



# 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).”

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(5) In subsection (2) omit “on bail”.

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**Commencement Information**

**I1** S. 52 in force for specified purposes at Royal Assent, see s. 183

**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”.

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**Commencement Information**

**I2** S. 53 in force for specified purposes at Royal Assent, see s. 183

**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—

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“(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) ”.

#### Commencement Information

**I3** S. 54 in force for specified purposes at Royal Assent, see s. 183

## 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) ”.

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#### Commencement Information

**I4** S. 55 in force for specified purposes at Royal Assent, see s. 183

### 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
    - (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.”

#### Commencement Information

**I5** S. 56 in force for specified purposes at Royal Assent, see s. 183

### 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

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

**Commencement Information**

**I6** S. 57 in force for specified purposes at Royal Assent, see s. 183

## 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).”

**Commencement Information**

**I7** S. 58 in force for specified purposes at Royal Assent, see s. 183

## 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
  - (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,”.

**Commencement Information**

**I8** S. 59 in force for specified purposes at Royal Assent, see s. 183

## 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—

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- “(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.”

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**Commencement Information**

**I9** S. 60 in force for specified purposes at Royal Assent, see s. 183

*Conditions of bail*

**61 Bail before charge: conditions of bail etc**

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 46A(1A) (power of arrest for failure to answer police bail) for “section 37, 37C(2)(b) or 37CA(2)(b) above” substitute “ this Part ”.
- (3) Section 47 (bail after arrest) is amended as follows.
- (4) In subsection (1A) for the words from “section 37” to “cases” substitute “ this Part (except sections 37C(2)(b) and 37CA(2)(b)) ”.
- (5) In subsections (1B) and (1C) omit “37,”.

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**Commencement Information**

**I10** S. 61 in force for specified purposes at Royal Assent, see s. 183

*Time limits on period of bail*

**62 Limit on period of bail under section 30A of PACE**

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) Section 30B (section 30A: notices) is amended as follows.
- (3) For subsection (4) substitute—
  - “(4) The notice must also specify—
    - (a) the police station which the person is required to attend, and

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- (b) the time on the bail end date when the person is required to attend the police station.”
- (4) Omit subsection (4A)(c) and the “and” before it.
- (5) Omit subsection (5).
- (6) In subsection (6) for the words from “(5)” to the end substitute “ to attend at a different time or an additional time ”.
- (7) After subsection (6) insert—
  - “(6A) A person may not be required under subsection (6) to attend a police station at a time which is after the bail end date in relation to the person.”
- (8) After subsection (7) insert—
  - “(8) In this section “bail end date”, in relation to a person, means the last day of the period of 28 days beginning with the day after the day on which the person was arrested for the offence in relation to which bail is granted under section 30A.”
- (9) In section 30CA (bail under section 30A: variation of conditions by police) omit subsection (1)(b) and the “or” before it.
- (10) In section 30D(3) (meaning of “specified” in section 30D(1)) omit “or (5)”.

#### Commencement Information

**III** S. 62 in force for specified purposes at Royal Assent, see s. 183

### 63 Limits on period of bail without charge under Part 4 of PACE

After section 47 of the Police and Criminal Evidence Act 1984 insert—

#### “47ZA Limits on period of bail without charge

- (1) This section applies in relation to the power conferred on a custody officer, when releasing a person on bail under this Part, to appoint a time for the person to attend at a police station in accordance with section 47(3)(c).
- (2) The power must be exercised so as to appoint a time on the day on which the applicable bail period in relation to the person ends, unless subsection (3) or (4) applies.
- (3) This subsection applies where—
  - (a) at the time of the exercise of the power the person is on bail under this Part in relation to one or more offences other than the relevant offence, and
  - (b) the custody officer believes that it is appropriate to align the person's attendance in relation to the relevant offence with the person's attendance in relation to the one or more other offences.
- (4) This subsection applies where the custody officer believes that a decision as to whether to charge the person with the relevant offence would be made before the end of the applicable bail period in relation to the person.

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- (5) Where subsection (3) or (4) applies, the power may be exercised so as to appoint a time on a day falling before the end of the applicable bail period in relation to the person.
- (6) This section is subject to section 47ZL.
- (7) In this section references to attendance are to attendance at a police station in accordance with section 47(3)(c).
- (8) In this Part the “relevant offence”, in relation to a person, means the offence in respect of which the power mentioned in subsection (1) is exercised in relation to the person.

#### **47ZB Applicable bail period: initial limit**

- (1) In this Part the “applicable bail period”, in relation to a person, means—
  - (a) in an SFO case, the period of 3 months beginning with the person's bail start date, or
  - (b) in an FCA case or any other case, the period of 28 days beginning with the person's bail start date.
- (2) The applicable bail period in relation to a person may be extended under sections 47ZD to 47ZG or treated as extended under section 47ZJ(3).
- (3) Subsection (1) and sections 47ZD to 47ZG are subject to sections 47ZL and 47ZM.
- (4) For the purposes of this Part—
  - (a) a person's bail start date is the day after the day on which the person was arrested for the relevant offence,
  - (b) an “FCA case” is a case in which—
    - (i) the relevant offence in relation to the person is being investigated by the Financial Conduct Authority, and
    - (ii) a senior officer confirms that sub-paragraph (i) applies,
  - (c) an “SFO case” is a case in which—
    - (i) the relevant offence in relation to the person is being investigated by the Director of the Serious Fraud Office, and
    - (ii) a senior officer confirms that sub-paragraph (i) applies, and
  - (d) “senior officer” means a police officer of the rank of superintendent or above.

