

Status: Point in time view as at 03/01/2019.

Changes to legislation: Family Law Act 1996, SCHEDULE 5 is up to date with all changes known to be in force on or before 10 June 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)

SCHEDULES

SCHEDULE 5

Section 47(11).

POWERS OF HIGH COURT AND COUNTY COURT TO REMAND

Modifications etc. (not altering text)

- C1** Sch. 5 extended (1.10.1997) by 1989 c. 41, ss. 38A, 38B (as inserted (1.10.1997) by 1996 c. 27, s. 52, Sch. 6 (with Sch. 9 paras. 8-10); S.I. 1997/1892, art. 3)
Sch. 5 extended (1.10.1997) by 1989 c. 41, ss. 44A, 44B (as inserted (1.10.1997) by 1996 c. 27, s. 52, Sch. 6 (with Sch. 9 paras. 8-10); S.I. 1997/1892, art. 3)

Interpretation

- 1 In this Schedule “the court” means the High Court or [^{F1}the family court] and includes—
- (a) in relation to the High Court, a judge of that court, and
 - (b) in relation to [^{F2}the family court, a judge of that court.]

Textual Amendments

- F1** Words in Sch. 5 para. 1 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 para. 144(2); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F2** Words in Sch. 5 para. 1(b) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 para. 144(3); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Remand in custody or on bail

- 2 (1) Where a court has power to remand a person under section 47, the court may—
- (a) remand him in custody, that is to say, commit him to custody to be brought before the court at the end of the period of remand or at such earlier time as the court may require, or
 - (b) remand him on bail—
 - (i) by taking from him a recognizance (with or without sureties) conditioned as provided in sub-paragraph (3), or
 - (ii) by fixing the amount of the recognizances with a view to their being taken subsequently in accordance with paragraph 4 and in the meantime committing the person to custody in accordance with paragraph (a).
- (2) Where a person is brought before the court after remand, the court may further remand him.

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- (3) Where a person is remanded on bail under sub-paragraph (1), the court may direct that his recognizance be conditioned for his appearance—
 - (a) before that court at the end of the period of remand, or
 - (b) at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned.
- (4) Where a recognizance is conditioned for a person's appearance in accordance with sub-paragraph (1)(b), the fixing of any time for him next to appear shall be deemed to be a remand; but nothing in this sub-paragraph or sub-paragraph (3) shall deprive the court of power at any subsequent hearing to remand him afresh.
- (5) Subject to paragraph 3, the court shall not remand a person under this paragraph for a period exceeding 8 clear days, except that—
 - (a) if the court remands him on bail, it may remand him for a longer period if he and the other party consent, and
 - (b) if the court adjourns a case under section 48(1), the court may remand him for the period of the adjournment.
- (6) Where the court has power under this paragraph to remand a person in custody it may, if the remand is for a period not exceeding 3 clear days, commit him to the custody of a constable.

Further remand

- 3 (1) If the court is satisfied that any person who has been remanded under paragraph 2 is unable by reason of illness or accident to appear or be brought before the court at the expiration of the period for which he was remanded, the court may, in his absence, remand him for a further time; and paragraph 2(5) shall not apply.
- (2) Notwithstanding anything in paragraph 2(1), the power of the court under sub-paragraph (1) to remand a person on bail for a further time may be exercised by enlarging his recognizance and those of any sureties for him to a later time.
- (3) Where a person remanded on bail under paragraph 2 is bound to appear before the court at any time and the court has no power to remand him under sub-paragraph (1), the court may in his absence enlarge his recognizance and those of any sureties for him to a later time; and the enlargement of his recognizance shall be deemed to be a further remand.

Postponement of taking of recognizance

- 4 Where under paragraph 2(1)(b)(ii) the court fixes the amount in which the principal and his sureties, if any, are to be bound, the recognizance may thereafter be taken by such person as may be prescribed by rules of court, and the same consequences shall follow as if it had been entered into before the court.

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