



# Criminal Justice and Police Act 2001

## 2001 CHAPTER 16

### PART 6

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Remands and committals*

#### **129 Requirement to give reasons for granting or continuing bail**

- (1) After section 5(2) of the Bail Act 1976 (c. 63) (supplementary provisions about decisions on bail) there shall be inserted—

“(2A) Where a magistrates’ court or the Crown Court grants bail in criminal proceedings to a person to whom section 4 of this Act applies after hearing representations from the prosecutor in favour of withholding bail, then the court shall give reasons for granting bail.

(2B) A court which is by virtue of subsection (2A) above required to give reasons for its decision shall include a note of those reasons in the record of its decision and, if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of the record of the decision as soon as practicable after the record is made.”

- (2) After section 5A(1) of that Act (supplementary provisions in cases of police bail) there shall be inserted—

“(1A) Subsections (2A) and (2B) shall be omitted.”

- (3) After section 5B(8) of that Act (reconsideration of decisions granting bail) there shall be inserted—

“(8A) Where the court, on a reconsideration under this section, refuses to withhold bail from a relevant person after hearing representations from the prosecutor in favour of withholding bail, then the court shall give reasons for refusing to withhold bail.

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- (8B) In subsection (8A) above, “relevant person” means a person to whom section 4(1) (and Schedule 1) of this Act is applicable in accordance with subsection (4) above.
- (8C) A court which is by virtue of subsection (8A) above required to give reasons for its decision shall include a note of those reasons in any record of its decision and, if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of any such record as soon as practicable after the record is made.”
- (4) In Part 1 of Schedule 1 to that Act, paragraph 9A (court to give reasons for granting bail in certain homicide and rape cases) shall be omitted.

VALID FROM 22/04/2002

### **130 Remands and committals to secure accommodation etc**

- (1) Section 23 of the Children and Young Persons Act 1969 (c. 54) (remands and committals to local authority accommodation) shall be amended in accordance with subsections (2) to (4) below.
- (2) In subsection (5) (conditions for the imposition of a security requirement), for paragraph (b) and the words after it there shall be substituted—
- “(b) he is charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings—
- (i) amount, or
- (ii) would, if he were convicted of the offences with which he is charged, amount,
- to a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation,
- and (in either case) the condition set out in subsection (5AA) below is satisfied.”
- (3) After that subsection there shall be inserted—
- “(5AA) The condition mentioned in subsection (5) above is that the court is of the opinion, after considering all the options for the remand of the person, that only remanding him to local authority accommodation with a security requirement would be adequate—
- (a) to protect the public from serious harm from him; or
- (b) to prevent the commission by him of imprisonable offences.”
- (4) In subsection (6)(a) (statement in open court that the court is of the opinion mentioned in subsection (5)), for “(5)” there shall be substituted “(5AA)”.
- (5) That section as it has effect pursuant to section 98 of the Crime and Disorder Act 1998 (c. 37) (alternative provision for 15 and 16 year old boys), shall so have effect with the further modifications set out in subsections (6) and (7).
- (6) For subsection (5AA) there shall be substituted—

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“(5AA) The condition mentioned in subsection (5) above is that the court is of the opinion, after considering all the options for the remand of the person, that only remanding him to a remand centre or prison, or to local authority accommodation with a requirement that he be placed and kept in secure accommodation would be adequate—

- (a) to protect the public from serious harm from him; or
- (b) to prevent the commission by him of imprisonable offences.”

(7) In subsection (6)(a) (statement in open court that the court is of the opinion mentioned in subsection (5)), for “that subsection” there shall be substituted “subsection (5AA) above”.

#### Commencement Information

- II** [S. 130](#) wholly in force at 16.9.2002; [s. 130](#) not in force at Royal Assent see [s. 138](#); [s. 130](#) in force for certain purposes at 22.4.2002 and in force at 16.9.2002 insofar as not already in force by [S.I. 2002/1097](#), [art. 2](#)

VALID FROM 01/03/2002

### 131 Monitoring of compliance with bail conditions

(1) In section 3 of the Bail Act 1976 (c. 63) (general provisions), after subsection (6) there shall be inserted—

“(6ZAA) Subject to section 3AA below, if he is a child or young person he may be required to comply with requirements imposed for the purpose of securing the electronic monitoring of his compliance with any other requirement imposed on him as a condition of bail.”

