

Status: Point in time view as at 01/02/1991.

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SCHEDULES

SCHEDULE 1

Section 4.

PERSONS ENTITLED TO BAIL: SUPPLEMENTARY PROVISIONS

PART I

DEFENDANTS ACCUSED OR CONVICTED OF IMPRISONABLE OFFENCES

Defendants to whom Part I applies

- 1 Where the offence or one of the offences of which the defendant is accused or convicted in the proceedings is punishable with imprisonment the following provisions of this Part of this Schedule apply.

Exceptions to right to bail

- 2 The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would—
- (a) fail to surrender to custody, or
 - (b) commit an offence while on bail, or
 - (c) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.

VALID FROM 10/04/1995

- [^{F1}2A The defendant need not be granted bail if—
- (a) the offence is an indictable offence or an offence triable either way; and
 - (b) it appears to the court that he was on bail in criminal proceedings on the date of the offence.]

Textual Amendments

F1 Sch. 1 Pt. I para. 2A inserted (10.4.1995) by 1994 c. 33, s. 26(a); S.I. 1995/721, art. 2, Sch.

- 3 The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.
- 4 The defendant need not be granted bail if he is in custody in pursuance of the sentence of a court or of any authority acting under any of the Services Acts.

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- 5 The defendant need not be granted bail where the court is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this Part of this Schedule for want of time since the institution of the proceedings against him.
- 6 The defendant need not be granted bail if, having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 7 of this Act.

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

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

Restriction of conditions of bail

- 8 (1) Subject to sub-paragraph (3) below, where the defendant is granted bail, no conditions shall be imposed under subsections (4) to (7) of section 3 of this Act unless it appears to the court that it is necessary to do so for the purpose of preventing the occurrence of any of the events mentioned in paragraph 2 of this Part of this Schedule or, in the case of a condition under subsection (6)(d) of that section, that it is necessary to impose it to enable inquiries or a report to be made into the defendant's physical or mental condition [^{F2}or, where the condition is that the defendant reside in a bail hostel or probation hostel, that it is necessary to impose it to assess his suitability for being dealt with for the offence in a way which would involve a period of residence in a probation hostel.]
- (2) Sub-paragraph (1) above also applies on any application to the court to vary the conditions of bail or to impose conditions in respect of bail which has been granted unconditionally.
- (3) The restriction imposed by sub-paragraph (1) above shall not [^{F3}apply to the conditions required to be imposed under section 3(6A) of this Act or] operate to override the direction in [^{F4}section 30(2) of the Magistrates' Courts Act 1980] to a magistrates' court to impose conditions of bail under section 3(6)(d) of this Act of the description specified in [^{F4}the said section 30(2)] in the circumstances so specified.

Textual Amendments

- F2** Words added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 131\(2\), Sch. 8 para. 16](#)
- F3** Words inserted by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\), s. 34\(4\)](#)
- F4** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\), Sch. 7 para. 146](#)

Decisions under paragraph 2

- 9 In taking the decisions required by paragraph 2 of this Part of this Schedule, the court shall have regard to such of the following considerations as appear to it to be relevant, that is to say—

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

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

[^{F5}9A (1) If—

- (a) the defendant is charged with an offence to which this paragraph applies; and
- (b) representations are made as to any of the matters mentioned in paragraph 2 of this Part of this Schedule; and
- (c) the court decides to grant him bail,

the court shall state the reasons for its decision and shall cause those reasons to be included in the record of the proceedings.

(2) The offences to which this paragraph applies are—

- (a) murder;
- (b) manslaughter;
- (c) rape;
- (d) attempted murder; and
- (e) attempted rape.]

Textual Amendments

F5 Sch. 1 paras. 9A, 9B inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 153, 155(2), [Sch. 8 para. 16](#)

[^{F6} Cases under section 128A of Magistrates' Courts Act 1980

Textual Amendments

F6 Sch. 1 paras. 9A, 9B inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 153, 155(2), [Sch. 8 para. 16](#)

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

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PART II

DEFENDANTS ACCUSED OR CONVICTED OF NON-IMPRISONABLE OFFENCES

Defendants to whom Part II applies

1 Where the offence or every offence of which the defendant is accused or convicted in the proceedings is one which is not punishable with imprisonment the following provisions of this Part of this Schedule apply.

