



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART III

#### CRIMINAL JUSTICE SYSTEM

##### *Miscellaneous*

#### **53 Crown Prosecution Service: powers of non-legal staff.**

For section 7A of the 1985 Act there shall be substituted the following section—

**“7A Powers of non-legal staff.**

- (1) The Director may designate, for the purposes of this section, members of the staff of the Crown Prosecution Service who are not Crown Prosecutors.
- (2) Subject to such exceptions (if any) as may be specified in the designation, a person so designated shall have such of the following as may be so specified, namely—
  - (a) the powers and rights of audience of a Crown Prosecutor in relation to—
    - (i) applications for, or relating to, bail in criminal proceedings;
    - (ii) the conduct of criminal proceedings in magistrates’ courts other than trials;
  - (b) the powers of such a Prosecutor in relation to the conduct of criminal proceedings not falling within paragraph (a)(ii) above.
- (3) A person so designated shall exercise any such powers subject to instructions given to him by the Director.
- (4) Any such instructions may be given so as to apply generally.
- (5) For the purposes of this section—

*Status: Point in time view as at 02/04/2001.*

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- (a) “bail in criminal proceedings” has the same meaning as it would have in the <sup>M1</sup>Bail Act 1976 by virtue of the definition in section 1 of that Act if in that section “offence” did not include an offence to which subsection (6) below applies;
  - (b) “criminal proceedings” does not include proceedings for an offence to which subsection (6) below applies; and
  - (c) a trial begins with the opening of the prosecution case after the entry of a plea of not guilty and ends with the conviction or acquittal of the accused.
- (6) This subsection applies to an offence if it is triable only on indictment, or is an offence—
- (a) for which the accused has elected to be tried by a jury;
  - (b) which a magistrates’ court has decided is more suitable to be so tried; or
  - (c) in respect of which a notice of transfer has been given under section 4 of the <sup>M2</sup>Criminal Justice Act 1987 or section 53 of the <sup>M3</sup>Criminal Justice Act 1991.
- (7) Details of the following for any year, namely—
- (a) the criteria applied by the Director in determining whether to designate persons under this section;
  - (b) the training undergone by persons so designated; and
  - (c) any general instructions given by the Director under subsection (4) above,
- shall be set out in the Director’s report under section 9 of this Act for that year.”

#### Commencement Information

**II** S. 53 wholly in force; S. 53 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

#### Marginal Citations

**M1** 1976 c.63.  
**M2** 1987 c.38.  
**M3** 1991 c.53.

## 54 Bail: increased powers to require security or impose conditions.

- (1) In subsection (5) of section 3 of the <sup>M4</sup>Bail Act 1976 (general provisions as to bail), the words “If it appears that he is unlikely to remain in Great Britain until the time appointed for him to surrender to custody” shall cease to have effect.
- (2) In subsection (6) of that section, after paragraph (d) there shall be inserted the following paragraph—
  - “(e) before the time appointed for him to surrender to custody, he attends an interview with an authorised advocate or authorised litigator, as defined by section 119(1) of the <sup>M5</sup>Courts and Legal Services Act 1990;”.

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- (3) In subsection (2) of section 3A of that Act (conditions of bail in the case of police bail), for the words “paragraph (d)” there shall be substituted the words “ paragraph (d) or (e) ”.

#### Commencement Information

**I2** S. 54 wholly in force; S. 54 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in art. 5-8)

#### Marginal Citations

**M4** 1976 c.63.

**M5** 1990 c.41.

## 55 Forfeiture of recognizances.

For subsections (1) and (2) of section 120 of the 1980 Act (forfeiture of recognizances) there shall be substituted the following subsections—

“(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 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.”

#### Commencement Information

**I3** S. 55 wholly in force; S. 55 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

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## 56 Bail: restrictions in certain cases of homicide or rape.

In subsection (1) of section 25 of the 1994 Act (no bail for defendants charged with or convicted of homicide or rape after previous conviction of such offences), for the words “shall not be granted bail in those proceedings” there shall be substituted the words “ shall be granted bail in those proceedings only if the court or, as the case may be, the constable considering the grant of bail is satisfied that there are exceptional circumstances which justify it ”.

### Commencement Information

**I4** S. 56 wholly in force; S. 56 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

## 57 Use of live television links at preliminary hearings.

- (1) In any proceedings for an offence, a court may, after hearing representations from the parties, direct that the accused shall be treated as being present in the court for any particular hearing before the start of the trial if, during that hearing—
  - (a) he is held in custody in a prison or other institution; and
  - (b) whether by means of a live television link or otherwise, he is able to see and hear the court and to be seen and heard by it.
- (2) A court shall not give a direction under subsection (1) above unless—
  - (a) it has been notified by the Secretary of State that facilities are available for enabling persons held in custody in the institution in which the accused is or is to be so held to see and hear the court and to be seen and heard by it; and
  - (b) the notice has not been withdrawn.
- (3) If in a case where it has power to do so a magistrates’ court decides not to give a direction under subsection (1) above, it shall give its reasons for not doing so.
- (4) In this section “the start of the trial” has the meaning given by subsection (11A) or (11B) of section 22 of the 1985 Act.

### Commencement Information

**I5** S. 57 wholly in force; S. 57 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

**Status:**

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**Changes to legislation:**

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