



# Senior Courts Act 1981

## 1981 CHAPTER 54

### PART III

#### PRACTICE AND PROCEDURE

##### THE CROWN COURT

###### *Other provisions*

### 81 Bail.

- (1) The Crown Court may [<sup>F1</sup>,subject to section 25 of the Criminal Justice and Public Order Act 1994,] grant bail to any person—
- (a) who has been committed in custody for appearance before the Crown Court [<sup>F2</sup>or in relation to whose case a notice of transfer has been given under [<sup>F3</sup>a relevant transfer provision][<sup>F4</sup>or who has been sent in custody to the Crown Court for trial under section 51 [<sup>F5</sup>or 51A] of the Crime and Disorder Act 1998]]; or
  - (b) who is in custody pursuant to a sentence imposed by a magistrates' court, and who has appealed to the Crown Court against his conviction or sentence; or
  - (c) who is in the custody of the Crown Court pending the disposal of his case by that court; or
  - (d) who, after the decision of his case by the Crown Court, has applied to that court for the statement of a case for the High Court on that decision; or
  - (e) who has applied to the High Court for [<sup>F6</sup>a quashing order] to remove proceedings in the Crown Court in his case into the High Court, or has applied to the High Court for leave to make such an application; [<sup>F7</sup>or
  - (f) to whom the Crown Court has granted a certificate under section 1(2) or 11(1A) of the Criminal Appeal Act 1968 or under subsection (1B) below;][<sup>F8</sup>or
  - (g) who has been remanded in custody by a magistrates' court on adjourning a case under [<sup>F9</sup>section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand for medical examination) or]—

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- (i) section 5 (adjournment of inquiry into offence);
  - (ii) section 10 (adjournment of trial); <sup>F10</sup>or]
  - (iii) section 18 (initial procedure on information against adult for offence triable either way); <sup>F11</sup>. . . .
  - <sup>F11</sup>(iv) . . . . .]
  - <sup>F12</sup>(h) in respect of whom a judge of the Crown Court is required to make a decision pursuant to section 115(3) of the Coroners and Justice Act 2009 (bail decisions in murder cases to be made by Crown Court judge);”, and]
- and the time during which a person is released on bail under any provision of this subsection shall not count as part of any term of imprisonment or detention under his sentence.
- <sup>F13</sup>(1A) The power conferred by subsection (1)(f) does not extend to a case to which section 12 or 15 of the Criminal Appeal Act 1968 (appeal against verdict of not guilty by reason of insanity or against <sup>F14</sup>findings that the accused is under a disability and that he did the act or made the omission charged against him]) applies.
- (1B) A certificate under this subsection is a certificate that a case is fit for appeal on a ground which involves a question of law alone.
- (1C) The power conferred by subsection (1)(f) is to be exercised—
- (a) where the appeal is under section 1 or 9 of the Criminal Appeal Act 1968, by the judge who tried the case; and
  - (b) where it is under section 10 of that Act, by the judge who passed the sentence.
- (1D) The power may only be exercised within twenty-eight days from the date of the conviction appealed against, or in the case of appeal against sentence, from the date on which sentence was passed or, in the case of an order made or treated as made on conviction, from the date of the making of the order.
- (1E) The power may not be exercised if the appellant has made an application to the Court of Appeal for bail in respect of the offence or offences to which the appeal relates.
- (1F) It shall be a condition of bail granted in the exercise of the power that, unless a notice of appeal has previously been lodged in accordance with subsection (1) of section 18 of the Criminal Appeal Act 1968—
- (a) such a notice shall be so lodged within the period specified in subsection (2) of that section; and
  - (b) not later than 14 days from the end of that period, the appellant shall lodge with the Crown Court a certificate from the registrar of criminal appeals that a notice of appeal was given within that period.
- (1G) If the Crown Court grants bail to a person in the exercise of the power, it may direct him to appear—
- (a) if a notice of appeal is lodged within the period specified in section 18(2) of the Criminal Appeal Act 1968 at such time and place as the Court of Appeal may require; and
  - (b) if no such notice is lodged within that period, at such time and place as the Crown Court may require.]
- <sup>F15</sup>(1H) Where the Crown Court grants a person bail under subsection (1)(g) it may direct him to appear at a time and place which the magistrates’ court could have directed and the recognizance of any surety shall be conditioned accordingly.

