



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART VI

#### RECOGNIZANCES

##### *Recognizances to keep the peace or be of good behaviour*

#### **115 Binding over to keep the peace or be of good behaviour.**

- (1) The power of a magistrates' court on the complaint of any person to adjudge any other person to enter into a recognizance, with or without sureties, to keep the peace or to be of good behaviour towards the complainant shall be exercised by order on complaint.
- (2) Where a complaint is made under this section, the power of the court to remand the defendant under subsection (5) of section 55 above shall not be subject to the restrictions imposed by subsection (6) of that section.
- (3) If any person ordered by a magistrates' court under subsection (1) above to enter into a recognizance, with or without sureties, to keep the peace or to be of good behaviour fails to comply with the order, the court may commit him to custody for a period not exceeding 6 months or until he sooner complies with the order.

#### **116 Discharge of recognizance to keep the peace or be of good behaviour on complaint of surety.**

- (1) On complaint being made to a justice of the peace<sup>F1</sup> . . . by a surety to a recognizance to keep the peace or to be of good behaviour entered into before a magistrates' court that the person bound by the recognizance as principal has been, or is about to be, guilty of conduct constituting a breach of the conditions of the recognizance, the justice may<sup>F2</sup> . . . issue a warrant to arrest the principal and bring him before a magistrates' court<sup>F3</sup> . . . or a summons requiring the principal to appear before such a court; but the justice shall not issue a warrant unless the complaint is in writing and substantiated on oath.

*Status: Point in time view as at 05/07/2021.*

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(2) The magistrates' court before which the principal appears or is brought in pursuance of such a summons or warrant as aforesaid may, unless it adjudges the recognizance to be forfeited, order the recognizance to be discharged and order the principal to enter into a new recognizance, with or without sureties, to keep the peace or to be of good behaviour.

(3) <sup>F4</sup> .....

#### Textual Amendments

- F1** Words in s. 116(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 236(2), **Sch.10**; S.I. 2005/910, {art. 3(y)(aa)}
- F2** Words in s. 116(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 236(2), **Sch.10**; S.I. 2005/910, **art. 3(y)(aa)**
- F3** Words in s. 116(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 236(2), **Sch.10**; S.I. 2005/910, **art. 3(y)(aa)**
- F4** S. 116(3) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 236(3), **Sch.10**; S.I. 2005/910, **art. 3(y)(aa)**

#### Other provisions

### 117 Warrant endorsed for bail.

(1) A justice of the peace on issuing a warrant for the arrest of any person may grant him bail by endorsing the warrant for bail, that is to say, by endorsing the warrant with a direction in accordance with subsection (2) below.

[<sup>F5</sup>(1A) Subsection (1) is subject to section 115(1) of the Coroners and Justice Act 2009 (bail decisions in murder cases to be made by Crown Court judge).]

- (2) A direction for bail endorsed on a warrant under subsection (1) above shall—
- in the case of bail in criminal proceedings, state that the person arrested is to be released on bail subject to a duty to appear before such magistrates' court and at such time as may be specified in the endorsement;
  - in the case of bail otherwise than in criminal proceedings, state that the person arrested is to be released on bail on his entering into such a recognizance (with or without sureties) conditioned for his appearance before a magistrates' court as may be specified in the endorsement;

and the endorsement shall fix the amounts in which any sureties and, in a case falling within paragraph (b) above, that person is or are to be bound.

[<sup>F6</sup>(3) Where a warrant has been endorsed for bail under subsection (1) above—

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

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#### Textual Amendments

- F5** S. 117(1A) inserted (1.2.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 21 para. 75](#) (with s. 180); S.I. 2010/145, art. 2(2), Sch. para. 25(b)
- F6** S. 117(3) substituted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), [ss. 47\(8\)\(b\)](#), 51, 52

### 118 Varying or dispensing with requirement as to sureties.

- (1) Subject to subsection (2) below, where a magistrates' court has committed a person to custody in default of finding sureties, the court may, on application by or on behalf of the person committed, and after hearing fresh evidence, reduce the amount in which it is proposed that any surety should be bound or dispense with any of the sureties or otherwise deal with the case as it thinks just.
- (2) Subsection (1) above does not apply in relation to a person granted bail in criminal proceedings.

