



# Policing and Crime Act 2017

## 2017 CHAPTER 3

### PART 4

#### POLICE POWERS

#### CHAPTER 1

#### PRE-CHARGE BAIL

#### *Release without bail or on bail*

#### **52 Arrest elsewhere than at a police station: release before charge**

- (1) Section 30A of the Police and Criminal Evidence Act 1984 (release of a person arrested elsewhere than at police station) is amended as follows.
- (2) In the heading for “Bail” substitute “Release of a person arrested”.
- (3) In subsection (1)—
  - (a) omit “on bail”, and
  - (b) at the end insert “—
    - (a) without bail unless subsection (1A) applies, or
    - (b) on bail if subsection (1A) applies.”
- (4) After subsection (1) insert—

“(1A) This subsection applies if—

  - (a) the constable is satisfied that releasing the person on bail is necessary and proportionate in all the circumstances (having regard, in particular, to any conditions of bail which would be imposed), and
  - (b) a police officer of the rank of inspector or above authorises the release on bail (having considered any representations made by the person).”

(5) In subsection (2) omit “on bail”.

### **53 Section 52: consequential amendments**

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 18(5)(a) (circumstances in which a search after arrest may be conducted) omit “on bail”.
- (3) In section 30 (arrest elsewhere than at police station)—
  - (a) in subsection (1B) for “on bail” substitute “of a person arrested elsewhere than at police station”,
  - (b) in subsection (7A) omit the words from “or releasing” to the end, and
  - (c) in subsections (10) and (11) for “on bail” substitute “under section 30A”.
- (4) Section 30B (section 30A: notices) is amended as follows.
- (5) In the heading omit “Bail under”.
- (6) In subsection (1) for “grants bail to” substitute “releases”.
- (7) In subsection (2)—
  - (a) omit the “and” before paragraph (b), and
  - (b) after paragraph (b) insert “and
  - (c) whether the person is being released without bail or on bail”.
- (8) In subsection (3) for “The notice” substitute “A notice given to a person who is released on bail”.
- (9) In section 30C (section 30A: supplemental)—
  - (a) in the heading omit “Bail under”, and
  - (b) in subsection (4) omit “on bail”.

### **54 Release from detention at a police station**

- (1) Section 34 of the Police and Criminal Evidence Act 1984 (limitations on police detention) is amended as follows.
- (2) In subsection (5) for the words from “without” to the end substitute “—
  - (a) without bail unless subsection (5A) applies, or
  - (b) on bail if subsection (5A) applies.”
- (3) After subsection (5) insert—
 

“(5A) This subsection applies if—

  - (a) it appears to the custody officer—
    - (i) that there is need for further investigation of any matter in connection with which the person was detained at any time during the period of the person’s detention, or
    - (ii) that, in respect of any such matter, proceedings may be taken against the person or the person may be given a youth caution under section 66ZA of the Crime and Disorder Act 1998, and
  - (b) the pre-conditions for bail are satisfied.”

- (4) Section 37 of the Police and Criminal Evidence Act 1984 (duties of custody officer before charge) is amended as follows.
- (5) In subsection (2) for the words from “either” to the end substitute “—
  - (a) without bail unless the pre-conditions for bail are satisfied, or
  - (b) on bail if those pre-conditions are satisfied,(subject to subsection (3))”.
- (6) In subsection (3) for “so believing” substitute “believing that the person’s detention without being charged is necessary to secure or preserve evidence relating to an offence for which the person is under arrest or to obtain such evidence by questioning the person”.
- (7) In subsection (7) for paragraphs (b) and (c) substitute—
  - “(b) shall be released without charge and without bail unless the pre-conditions for bail are satisfied,
  - (c) shall be released without charge and on bail if those pre-conditions are satisfied but not for the purpose mentioned in paragraph (a), or”.
- (8) In subsection (8A)(b) for “(b)” substitute “(c)”.