(2) After that section there shall be inserted—

#### “3AA Electronic monitoring of compliance with bail conditions

(1) A court shall not impose on a child or young person a requirement under section 3(6ZAA) above (an “electronic monitoring requirement”) unless each of the following conditions is satisfied.

(2) The first condition is that the child or young person has attained the age of twelve years.

(3) The second condition is that—

- (a) the child or young person is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
- (b) he is charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings—

(i) amount, or

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- (ii) would, if he were convicted of the offences with which he is charged, amount, to a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation.
- (4) The third condition is that the court—
- (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in each petty sessions area which is a relevant area; and
  - (b) is satisfied that the necessary provision can be made under those arrangements.
- (5) The fourth condition is that a youth offending team has informed the court that in its opinion the imposition of such a requirement will be suitable in the case of the child or young person.
- (6) Where a court imposes an electronic monitoring requirement, the requirement shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (7) The Secretary of State may make rules for regulating—
- (a) the electronic monitoring of compliance with requirements imposed on a child or young person as a condition of bail; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons made responsible for securing the electronic monitoring of compliance with such requirements.
- (8) Rules under this section may make different provision for different cases.
- (9) Any power of the Secretary of State to make an order or rules under this section shall be exercisable by statutory instrument.
- (10) A statutory instrument containing rules made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section “local authority accommodation” has the same meaning as in the Children and Young Persons Act 1969 (c. 54).
- (12) For the purposes of this section a petty sessions area is a relevant area in relation to a proposed electronic monitoring requirement if the court considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area.”
- (3) In subsection (7) of that section (cases where parent or guardian may be required to secure compliance with requirements), after “(6)” there shall be inserted “, (6ZAA)”.
- (4) In section 3A(3) of that Act (which modifies section 3 of that Act in its application to bail granted by a custody officer), after “subsections” there shall be inserted “(6ZAA),”.

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VALID FROM 01/03/2002

### **132 Monitoring of compliance with conditions of non-secure remand**

- (1) In subsection (7) of section 23 of the Children and Young Persons Act 1969 (c. 54) (conditions that may be imposed by a court remanding a person to non-secure local authority accommodation)—
  - (a) at the beginning there shall be inserted “ Subject to section 23AA below, ”; and
  - (b) for the words from “any” to the end there shall be substituted—
    - “(a) any such conditions as could be imposed under section 3(6) of the Bail Act 1976 (c. 63) if he were then being granted bail; and
    - (b) any conditions imposed for the purpose of securing the electronic monitoring of his compliance with any other condition imposed under this subsection.”
- (2) After that section there shall be inserted—

#### **“23AA Electronic monitoring of conditions of remand**

- (1) A court shall not impose a condition on a person under section 23(7)(b) above (an “electronic monitoring condition”) unless each of the following requirements is fulfilled.
- (2) The first requirement is that the person has attained the age of twelve years.
- (3) The second requirement is that—
  - (a) the person is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
  - (b) he is charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings—
    - (i) amount, or
    - (ii) would, if he were convicted of the offences with which he is charged, amount,to a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation.
- (4) The third requirement is that the court—
  - (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in each petty sessions area which is a relevant area; and
  - (b) is satisfied that the necessary provision can be made under those arrangements.
- (5) The fourth requirement is that a youth offending team has informed the court that in its opinion the imposition of such a condition will be suitable in the person’s case.

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- (6) Where a court imposes an electronic monitoring condition, the condition shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (7) The Secretary of State may make rules for regulating—
- (a) the electronic monitoring of compliance with conditions imposed under section 23(7)(a) above; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons made responsible for securing the electronic monitoring of compliance with such conditions.
- (8) Subsections (8) to (10) of section 3AA of the Bail Act 1976 (c. 63) (provision about rules and orders under that section) shall apply in relation to this section as they apply in relation to that section.
- (9) For the purposes of this section a petty sessions area is a relevant area in relation to a proposed electronic monitoring condition if the court considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area.”
- (3) In section 69 of that Act (orders and regulations), after subsection (4) there shall be inserted—
- “(4A) Nothing in this section applies to an order under section 23AA.”