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- (1J) The Crown Court may only grant bail to a person under subsection (1)(g) if the magistrates' court which remanded him in custody has certified under section 5(6A) of the Bail Act 1976 that it heard full argument on his application for bail before it refused the application.]
- (2) Provision may be made by [<sup>F16</sup>rules of court] as respects the powers of the Crown Court relating to bail, including any provision—
- (a) except in the case of bail in criminal proceedings (within the meaning of the <sup>M1</sup>Bail Act 1976), allowing the court instead of requiring a person to enter into a recognizance, to consent to his giving other security;
  - (b) allowing the court to direct that a recognizance shall be entered into or other security given before a magistrates' court or a justice of the peace, or, if the rules so provide, a person of such other description as is specified in the rules;
  - (c) prescribing the manner in which a recognizance is to be entered into or other security given, and the persons by whom and the manner in which the recognizance or security may be enforced;
  - (d) authorising the committal, in such cases and by such courts or justices as may be prescribed by the rules, of persons released from custody in pursuance of the powers;
  - (e) making provision corresponding to sections 118 and 119 of the <sup>M2</sup>Magistrates' Courts Act 1980 (varying or dispensing with requirements as to sureties, and postponement of taking recognizances).
- (3) Any reference in any enactment to a recognizance shall include, unless the context otherwise requires, a reference to any other description of security given instead of a recognizance, whether in pursuance of subsection (2)(a) or otherwise.
- (4) The Crown Court, on issuing a warrant for the arrest of any person, may endorse the warrant for bail, and in any such case—
- (a) the person arrested under the warrant shall, unless the Crown Court otherwise directs, be taken to a police station; and
  - (b) the officer in charge of the station shall release him from custody if he, and any sureties required by the endorsement and approved by the officer, enter into recognizances of such amount as may be fixed by the endorsement:

Provided that in the case of bail in criminal proceedings (within the meaning of the <sup>M3</sup>Bail Act 1976) the person arrested shall not be required to enter into a recognizance.
- (5) A person in custody in pursuance of a warrant issued by the Crown Court with a view to his appearance before that court shall be brought forthwith before [<sup>F17</sup>—
- (a) if the person is charged with murder or with murder and one or more other offences, the Crown Court, and
  - (b) in any other case, either the Crown Court or a magistrates' court.]
- (6) A magistrates' court shall have jurisdiction, and a justice of the peace may act, under or in pursuance of rules under subsection (2) whether or not the offence was committed, or the arrest was made, within the court's area, or the area for which he was appointed.
- [<sup>F18</sup>(7) In subsection (1) 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. 81(1) inserted (3.2.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 48**; S.I. 1995/721, art. 2, **Sch. Appendix A**
- F2** Words inserted by Criminal Justice Act 1987 (c. 38 SIF 39:1), s. 15, Sch. 2 para. 12
- F3** Words in s. 81(1)(a) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 19(a)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A
- F4** Words in s. 81(1)(a) inserted (4.1.1999 for certain purposes and otherwise 15.1.2001) (after the words “Criminal Justice Act 1987” which words had been previously replaced by the substitution made by 1994 c. 33, **Sch. 9 para. 19(a)**) by 1998 c. 37, s. 119, **Sch. 8 para. 48**; S.I. 1998/2327, **art.4(2)(c)**; S.I. 2000/3283, **art. 2(c)**
- F5** Words in s. 81(1)(a) inserted (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. 54(5) (a)(i), (b); 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, art. 4(2) and S.I. 2013/1103, art. 4); 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) (with S.I. 2013/1103, art. 4)
- F6** Words in s. 81(1)(e) substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 6**
- F7** S. 81(1)(f) and the preceding word “or” added by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 29(1)(a)**
- F8** S. 81(1)(g) and the preceding word “or” added by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(1)(a)**
- F9** Words in s. 81(1)(g) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 87(a)**
- F10** Word in s. 81(1)(g)(ii) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 87(b)**
- F11** S. 81(1)(g)(iv) and the word “or” immediately preceding it repealed (25.8.2000) by 2000 c. 6, ss. 165(1)(4), 168(1), Sch. 9 para. 87(c), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)
- F12** S. 81(1)(h) inserted (1.2.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 76(a)** (with s. 180); S.I. 2010/145, art. 2(2), Sch. para. 25(b)
- F13** S. 81(1A)–(1G) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 29(1)(b)**
- F14** Words in s. 81(1A) substituted (01.01.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1) ss. 7, 8, Sch. 3 para. 6; S.I. 1991/2488, **art. 2**.
- F15** S. 81(1H)(1J) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(1)(b)**
- F16** Words in s. 81(2) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 14** (with art. 2(2))
- F17** Words in s. 81(5) substituted (1.2.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 76(b)** (with s. 180); S.I. 2010/145, art. 2(2), Sch. para. 25(b)
- F18** S. 81(7) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 19(b)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

### Modifications etc. (not altering text)

- C1** S. 81(5) excluded (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 89(6)**, 336; S.I. 2005/950, **art. 2**, **Sch. 1** (subject to **Sch. 2**)
- C2** S. 81(5) excluded (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 2, 153, **Sch. 2 para. 21(3)**; S.I. 2009/ 3074, {art. 2(n)}

### Marginal Citations

- M1** 1976 c. 63.  
**M2** 1980 c. 43.  
**M3** 1976 c. 63.

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