Exceptions to right to bail

- 2 The defendant need not be granted bail if—
- (a) it appears to the court that, having been previously granted bail in criminal proceedings, he has failed to surrender to custody in accordance with his obligations under the grant of bail; and
 - (b) the court believes, in view of that failure, that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody.
- 3 The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.
- 4 The defendant need not be granted bail if he is in custody in pursuance of the sentence of a court or of any authority acting under any of the Services Acts.
- 5 The defendant need not be granted bail if, having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 7 of this Act.

[^{F7}PART IIA

DECISIONS WHERE BAIL REFUSED ON PREVIOUS HEARING

Textual Amendments

F7 Sch. 1 Pt. IIA inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 153, 155(2), [Sch. 8 para. 16](#)

- 1 If the court decides not to grant the defendant bail, it is the court's duty to consider, at each subsequent hearing while the defendant is a person to whom section 4 above applies and remains in custody, whether he ought to be granted bail.
- 2 At the first hearing after that at which the court decided not to grant the defendant bail he may support an application for bail with any argument as to fact or law that he desires (whether or not he has advanced that argument previously).
- 3 At subsequent hearings the court need not hear arguments as to fact or law which it has heard previously.]

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PART III

INTERPRETATION

- 1 For the purposes of this Schedule the question whether an offence is one which is punishable with imprisonment shall be determined without regard to any enactment prohibiting or restricting the imprisonment of young offenders or first offenders.
- 2 References in this schedule to previous grants of bail in criminal proceedings include references to bail granted before the coming into force of this Act.
- 3 References in this Schedule to a defendant's being kept in custody or being in custody include (where the defendant is a child or young person) references to his being kept or being in the care of a local authority in pursuance of a warrant of commitment under section 23(1) of the ^{M1}Children and Young Persons Act 1969.

Marginal Citations

M1 1969 c. 54.

- 4 In this Schedule—
 - “court”, in the expression “sentence of a court”, includes a service court as defined in section 12(1) of the ^{M2}Visiting Forces Act 1952 and “sentence”, in that expression, shall be construed in accordance with that definition;
 - “default”, in relation to the defendant, means the default for which he is to be dealt with under section 6 or section 16 of the ^{M3}Powers of Criminal Courts Act 1973;
 - “the Services Acts” means the ^{M4}Army Act 1955, the ^{M5}Air Force Act 1955 and the ^{M6}Naval Discipline Act 1957.

Marginal Citations

M2 1952 c. 67.

M3 1973 c. 62.

M4 1955 c. 18.

M5 1955 c. 19.

M6 1957 c. 53.

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SCHEDULE 2

Section 12.

CONSEQUENTIAL AND OTHER AMENDMENTS OF ACTS

Modifications etc. (not altering text)

- C1** The text of Schedule 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

M7 Habeas Corpus Act 1679

Marginal Citations

- M7** 1679 c. 2.

1 In section 2 of the Habeas Corpus Act 1679 (bail for ersons released from custody under habeas corpus while awaiting trial) for the words from “discharge the said prisoner” to “his ot their appearance in” there shall be substituted the words “grant bail in accordance with the Bail Act 1976 to the said prisoner subject to a duty to appear before” and for the words “and the said recognizance or recognizances” there shall be substituted the words “together with the recognizance of any surety for him”.

2 **F8**

Textual Amendments

- F8** Sch. 2 para. 2 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1**

M8 Criminal Law Amendment Act 1867

Marginal Citations

- M8** 1867 c. 35.

3 In section 10 of the Criminal Law Amendment Act 1867 (production from prison without habeas corpus where recognizances for appearance have been taken) for the words from the beginning to “such court” there shall be substituted the words “Where a person who has been granted bail in criminal proceedings is, while awaiting for trial for the offence before the Crown Court, in prison”.

4 **F9**

Textual Amendments

- F9** Sch. 2 para. 4 repealed by Criminal Law Act 1977 (c. 45), **Sch. 13**

5 **F10**

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Textual Amendments

F10 Sch. 2 para. 5 repealed by Interpretation Act 1978 (c. 30, SIF 115:1), Sch. 3

6 **F11**

Textual Amendments

F11 Sch. 2 para. 6 repealed by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(6), Sch. 2

^{M9}Criminal Justice Administration Act 1914

Marginal Citations

M9 1914 c. 58.

