



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART XI

#### MISCELLANEOUS

##### *Bail and custody*

#### **153 Court to give reasons for granting bail to a person accused of serious offence.**

The following paragraph shall be inserted after paragraph 9 (decisions as to grant or refusal of bail) of Part I of Schedule 1 to the <sup>M1</sup>Bail Act 1976—

“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.”.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Criminal Justice Act 1988, Cross Heading: Bail and custody is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Marginal Citations**

M1 1976 c. 63.

**154 Decisions where bail refused on previous hearing.**

The following new Part shall be inserted after Part II of Schedule 1 to the Bail Act 1976—

**“PART IIA**

DECISIONS WHERE BAIL REFUSED ON PREVIOUS HEARING

- 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.”.

**155 Remands in custody for more than eight days.**

- (1) The following section shall be inserted after section 128 of the <sup>M2</sup>Magistrates’ Courts Act 1980—

**“128A Remands in custody for more than eight days.**

- (1) The Secretary of State may by order made by statutory instrument provide that this section shall have effect—
  - (a) in an area specified in the order; or
  - (b) in proceedings of a description so specified,
 in relation to any accused person (“the accused”) who has attained the age of 17.
- (2) A magistrates’ court may remand the accused in custody for a period exceeding 8 clear days if—
  - (a) it has previously remanded him in custody for the same offence; and
  - (b) he is before the court,
 but only if, after affording the parties an opportunity to make representations, it has set a date on which it expects that it will be possible for the next stage in

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the proceedings, other than a hearing relating to a further remand in custody or on bail, to take place, and only—

- (i) for a period ending not later than that date; or
  - (ii) for a period of 28 clear days,
- whichever is the less.

(3) Nothing in this section affects the right of the accused to apply for bail during the period of the remand.

(4) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House.”.

(2) After paragraph 9A of Schedule 1 to the <sup>M3</sup>Bail Act 1976 there shall be inserted—

#### **Cases under section 128A of Magistrates’ Courts Act 1980**

“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.”.

#### **Marginal Citations**

**M2** 1980 c. 43.

**M3** 1976 c. 63.

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