## **55 Release following arrest for breach of bail etc**

- (1) Section 37CA of the Police and Criminal Evidence Act 1984 (release following arrest for breach of bail) is amended as follows.
- (2) In the heading and subsection (1) for “section 37(7)(b)” substitute “section 37(7)(c)”.
- (3) In subsection (2)(b) for the words from “, either” to the end substitute “—
  - (i) without bail unless the pre-conditions for bail are satisfied, or
  - (ii) on bail if those pre-conditions are satisfied.”
- (4) In subsection (4) at the end insert “(and the reference in section 50A to any conditions of bail which would be imposed is to be read accordingly)”.
- (5) In section 37D(4A) of the Police and Criminal Evidence Act 1984 (power to keep a person in police detention) for “section 37(7)(b)” substitute “section 37(7)(c)”.

## **56 Release from further detention at police station**

- (1) In section 41(7) of the Police and Criminal Evidence Act 1984 (limits on period of detention without charge) for the words from “either” to the end substitute “—
  - (a) without bail unless the pre-conditions for bail are satisfied, or
  - (b) on bail if those pre-conditions are satisfied.”
- (2) Section 42 of the Police and Criminal Evidence Act 1984 (authorisation of continued detention) is amended as follows.
- (3) In subsection (10)—
  - (a) omit “, either on bail or without bail”, and
  - (b) for the words from “, unless” to the end substitute “—
    - (a) without bail unless the pre-conditions for bail are satisfied, or

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(b) on bail if those pre-conditions are satisfied,

(subject to subsection (10A))”.

(4) After subsection (10) insert—

“(10A) Subsection (10) does not apply if—

- (a) the person has been charged with an offence, or
- (b) the person’s continued detention is authorised or otherwise permitted in accordance with section 43.”

## 57 Warrants of further detention: release

(1) Section 43 of the Police and Criminal Evidence Act 1984 (warrants of further detention) is amended as follows.

(2) In subsection (15) for the words from “, either” to the end substitute “—

- (a) without bail unless the pre-conditions for bail are satisfied, or
- (b) on bail if those pre-conditions are satisfied.”

(3) In subsection (18) for the words from “be released” to the end substitute “, unless the person is charged, be released from police detention upon or before the expiry of the warrant—

- (a) without bail unless the pre-conditions for bail are satisfied, or
- (b) on bail if those pre-conditions are satisfied.”

(4) In section 44(7) of the Police and Criminal Evidence Act 1984 (extension of warrants of further detention) for the words from “, either” to the end substitute “—

- (a) without bail unless the pre-conditions for bail are satisfied, or
- (b) on bail if those pre-conditions are satisfied.”

## 58 Meaning of “pre-conditions for bail”

After section 50 of the Police and Criminal Evidence Act 1984 insert—

### “50A Interpretation of references to pre-conditions for bail

For the purposes of this Part the following are the pre-conditions for bail in relation to the release of a person by a custody officer—

- (a) that the custody officer is satisfied that releasing the person on bail is necessary and proportionate in all the circumstances (having regard, in particular, to any conditions of bail which would be imposed), and
- (b) that an officer of the rank of inspector or above authorises the release on bail (having considered any representations made by the person or the person’s legal representative).”

## 59 Release without bail: fingerprinting and samples

(1) The Police and Criminal Evidence Act 1984 is amended as follows.

(2) In section 61(5A) (fingerprinting of person arrested for a recordable offence) —

- (a) in paragraph (a) omit “in the case of a person who is on bail,”, and

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- (b) in paragraph (b) omit “in any case,”.
- (3) In section 63(3ZA) (taking of non-intimate sample from person arrested for a recordable offence)—
  - (a) in paragraph (a) omit “in the case of a person who is on bail,”, and
  - (b) in paragraph (b) omit “in any case,”.

## **60 Release under section 24A of the Criminal Justice Act 2003**

- (1) Section 24A of the Criminal Justice Act 2003 (arrest for failure to comply with conditions attached to conditional caution) is amended as follows.
- (2) In subsection (2) for paragraphs (b) and (c) substitute—
  - “(b) released without charge and without bail (with or without any variation in the conditions attached to the caution) unless paragraph (c)(i) and (ii) applies, or
  - (c) released without charge and on bail if—
    - (i) the release is to enable a decision to be made as to whether the person should be charged with the offence, and
    - (ii) the pre-conditions for bail are satisfied.”
- (3) In subsections (3)(a) and (4) for “subsection (2)(b)” substitute “subsection (2)(c)”.
- (4) After subsection (8) insert—
  - “(8A) In subsection (2) the reference to the pre-conditions for bail is to be read in accordance with section 50A of the 1984 Act.”