7 In section 19 of the Criminal Justice Administration Act 1914 (continuous bail otherwise than in proceedings in magistrates' courts), for the words "the recognizance may be conditioned" there shall be substituted the words "the court may, where it remands him on bail in criminal proceedings (within the meaning of the Bail Act 1976) direct him to appear or, in any other case, direct that his recognizance be conditioned".

^{M10}Indictments Act 1915

Marginal Citations

M10 1915 c. 90

8 In section 5(5)(c) of the Indictment Act 1915 (bail where separate trial or postponed trial ordered) for the words "admitting the accused person to bail" there shall be substituted the words "granting the accused person bail".

^{M11}Children and Young Persons Act 1933

Marginal Citations

M11 1933 c. 12.

9 In section 13(2) of the Children and Young Persons Act 1933 (police bail for person arrested for serious offence against juvenile) for the words from "on his entering" to the end there shall be substituted the words "on bail in accordance with the Bail Act 1976 subject to a duty to appear at the hearing of the charge".

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M12 Public Order Act 1936

Marginal Citations

M12 1 Edw. 8 & 1 Geo. 6. c. 6.

- 10 In section 1(2) of the Public Order Act 1936 (right to release on bail in certain circumstances of persons charged with wearing uniforms in public) for the words “dischrged from custody on entering into a recognizance” there shall be substituted the words “realesed on bail”.

M13 Criminal Justice Act 1948

Marginal Citations

M13 1948 c. 58.

- 11 (1) Section 37 of the Criminal Justice Act 1948 (powers of High Court to grant bail on appeals against and other proceedings questioning convictions or sentences) shall be amended as follows.
 - (2) In subsection (1), in paragraph (b), for the words “release on bail” there shall be substituted the words “grant bail to”.
 - (3) In subsection (1), for paragraph (d), there shall be substituted the following.
 - “(d) the High Court may grant bail to a person who has been convicted or sentenced by a magistrates’ court and has applied to the High Court for an order of certiorari to remove the proceedings into the High Court or has applied to the High Court for leave to make such an application ;”.
 - (4) After subsection (1) there shall be inserted the following subsection—
 - “(1A) Where the court grants bail to a person under paragraph (d) of subsection (1) above—
 - (a) the time at which he is to appear in the event of the conviction or sentence not being quashed by the High Court shall be such time within ten days after the judgement of the High Court has been given as may be specified by the High Court ; and
 - (b) the place at which he is to appear in that event shall be a magistrates’ court acting for the same petty sessions area as the court which convicted or sentenced him.”
 - (5) In subsection (6), for the words “admitted to” wherever occurring there shall be substituted the words “released on”.

12 F12

Textual Amendments

F12 Sch. 2 para. 12 repealed by Representation of the People Act 1983 (c. 2, SIF 42), Sch. 9 Pt. II

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13 F13

Textual Amendments

F13 Sch. 2 para. 13 repealed by Animal Health Act 1981 (c. 22, SIF 4:4), Sch. 7

14—29. F14

Textual Amendments

F14 Sch. 2 paras. 14–29 repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), Sch. 9

M14 Administration of Justice Act 1960

Marginal Citations

M14 1960 c. 65.

30 In section 4(2) of the Administration of Justice Act 1960 (power to grant bail in appeals from Divisional Courts), after the words “in relation to” there shall be inserted the words “the time and the place of appearance appointed and” and, after the words “entered into”, there shall be inserted the words “by any surety”.

31 In section 6(1) of the Administration of Justice Act 1960 (computation of sentence where bail granted in appeals to House of Lords) for the words “admitted to” there shall be substituted the words “granted” and for the words “at large after being so admitted” there shall be substituted the words “released on bail”.

32 F15

Textual Amendments

F15 Sch. 2 para. 32 repealed by Supreme Court Act 1981 (c. 54, SIF 37), Sch. 7

M15 Backing of Warrants (Republic of Ireland) Act 1965

Marginal Citations

M15 1965 c. 45.

33 (1) Section 5 of the Backing of Warrants (Republic of Ireland) Act 1965 shall be amended as follows.

(2) In subsection (1), for paragraph (b) and the words following that paragraph there shall be substituted the following—

“(b) remand him on bail in accordance with the Bail Act 1976, that is to say, direct him to surrender himself to the custody of the officer in charge of a specified police station at the time to be appointed by that officer and notified in writing to the person so remanded ;

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and where his release on bail is conditional on his providing one or more surety or sureties and, in accordance with section 8(3) of that Act, the court fixes the amount in which the surety is to be bound with a view to his entering into his recognizance subsequently in accordance with subsections (4) and (5) or (6) of that section the court shall in the meantime commit him to the custody of a constable.”

