2(1), **Sch. 1 Appendix A**
- F21** S. 3(8B) inserted (the insertion being in force 4.1.1999 for the purposes as referred to in S.I. 1998/2327, art. 4(2)(c), **Sch. 2** and otherwise 15.1.2001) by 1998 c. 37, s. 119, **Sch. 8 para. 37**; S.I. 2000/3283, **art. 2(c)**
- F22** Words in s. 3(9) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 51**
- F23** 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.**
- F24** S. 3(10) beginning "In subsection (8A)" inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 12(b)**; S.I. 1995/127, art. 2(1), **Sch. 1 Appendix A**

### Marginal Citations

- M1** 1990 c.41.

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### **[<sup>F25</sup>3AA A] Electronic monitoring of compliance with bail conditions**

- (1) A court shall not impose on a child or young person a requirement under section 3(6ZAA) above (an “electronic monitoring requirement”) unless each of the following conditions is satisfied.
- (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 or sexual 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
    - (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 to local authority accommodation.
- (4) The third condition is that the court—
  - (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in each [<sup>F26</sup>local justice area] which is a relevant area; and
  - (b) is satisfied that the necessary provision can be made under those arrangements.
- (5) The fourth condition is that a youth offending team has informed the court that in its opinion the imposition of such a requirement will be suitable in the case of the child or young person.
- (6) Where a court imposes an electronic monitoring requirement, the requirement shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (7) The Secretary of State may make rules for regulating—
  - (a) the electronic monitoring of compliance with requirements imposed on a child or young person as a condition of bail; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons made responsible for securing the electronic monitoring of compliance with such requirements.
- (8) Rules under this section may make different provision for different cases.
- (9) Any power of the Secretary of State to make an order or rules under this section shall be exercisable by statutory instrument.
- (10) A statutory instrument containing rules made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section “local authority accommodation” has the same meaning as in the Children and Young Persons Act 1969 (c. 54).

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- (12) For the purposes of this section a [F27]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.]

#### Textual Amendments

- F25** 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)
- F26** Words in s. 3AA(4)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 181; S.I. 2005/910, art. 3(y)
- F27** Words in s. 3AA(12) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 181; S.I. 2005/910, art. 3(y)

#### [F28]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 M2Police and Criminal Evidence Act 1984 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 [F29]paragraph (d) or (e)].
- (3) Subsections [F30(6ZAA),] (6ZA) [F31] 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 F32...—
- [F33]for the purpose of preventing that person from] failing to surrender to custody, or
  - [F33]for the purpose of preventing that person from] committing an offence while on bail, or
  - [F33]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. [F34]or
  - 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.]

#### Textual Amendments

- F28** S. 3A inserted (10.4.1995) by 1994 c. 33, s. 27(3); S.I. 1995/721, art. 2, Sch.

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- F29** Words in s. 3A(2) substituted (30.9.1998) by 1998 c. 37, s. 54(3); S.I. 1998/2327, art. 2(1)(n)
- F30** 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)
- F31** 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)
- F32** 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)
- F33** 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)
- F34** 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)

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### Marginal Citations

- M2** 1984 c. 60.

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