



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART III

#### BAIL

#### [<sup>F1</sup>23C Grounds relevant as to question of bail

- (1) In any proceedings in which a person is accused of an offence, the following are grounds on which it may be determined that there is good reason for refusing bail—
  - (a) any substantial risk that the person might if granted bail—
    - (i) abscond; or
    - (ii) fail to appear at a diet of the court as required;
  - (b) any substantial risk of the person committing further offences if granted bail;
  - (c) any substantial risk that the person might if granted bail—
    - (i) interfere with witnesses; or
    - (ii) otherwise obstruct the course of justice, in relation to himself or any other person;
  - (d) any other substantial factor which appears to the court to justify keeping the person in custody.
- (2) In assessing the grounds specified in subsection (1) above, the court must have regard to all material considerations including (in so far as relevant in the circumstances of the case) the following examples—
  - (a) the—
    - (i) nature (including level of seriousness) of the offences before the court;
    - (ii) probable disposal of the case if the person were convicted of the offences;
  - (b) whether the person was subject to a bail order when the offences are alleged to have been committed;
  - (c) whether the offences before the court are alleged to have been committed—
    - (i) while the person was subject to another court order;

**Changes to legislation:** *Criminal Procedure (Scotland) Act 1995, Section 23C is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

- (ii) while the person was on release on licence or parole;
- (iii) during a period for which sentence of the person was deferred;
- (d) the character and antecedents of the person, in particular—
  - (i) the nature of any previous convictions of the person (including convictions [<sup>F2</sup>by courts outside [<sup>F3</sup>Scotland]]);
  - (ii) whether the person has previously contravened a bail order or other court order (by committing an offence or otherwise);
  - (iii) whether the person has previously breached the terms of any release on licence or parole (by committing an offence or otherwise);
  - (iv) whether the person is serving or recently has served a sentence of imprisonment in connection with a matter referred to in subparagraphs (i) to (iii) above;
- (e) the associations and community ties of the person.]

#### Textual Amendments

- F1** Ss. 23B-23D inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 1, 84](#); [S.S.I. 2007/479](#), [art. 3\(1\)](#), [Sch.](#) (as amended by [S.S.I. 2007/527](#))
- F2** Words in s. 23C(2)(d)(i) substituted (13.12.2010 for all purposes in respect of offences committed on or after this date) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 71\(1\), 206\(1\)](#), [Sch. 4 para. 2](#); [S.S.I. 2010/413](#), [art. 2](#), [Sch.](#)
- F3** Word in s. 23C(2)(d)(i) substituted (31.12.2020) by [The Criminal Justice \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/339\)](#), [regs. 1\(3\), 13\(2\)](#) (with [reg. 16](#))

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View outstanding changes

**Changes and effects yet to be applied to :**

- s. 23C(1)(a) words inserted by 2023 asp 4 s. 2(3)(a)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by 2010 asp 13 Sch. 7 para. 26
- s. 13(1B)(1C) inserted by 2006 asp 10 s. 82(2)
- s. 13(2)(aa) inserted by 2006 asp 10 s. 82(3)(b)
- s. 13(3A) inserted by 2006 asp 10 s. 82(4)
- s. 13(5)(ba) inserted by 2006 asp 10 s. 82(5)(a)
- s. 13(6)(a)(iii) and word inserted by 2006 asp 10 s. 82(6)(b)
- s. 13(8) inserted by 2006 asp 10 s. 82(7)
- s. 22(5A) inserted by 2007 asp 6 s. 7(2)(g)
- s. 22A(1A) inserted by 2023 asp 4 s. 1(2)
- s. 23B(1)(1A) substituted for s. 23B(1) by 2023 asp 4 s. 2(2)(a)
- s. 23B(6A) inserted by 2023 asp 4 s. 1(3)(c)
- s. 23B(8)-(10) inserted by 2023 asp 4 s. 2(2)(c)
- s. 23C(1A) inserted by 2023 asp 4 s. 2(3)(b)
- s. 23C(3) inserted by 2023 asp 4 s. 2(3)(c)
- s. 24(2C) inserted by 2023 asp 4 s. 4(4)
- s. 24(2AA) inserted by 2023 asp 4 s. 4(2)
- s. 44(5A)(5B) inserted by 2024 asp 5 s. 19(2)(c)
- s. 49(1)-(1F) substituted for s. 49(1)-(3) by 2024 asp 5 s. 17(2)(a)
- s. 49(4A)-(4C) inserted by 2024 asp 5 s. 17(2)(c)
- s. 50(7) inserted by 2024 asp 5 s. 16(2)
- s. 51(6)-(8) inserted by 2024 asp 5 s. 18(2)(e)
- s. 70B and cross-heading inserted by 2024 asp 5 s. 16(3)
- s. 73A inserted by 2004 asp 3 s. 2(3)
- s. 142A inserted by 2024 asp 5 s. 16(5)
- s. 167(7D)(7E) inserted by 2007 asp 17 sch. 4 para. 1(3)
- s. 167(7D) words substituted by 2010 asp 13 Sch. 3 para. 16(2)
- s. 167(7E) words substituted by 2010 asp 13 Sch. 3 para. 16(3)
- s. 175(1)(ca) words substituted by 2024 asp 5 Sch. para. 7(4)(a)
- s. 194ZA repealed by 2014 asp 18 sch. 3 para. 25
- s. 200A inserted by 2016 asp 1 s. 85
- s. 205A added by 1997 c. 48 s. 1(1) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)
- s. 208A inserted by 2024 asp 5 s. 19(6)
- s. 216(8)-(11) inserted by 2024 asp 5 s. 19(7)
- s. 249(4A)-(4D) inserted by 2014 asp 1 s. 24
- s. 271D(4A) inserted by 2019 asp 8 s. 6(4)
- s. 271F(2)(aa) inserted by 2019 asp 8 s. 10(4)
- s. 271AA inserted by 2019 asp 8 s. 6(2)
- s. 271BZD inserted by 2019 asp 8 s. 3(2)
- s. 288AB288AC inserted by 2024 asp 1 s. 32(3)
- s. 288BZA inserted by 2024 asp 5 s. 33(2)

- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)