- (3) In subsection (2), there shall be substituted, for the words from the beginning to “so served” the words “The time to be appointed for the purposes of subsection (1) above by the officer and notified to the person so remanded”.
- (4) In subsection (3), for the words from “release” to the end there shall be substituted the words “grant him bail in accordance with the Bail Act 1976 subject to a duty to surrender himself into the custody of the officer in charge of the station specified under subsection (1) above at the time appointed by that officer and notified in writing to him ; and subsection (2) above shall apply to the appointment of a time for the purposes of this subsection as it applies to the appointment of a time for the purposes of subsection (1) above.”
- (5) In subsection (4), for the words “in the recognizance” there shall be substituted the words “under subsection (1) above” and for the words “release him” there shall be substituted the words “grant him bail”.

M16 Criminal Justice Act 1967

Marginal Citations

M16 1967 c. 80.

34 Section 18 of the Criminal Justice Act 1967 (restrictions on refusal of bail by magistrates’ courts in criminal proceedings) shall be omitted.

35 F16

Textual Amendments

F16 Sch. 2 para. 35 repealed by Magistrates’ Courts Act 1980 (c. 43, SIF 82), Sch. 9

36 Section 21 of the Criminal Justice Act 1967 (power to impose special conditions of bail) shall be omitted.

37 (1) Section 22 of the Criminal Justice Act 1967 (extension of power of High Court to grant, or vary conditions of, bail) shall be amended as follows.

(2) For subsections (1) and (2) there shall be substituted the following—

“(1) Where an inferior court withholds bail in criminal proceedings or imposes conditions in granting bail in criminal proceedings, the High Court may grant bail or vary the conditions.

(2) Where the High Court grants a person bail under this section it may direct him to appear at a time and place which the inferior court may have directed and the recognizance of any surety shall be conditioned accordingly.”

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- (3) In subsection (3) for the words “admitted to” wherever occurring there shall be substituted the word “granted”.
- (4) At the end of subsection (4) there shall be added the words “and “bail in criminal proceedings” and “vary” have the same meaning as they have in the Bail Act 1976.”

^{M17}Criminal Appeal Act 1968

Marginal Citations

M17 1968 c. 19.

- 38 In section 8(2) and (3) of the Criminal Appeal Act 1968 (bail etc on retrial), in paragraph (a), for the words “admission to” there shall be substituted the words “released on”.
- 39 In section 16(3) of the Criminal Appeal Act 1968 (orders pending trial on reversal of finding of unfitness) for the words “admission to” there shall be substituted the words “release on”.
- 40—42. **F17**

Textual Amendments

F17 Sch. 2 paras. 40–42 repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), Sch. 16

- 43 In section 36 of the Criminal Appeal Act 1968 (bail on appeal from Court of Appeal) for the words “admit him to” there shall be substituted the words “grant him”.
- 44 In section 43(1) of the Criminal Appeal Act 1968 (computation of sentence where bail granted on appeal to House of Lords) for the words “admitted to” there shall be substituted the word “granted” and for the words “at large after being so admitted” there shall be substituted the words “released on bail”.
- 45 In Schedule 2 to the Criminal Appeal Act 1968 (provisions about retrial) in paragraph 2(3)(b) for the words “at large after being admitted to bail” there shall be substituted the words “released on bail”.

^{M18}Courts-Martial (Appeals) Act 1968

Marginal Citations

M18 1968 c. 20.

- 46 In section 45(2) of the Courts-Martial (Appeals) Act 1968 (computation of sentence where bail granted on appeal to House of Lords) for the words “admitted to” there shall be substituted the word “granted” and for the words “at large after being so admitted” there shall be substituted the words “released on bail”.

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M19 Children and Young Persons Act 1969

Marginal Citations

M19 1969 c. 54.

47 In section 29 of the Children and Young Perons Act 1969 (release or further detention of arrested child or young person), for subsection (2), there shall be substituted the following—

“(2) Where a parent or guardian enters into a recognizance to secure that the child or young person appears at the hearing of the charge, the recognizance may, if the said officer thinks fit, be conditioned for the attendance of the parent or guardian at the hearing in addition to the person arrested.”and subsection (6) shall be omitted.

