



Criminal Justice Act 2003

2003 CHAPTER 44

PART 10

RETRIAL FOR SERIOUS OFFENCES

Arrest, custody and bail

88 Bail and custody before application

- (1) In relation to a person charged in accordance with section 87(4)—
- (a) section 38 of the 1984 Act (including any provision of that section as applied by section 40(10) of that Act) has effect as if, in subsection (1), for “either on bail or without bail” there were substituted “on bail”,
 - (b) section 47(3) of that Act does not apply and references in section 38 of that Act to bail are references to bail subject to a duty to appear before the Crown Court at such place as the custody officer may appoint and at such time, not later than 24 hours after the person is released, as that officer may appoint, and
 - (c) section 43B of the Magistrates' Courts Act 1980 (c. 43) does not apply.
- (2) Where such a person is, after being charged—
- (a) kept in police detention, or
 - (b) detained by a local authority in pursuance of arrangements made under section 38(6) of the 1984 Act,
- he must be brought before the Crown Court as soon as practicable and, in any event, not more than 24 hours after he is charged, and section 46 of the 1984 Act does not apply.
- (3) For the purpose of calculating the period referred to in subsection (1) or (2), the following are to be disregarded—
- [^{F1}(za) Saturday,]
 - (a) Sunday,
 - (b) Christmas Day,

Changes to legislation: *Criminal Justice Act 2003, Section 88 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes*

- (c) Good Friday, and
 - (d) any day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in the part of the United Kingdom where the person is to appear before the Crown Court as mentioned in subsection (1) or, where subsection (2) applies, is for the time being detained.
- (4) Where a person appears or is brought before the Crown Court in accordance with subsection (1) or (2), the Crown Court may either—
- (a) grant bail for the person to appear, if notice of an application is served on him under section 80(2), before the Court of Appeal at the hearing of that application, or
 - (b) remand the person in custody to be brought before the Crown Court under section 89(2).
- (5) If the Crown Court grants bail under subsection (4), it may revoke bail and remand the person in custody as referred to in subsection (4)(b).
- (6) In subsection (7) the “relevant period”, in relation to a person granted bail or remanded in custody under subsection (4), means—
- (a) the period of 42 days beginning with the day on which he is granted bail or remanded in custody under that subsection, or
 - (b) that period as extended or further extended under subsection (8).
- (7) If at the end of the relevant period no notice of an application under section 76(1) or (2) in relation to the person has been given under section 80(1), the person—
- (a) if on bail subject to a duty to appear as mentioned in subsection (4)(a), ceases to be subject to that duty and to any conditions of that bail, and
 - (b) if in custody on remand under subsection (4)(b) or (5), must be released immediately without bail.
- (8) The Crown Court may, on the application of a prosecutor, extend or further extend the period mentioned in subsection (6)(a) until a specified date, but only if satisfied that—
- (a) the need for the extension is due to some good and sufficient cause, and
 - (b) the prosecutor has acted with all due diligence and expedition.

Textual Amendments

- F1** S. 88(3)(za) inserted (15.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 148, 153\(7\), Sch. 26 para. 63; S.I. 2008/1586, art. 2\(2\)](#)

Commencement Information

- I1** S. 88 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 5](#) (subject to [art. 2\(2\), Sch. 2](#))

Changes to legislation:

Criminal Justice Act 2003, Section 88 is up to date with all changes known to be in force on or before 27 April 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.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/2574, Sch. by [S.I. 2012/2761 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 150(aa) inserted by [2012 c. 10 Sch. 26 para. 19\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 150(ba) inserted by [2012 c. 10 Sch. 26 para. 19\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 151(A1) inserted by [2008 c. 4 s. 11\(3\)](#)
- s. 151(1A) inserted by [2008 c. 4 s. 11\(5\)](#)
- s. 151(1A)(b) word substituted by [2008 c. 4 Sch. 4 para. 76\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(1A)(c) substituted by [2009 c. 25 Sch. 17 para. 8\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(2A)(b) substituted by [2009 c. 25 Sch. 17 para. 8\(4\)](#)
- s. 151(4A) inserted by [2009 c. 25 Sch. 17 para. 8\(5\)](#)
- s. 151(8)(a) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(a\)](#)
- s. 151(8)(b) words inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(i\)](#)
- s. 151(8)(b) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(ii\)](#)
- s. 151(8)(c)-(f) inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(c\)](#)
- s. 165(5) inserted by [2014 c. 12 s. 179\(3\)](#)
- s. 237(1A) inserted by [2006 c. 48 s. 34\(3\)](#)
- s. 237(1B)(f)(g) inserted by [2021 c. 11 Sch. 13 para. 40\(b\)](#)
- s. 239A inserted by [2015 c. 2 s. 8\(1\)](#)
- s. 239A cross-heading inserted by [2015 c. 2 Sch. 3 para. 5](#)
- s. 250(5C) inserted by [2015 c. 2 Sch. 3 para. 7\(4\)](#)
- s. 255A(4A) inserted by [2015 c. 2 s. 9\(2\)](#)
- s. 255B(3A) inserted by [2015 c. 2 s. 9\(3\)\(b\)](#)
- s. 255B(4A)-(4C) inserted by [2015 c. 2 s. 9\(3\)\(d\)](#)
- s. 255C(3A) inserted by [2015 c. 2 s. 9\(4\)\(b\)](#)
- s. 255C(4A)-(4C) inserted by [2015 c. 2 s. 9\(4\)\(d\)](#)
- s. 256A(1)-(1B) substituted for s. 256A(1) by [2015 c. 2 s. 9\(6\)\(a\)](#)
- s. 256A(4A)(4B) inserted by [2015 c. 2 s. 9\(6\)\(f\)](#)
- s. 256A(5)(6) substituted for s. 256A(5) by [2015 c. 2 s. 9\(6\)\(g\)](#)
- s. 256AZA inserted by [2015 c. 2 s. 10\(1\)](#)
- s. 257(3) inserted by [2006 c. 48 s. 34\(4\)](#)
- s. 258(1A) inserted by [2006 c. 48 s. 34\(5\)](#)
- s. 260(4)(aa) substituted for word by [2008 c. 4 s. 34\(7\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))

- Sch. 15B para. 49A omitted by [S.I. 2019/780 reg. 26\(4\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 15B para. 49B omitted by [S.I. 2019/780 reg. 26\(4\)\(d\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 20B para. 34(6)(7) substituted for Sch. 20B para. 34(6) by [2015 c. 2 Sch. 3 para. 10](#)