



# Bail Act 1976

## 1976 CHAPTER 63

### *Miscellaneous*

#### **9 Offence of agreeing to indemnify sureties in criminal proceedings**

- (1) If a person agrees with another to indemnify that other against any liability which that other may incur as a surety to secure the surrender to custody of a person accused or convicted of or under arrest for an offence, he and that other person shall be guilty of an offence.
- (2) An offence under subsection (1) above is committed whether the agreement is made before or after the person to be indemnified becomes a surety and whether or not he becomes a surety and whether the agreement contemplates compensation in money or in money's worth.
- (3) Where a magistrates' court convicts a person of an offence under subsection (1) above the court may, if it thinks—
  - (a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than the court has power to inflict, or
  - (b) in a case where it commits that person for trial to the Crown Court for another offence, that it would be appropriate for him to be dealt with for the offence under subsection (1) above by the court before which he is tried for the other offence,commit him in custody or on bail to the Crown Court for sentence.
- (4) A person guilty of an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding £400 or to both; or
  - (b) on conviction on indictment or if sentenced by the Crown Court on committal for sentence under subsection (3) above, to imprisonment for a term not exceeding 12 months or to a fine or to both.
- (5) No proceedings for an offence under subsection (1) above shall be instituted except by or with the consent of the Director of Public Prosecutions.

**10 Extension and exercise of coroners' powers to grant bail**

(1) In section 5 of the Coroners Act 1887 (procedure and powers of coroner to grant bail where coroner's inquisition charges homicide), for subsections (1) and (2) there shall be substituted—

“(1) Where a coroner's inquisition charges a person with the offence of murder, manslaughter or infanticide, the coroner shall issue his warrant for arresting that person if a warrant has not previously been issued.

(2) The coroner may grant bail to a person so charged with such an offence subject to a duty to appear before the Crown Court.”

(2) The foregoing provisions of this Act shall, in their application to proceedings before a coroner and to persons charged on a coroner's inquisition, have effect as if—

(a) in section 4(2) there were substituted for paragraph (a) the following—

“(a) he is present at an inquest held by a coroner at which he is charged with the offence”;

(b) in section 6(9) there were substituted for paragraph (b) the following—

“(b) the copy of the prescribed record is duly certified if it is certified by the coroner or his deputy;”

(c) the references in section 5(3) and (6) and in section 8(4) to a magistrates' court were references to a coroner; and

(d) the references in sections 5(10) and 8(4) to magistrates' courts rules were references to coroners' rules.

**11 Legal aid for bail decisions in certain cases and for persons kept in custody for inquiries or reports**

(1) Part II of the Legal Aid Act 1974 shall have effect subject to the amendments made by this section.

(2) In section 28(1) (exercise of powers to grant legal aid), for the words " subsections (2) to (4) " there shall be substituted the words " subsections (1A) to (4) ".

(3) At the end of section 28(2) (power of magistrates' court to make a legal aid order in criminal proceedings), there shall be added the words " or, in the circumstances mentioned in paragraph (c) of section 29(1) below, for the purpose of so much of those proceedings as relates to the grant of bail ".

(4) After paragraphs (a) and (b) of section 29(1) (which specify the cases in which a legal aid order must be made if a person's means qualify him for it), there shall be added a paragraph (preceded by the word " or " ) as follows—

“(c) where a person charged with an offence before a magistrates' court is brought before the court in pursuance of a remand in custody on an occasion when he may be again remanded or committed in custody and is not (but wishes to be) legally represented before the court, not having been legally represented before the court when he was so remanded”.

(5) After paragraph (c) of section 29(1) inserted by subsection (4) above, there shall be added a further paragraph (preceded by the word " or " ) as follows—

“(d) where a person who is to be sentenced or dealt with for an offence by a magistrates' court or the Crown Court is to be kept in custody to

enable inquiries or a report to be made to assist the court in sentencing or dealing with him for the offence ;”

(6) After section 29(1) there shall be inserted the following subsection—

“(1A) Nothing in subsection (1) above shall require a magistrates' court, in the circumstances mentioned in paragraph (c) of that subsection, to order that the person charged before it be given legal aid for the purposes of the proceedings before that court and any juvenile court (as distinct from legal aid for the purpose of so much of those proceedings as relates to the grant of bail) or, in those circumstances, to make a legal aid order after the conviction of that person.”;

(7) After section 29(5) there shall be inserted the following subsection—

“(5A) Paragraphs (c) and (d) of subsection (1) above shall have effect in their application to a person who has not attained the age of eighteen as if the references to a remand in custody and to being remanded, committed or kept in custody included references to being committed under section 23 of the Children and Young Persons Act 1969 to the care of a local authority or to a remand centre.”;

(8) In section 30(2) (scope of legal aid before magistrates' courts) there shall be added at the end the words " and legal aid ordered to be given for the purpose of so much of any proceedings before a magistrates' court as relates to the grant of bail shall not include representation by counsel. "

(9) In section 30(12) (interpretation), for the words "In section 28 above " there shall be inserted the words " In sections 28 and 29 above ".

## **12      Amendments, repeals and transitional provisions**

- (1) Schedule 2 to this Act (which contains consequential and minor amendments of enactments) shall have effect.
- (2) The enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) The transitional provisions contained in Schedule 4 to this Act shall have effect.

## **13      Short title, commencement, application and extent**

- (1) This Act may be cited as the Bail Act 1976.
- (2) This Act (except this section) shall come into force on such day as the Secretary of State may by order in a statutory instrument appoint.
- (3) Section 1 of this Act applies to bail grantable by the Courts-Martial Appeal Court when sitting outside England and Wales and accordingly section 6 of this Act applies to a failure outside England and Wales by a person granted bail by that Court to surrender to custody.
- (4) Except as provided by subsection (3) above and with the exception of so much of section 8 as relates to entering into recognizances in Scotland and paragraphs 31 and 46 of Schedule 2 to this Act, this Act does not extend beyond England and Wales.