48 **F18**

Textual Amendments

F18 Sch. 2 para. 48 repealed by Supreme Court Act 1981 (c. 54, SIF 37), Sch. 7

SCHEDULE 3

Section 12.

REPEALS

Modifications etc. (not altering text)

C2 The text of Schedule 3 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.

Chapter	Short Title	Extent of Repeal
31 Chas. 2. c. 2.	The Habeas Corpus Act 1679	In section 5, the words “by recognizance”.
32 Geo. 3. c. 56.	The Servants’ Characters Act 1792	In section 6, the words “and enter into recognizance”.
2 & 3 Vict. c. 47.	The Metropolitan Police Act 1839	In section 69, the words from “to take bail” to the end.
2 & 3 Vict. c. 71.	The Metropolitan Police Courts Act 1839	Section 36.
52 & 53 Vict. c. 63.	The Interpretation Act 1889.	In section 27, the words from “and shall include” to the end.
11 & 12 Geo. 6. c. 58.	The Criminal Justice Act 1948.	In section 37, subsections (2) and (3) and, in subsection (4), paragraph (a).

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15 & 16 Geo 6. & 1 Eliz. 2. c. 55.	The Magistrates' Courts Act 1952.	In section 16(2), the words "to enter into a recognizance or". In section 26, subsection (4). Section 38(3). Section 97.
8 & 9 Eliz. 2. c. 65.	The Administration of Justice Act 1960.	In section 4(3), the words "the applicant or".
1965 c. 45.	The Backing of Warrants (Republic of Ireland) Act 1965.	In section 5(4) the words "in breach of a recognizance taken from him under this section" and "without prejudice to the enforcement of the recognizance".
1967 c. 80.	The Criminal Justice Act 1967.	Sections 18 and 21. In section 22(3), the reference to subsection (3) of section 37 of the Criminal Justice Act 1948. Section 23.
1969 c. 54.	The Children and Young Persons Act 1969.	In section 29, subsection (6).
1971 c. 23.	The Courts Act 1971.	In section 13, subsection (3).
1972 c. 71.	The Criminal Justice Act 1972.	Section 43.

SCHEDULE 4

Section 12.

TRANSITIONAL PROVISIONS

- 1 (1) Without prejudice to section 38(2) of the ^{M20}Interpretation Act 1889 (effect of repeals), nothing in the amendments or repeals effected by section 12 of and Schedules 2 and 3 to this Act shall affect the application of the enactments amended or repealed thereby in relation to recognizances entered into or security given by persons granted bail before the appointed day and the recognizances of any sureties for them.
- (2) Nothing in those amendments or repeals shall, in particular, affect the doing of any of the following things after the appointed day, that is to say—
- the enforcement of the recognizance of such a person in the event of a breach of recognizance after the appointed day;
 - the exercise of any power to issue and the execution of a warrant for the arrest of such a person for breach of his recognizance after the appointed day;

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- (c) the exercise of any power to enlarge the recognizance of such a person and of any surety for him to a later time in the absence of that person and his surety (if any);
 - (d) the exercise of any power to vary any conditions on which a person was granted bail before the appointed day or to reduce the amount in which he or any surety is to be bound or to discharge or dispense with any of the sureties;
- and no application shall be made under section 3(8) of this Act for the variation of conditions of bail so granted or for the imposition of conditions in respect of bail so granted.

Marginal Citations

M20 1889 c. 63.

- 2 Where, before the appointed day, a court has—
- (a) given a direction that the recognizance of a person to whom it has granted bail may be entered into before another court or any person, or
 - (b) endorsed a warrant for the arrest of a person with a direction that he be released on his entering into such a recognizance as is specified in the endorsement,
- the recognizance may be entered into and taken after the appointed day in accordance with the direction and paragraph 1 above shall apply to such a recognizance as it applies to a recognizance entered into before the appointed day.
- 3 Where a person has been granted bail before the appointed day and his recognizance (and that of any surety for him) is conditioned for his appearance before a court from time to time, then, on his first appearance before a court after the appointed day—
- (a) the recognizance of that person shall be discharged; and
 - (b) the recognizance of any surety for him shall, as directed by the court, either be discharged or continue in force.
- 4 In this Schedule “the appointed day” means the day appointed under section 13(2) of this Act for it to come into force.

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