### 119 Postponement of taking recognizance.

- (1) Where a magistrates' court has power to take any recognizance, the court may, instead of taking it, fix the amount in which the principal and his sureties, if any, are to be bound; and thereafter the recognizance may be taken by any such person as may be prescribed.
- (2) Where, in pursuance of this section, a recognizance is entered into otherwise than before the court that fixed the amount of it, the same consequences shall follow as if it had been entered into before that court; and references in this or any other Act to the court before which a recognizance was entered into shall be construed accordingly.
- (3) Nothing in this section shall enable a magistrates' court to alter the amount of a recognizance fixed by the High Court [<sup>F7</sup>or the Crown Court].

#### Textual Amendments

- F7** Words added by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#) s. 77, Sch. 14 para. 55

### 120 Forfeiture of recognizance.

- <sup>F8</sup>(1) This section applies where—
- (a) a recognizance to keep the peace or to be of good behaviour has been entered into before a magistrates' court; or
  - (b) any recognizance is conditioned for the appearance of a person before a magistrates' court, or for his doing any other thing connected with a proceeding before a magistrates' court.
- (1A) If, in the case of a recognizance which is conditioned for the appearance of an accused before a magistrates' court, the accused fails to appear in accordance with the condition, the court shall—
- (a) declare the recognizance to be forfeited;
  - (b) issue a summons directed to each person bound by the recognizance as surety, requiring him to appear before the court on a date specified in the summons

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to show cause why he should not be adjudged to pay the sum in which he is bound;

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

- (2) If, in any other case falling within subsection (1) above, the recognizance appears to the magistrates' court to be forfeited, the court may—
- (a) declare the recognizance to be forfeited; and
  - (b) adjudge each person bound by it, whether as principal or surety, to pay the sum in which he is bound;
- but in a case falling within subsection (1)(a) above, the court shall not declare the recognizance to be forfeited except by order made on complaint.]
- (3) The court which declares the recognizance to be forfeited may, instead of adjudging any person to pay the whole sum in which he is bound, adjudge him to pay part only of the sum or remit the sum.
- (4) Payment of any sum adjudged to be paid under this section, including any costs awarded against the defendant, may be enforced, and any such sum shall be applied, as if it were a fine and as if the adjudication were a summary conviction of an offence not punishable with imprisonment and so much of section 85(1) above as empowers a court to remit fines shall not apply to the sum but so much thereof as relates to remission after a term of imprisonment has been imposed shall so apply; but at any time before the issue of a warrant of commitment to enforce payment of the sum, or before the sale of goods under a [<sup>F9</sup>warrant of control] to satisfy the sum, the court may remit the whole or any part of the sum either absolutely or on such conditions as the court thinks just.
- (5) A recognizance such as is mentioned in this section shall not be enforced otherwise than in accordance with this section, and accordingly shall not be transmitted to the Crown Court nor shall its forfeiture be certified to that Court.

#### Textual Amendments

- F8** S. 120(1)(1A)(2) substituted (30.9.1998) for s. 120(1)(2) by 1998 c. 37, s.55; S.I. 1998/2327, art.2
- F9** Words in s. 120(4) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 13 para. 56 (with s. 89); S.I. 2014/768, art. 2(1)(b)

#### Modifications etc. (not altering text)

- C1** S. 120 extended (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 58(3), 101(1), Sch. 12 para. 14; S.I. 1992/333, art. 2(2), Sch. 2
- S. 120 applied (25.8.2000) by 2000 c. 6, ss. 150(5), 168(1)
- S. 120 restricted (25.8.2000) by 2000 c. 6, ss. 140(5), 168(1)
- C2** S. 120 applied (1.12.2020) by Sentencing Act 2020 (c. 17), ss. 376(10), 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2

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