### **133 Arrangements for detention in secure training centres**

- (1) In section 23 of the Children and Young Persons Act 1969 (c. 54) (remands and committals to local authority accommodation), after subsection (7) there shall be inserted—
- “(7A) Where a person is remanded to local authority accommodation and a security requirement is imposed in respect of him—
- (a) the designated local authority may, with the consent of the Secretary of State, arrange for the person to be detained, for the whole or any part of the period of the remand or committal, in a secure training centre; and
  - (b) his detention there pursuant to the arrangements shall be lawful.
- (7B) Arrangements under subsection (7A) above may include provision for payments to be made by the authority to the Secretary of State.”
- (2) In section 88(1)(c) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (meaning of “remand in custody”), after “secure accommodation” there shall be inserted “ or detained in a secure training centre pursuant to arrangements under subsection (7A) of that section ”.
- (3) In section 101(11)(c) of that Act (account to be taken of remands in the court’s determination of the term of a detention and training order), after “secure accommodation” there shall be inserted “ or detained in a secure training centre pursuant to arrangements under subsection (7A) of that section ”.

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### *Criminal records*

#### **134 Registration for criminal records purposes**

(1) After section 120 of the 1997 Act there shall be inserted—

##### **“120A Refusal and cancellation of registration**

- (1) The Secretary of State may refuse to include a person in the register maintained for the purposes of this Part if it appears to him that the registration of that person is likely to make it possible for information to become available to an individual who, in the Secretary of State’s opinion, is not a suitable person to have access to that information.
- (2) The Secretary of State may remove a person from the register if it appears to the Secretary of State—
  - (a) that the registration of that person is likely to make it possible for information to become available to an individual who, in the Secretary of State’s opinion, is not a suitable person to have access to that information; or
  - (b) that the registration of that person has resulted in information becoming known to such an individual.
- (3) In determining for the purposes of this section whether an individual is a suitable person to have access to any information, the Secretary of State may have regard, in particular, to—
  - (a) any information relating to that person which concerns a relevant matter;
  - (b) whether that person is included in any list mentioned in section 113(3A) or (3C); and
  - (c) any information provided to the Secretary of State under subsection (4).
- (4) It shall be the duty of the chief officer of any police force to comply, as soon as practicable after receiving it, with any request by the Secretary of State to provide the Secretary of State with information which—
  - (a) is available to the chief officer;
  - (b) relates to—
    - (i) an applicant for registration;
    - (ii) a registered person; or
    - (iii) an individual who is likely to have access to information in consequence of the countersigning of applications by a particular applicant for registration or by a particular registered person;and
  - (c) concerns a matter which the Secretary of State has notified to the chief officer to be a matter which, in the opinion of the Secretary of State, is relevant to the determination of the suitability of individuals for having access to the information that may be provided in consequence of the countersigning of applications under this Part.
- (5) In this section “relevant matter” has the same meaning as in section 113.”

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- (2) In section 119 of that Act (sources of information)—
- (a) in subsections (1) and (4) (supply of information to the Secretary of State for the purposes of applications under Part V), for “for the purposes of an application under this Part” there shall be substituted “for the purpose of enabling him to carry out his functions under this Part in relation to—
    - (a) any application for a certificate or for registration; or
    - (b) the determination of whether a person should continue to be a registered person.”;
  - (b) after subsection (1) there shall be inserted—
 

“(1A) Any person who keeps a list mentioned in section 113(3A) or (3C) above shall make the contents of that list available to the Secretary of State for the purpose of enabling him to carry out his functions under this Part in relation to—

    - (a) any application for a certificate or for registration; or
    - (b) the determination of whether a person should continue to be a registered person.”

and

    - (c) in subsection (3) (payment for information provided under subsection (2)), for “subsection (2)” there shall be substituted “ section 120A(4) or subsection (2) of this section ”.

(3) In section 120(2) of that Act (duty to grant registration), after “Subject to” there shall be inserted “ section 120A and ”.

(4) In section 120(3) of that Act (regulations about registration), after paragraph (a) there shall be inserted—

    - “(aa) the nomination, in the case of a body corporate or unincorporate, of the individuals authorised to act for the body in relation to the countersigning of applications under this Part;
    - (ab) the refusal by the Secretary of State, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept the nomination of a person as so authorised;”.

### *Supplemental*

#### **135 Ministerial expenditure etc**

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State for or in connection with the carrying out of his functions under this Act; and
- (b) any increase attributable to this Act in the sums which are payable out of money so provided under any other Act.

#### **136 General interpretation**

In this Act—

“the 1984 Act” means the Police and Criminal Evidence Act 1984 (c. 60);

“the 1996 Act” means the Police Act 1996 (c. 16); and

“the 1997 Act” means the Police Act 1997 (c. 50).



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## 137 Repeals

The enactments and instruments mentioned in Schedule 7 (which include spent provisions) are hereby repealed or (as the case may be) revoked to the extent specified in the third column of that Schedule.

### Commencement Information

**I2** S. 137 partly in force; s. 137 not in force at Royal Assent, see s. 138(2); s. 137 partly in force; s. 137 not in force at Royal Assent see s. 138; s. 137 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, art. 2(1)(f); s. 137 in force for certain purposes at 1.8.2001 by S.I. 2001/2223, art. 3(j); s. 137 in force for certain purposes at 1.12.2001 and 1.1.2002 by S.I. 2001/3736, arts. 2(e), 3(b); s. 137 in force for certain purposes at 1.4.2002 by S.I. 2002/344, art. 3 (with art. 4); s. 137 in force for certain purposes at 1.4.2002 by S.I. 2002/533, art. 2; s. 137 in force for certain purposes at 1.1.2003 by S.I. 2002/3032, art. 2; s. 137 in force for certain purposes at 1.4.2003 by S.I. 2003/708, art. 2(i) in force for certain purposes at 1.4.2003 by S.I. 2003/708, art. 2(i)

## 138 Short title, commencement and extent

- (1) This Act may be cited as the Criminal Justice and Police Act 2001.
- (2) The provisions of this Act, other than this section and sections 42 and 43, 81 to 85, 109, 116(7) and 119(7), shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different purposes.
- (3) An order under subsection (2) may contain such savings as the Secretary of State thinks fit.
- (4) Section 85 comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (5) Subject to subsections (6) to (12), this Act extends to England and Wales only.
- (6) The following provisions of this Act extend to the United Kingdom—
  - (a) sections 33 to 38;
  - (b) Part 2;
  - (c) section 86(1) and (2);
  - (d) Part 5 so far as it relates to the National Criminal Intelligence Service;
  - (e) section 127; and
  - (f) section 136 and this section.
- (7) Except in so far as it contains provision relating to the matters mentioned in section 745(1) of the Companies Act 1985 (c. 6) (companies registered or incorporated in Northern Ireland or outside Great Britain), section 45 extends to Great Britain only.
- (8) Section 126 extends to Great Britain only.
- (9) Sections 29, 39 to 41, 72, 75, 84 and 134 extend to England and Wales and Northern Ireland only.
- (10) Section 83 extends to Northern Ireland only.

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- (11) Section 86(3) has the same extent as section 27 of the Petty Sessions (Ireland) Act 1851 (c. 93).
- (12) An amendment, repeal or revocation contained in Schedule 4, 6 or 7 has the same extent as the enactment or instrument to which it relates.

#### Subordinate Legislation Made

- P1** S. 138(2) power partly exercised: different dates appointed for specified provisions by [S.I. 2001/2223](#), arts. 2-4
- S. 138(2) power partly exercised: 1.10.2001 appointed for specified provisions by [S.I. 2001/3150](#), art. 2
- S. 138(2) power partly exercised: different dates appointed for specified provisions by [S.I. 2001/3736](#), arts. 2, 3
- S. 138(2) power partly exercised: 1.3.2002 and 1.4.2002 appointed for specified provisions by [{S.I. 2002/344}](#), arts. 2, 3 (with art. 4)
- S. 138(2) power partly exercised: 1.4.2002 and 2.4.2002 appointed for specified provisions by [{S.I. 2002/533}](#), arts. 2, 3
- S. 138(2) power partly exercised: 22.4.2002 and 16.9.2002 appointed for specified provisions by [{S.I. 2002/1097}](#), art. 2
- S. 138(2) power partly exercised: 12.8.2002 and 1.9.2002 appointed for specified provisions by [{S.I. 2002/2050}](#), arts. 2, 3
- S. 138(2) power partly exercised: 1.1.2003 appointed for specified provisions by [{S.I. 2002/3032}](#), art. 2
- S. 138(2) power partly exercised: 1.4.2003 appointed for specified provisions by [{S.I. 2003/708}](#), art. 2
- S. 138(2) power partly exercised: 1.6.2004 and 8.10.2004 appointed for specified provisions by [{S.I. 2004/1376}](#), arts. 2, 3

**Status:**

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