#### **47ZC Applicable bail period: conditions A to D in sections 47ZD to 47ZG**

- (1) This section applies for the purposes of sections 47ZD to 47ZG.
- (2) Condition A is that the decision-maker has reasonable grounds for suspecting the person in question to be guilty of the relevant offence.
- (3) Condition B is that the decision-maker has reasonable grounds for believing—
  - (a) in a case where the person in question is or is to be released on bail under section 37(7)(c) or 37CA(2)(b), that further time is needed for making a decision as to whether to charge the person with the relevant offence, or



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- (b) otherwise, that further investigation is needed of any matter in connection with the relevant offence.
- (4) Condition C is that the decision-maker has reasonable grounds for believing—
- (a) in a case where the person in question is or is to be released on bail under section 37(7)(c) or 37CA(2)(b), that the decision as to whether to charge the person with the relevant offence is being made diligently and expeditiously, or
  - (b) otherwise, that the investigation is being conducted diligently and expeditiously.
- (5) Condition D is that the decision-maker has reasonable grounds for believing that the release on bail of the person in question is necessary and proportionate in all the circumstances (having regard, in particular, to any conditions of bail which are, or are to be, imposed).
- (6) In this section “decision-maker” means—
- (a) in relation to a condition which falls to be considered by virtue of section 47ZD, the senior officer in question;
  - (b) in relation to a condition which falls to be considered by virtue of section 47ZE, the appropriate decision-maker in question;
  - (c) in relation to a condition which falls to be considered by virtue of section 47ZF or 47ZG, the court in question.

#### **47ZD Applicable bail period: extension of initial limit in standard cases**

- (1) This section applies in relation to a person if—
- (a) the applicable bail period in relation to the person is the period mentioned in section 47ZB(1)(b),
  - (b) that period has not ended, and
  - (c) a senior officer is satisfied that conditions A to D are met in relation to the person.
- (2) The senior officer may authorise the applicable bail period in relation to the person to be extended so that it ends at the end of the period of 3 months beginning with the person's bail start date.
- (3) Before determining whether to give an authorisation under subsection (2) in relation to a person, the senior officer must arrange for the person or the person's legal representative to be informed that a determination is to be made.
- (4) In determining whether to give an authorisation under subsection (2) in relation to a person, the senior officer must consider any representations made by the person or the person's legal representative.
- (5) The senior officer must arrange for the person or the person's legal representative to be informed whether an authorisation under subsection (2) has been given in relation to the person.

#### **47ZE Applicable bail period: extension of limit in designated cases**

- (1) This section applies in relation to a person if—
- (a) the person's case is an SFO case, or

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- (b) a senior officer has authorised an extension of the applicable bail period in relation to the person under section 47ZD.
- (2) A qualifying prosecutor may designate the person's case as being an exceptionally complex case (a “designated case”).
  - (3) If an appropriate decision-maker is satisfied that conditions A to D are met in relation to the person in a designated case, the decision-maker may authorise the applicable bail period in relation to the person to be extended so that it ends at the end of the period of 6 months beginning with the person's bail start date.
  - (4) An appropriate decision-maker is—
    - (a) a member of staff of the Financial Conduct Authority who is of the description designated for the purposes of this paragraph by the Chief Executive of the Authority (in an FCA case),
    - (b) a member of the Serious Fraud Office who is of the Senior Civil Service (in an SFO case), or
    - (c) a qualifying police officer (in any other case).
  - (5) Before determining whether to give an authorisation under subsection (3) in relation to a person—
    - (a) the appropriate decision-maker must arrange for the person or the person's legal representative to be informed that a determination is to be made, and
    - (b) if the appropriate decision-maker is a qualifying police officer, the officer must consult a qualifying prosecutor.
  - (6) In determining whether to give an authorisation under subsection (3) in relation to a person, the appropriate decision-maker must consider any representations made by the person or the person's legal representative.
  - (7) The appropriate decision-maker must arrange for the person or the person's legal representative to be informed whether an authorisation under subsection (3) has been given in relation to the person.
  - (8) Any designation under subsection (2) must be made, and any authorisation under subsection (3) must be given, before the applicable bail period in relation to the person has ended.
  - (9) In this section—
    - “qualifying police officer” means a police officer of the rank of commander or assistant chief constable or above, and
    - “qualifying prosecutor” means a prosecutor of the description designated for the purposes of this section by the Chief Executive of the Financial Conduct Authority, the Director of the Serious Fraud Office or the Director of Public Prosecutions.

#### **47ZF Applicable bail period: first extension of limit by court**

- (1) This section applies in relation to a person if—
  - (a) the person's case is an SFO case,
  - (b) a senior officer has authorised an extension of the applicable bail period in relation to the person under section 47ZD, or

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- (c) an appropriate decision-maker has authorised an extension of the applicable bail period in relation to the person under section 47ZE.
- (2) Before the applicable bail period in relation to the person ends a qualifying applicant may apply to a magistrates' court for it to authorise an extension of the applicable bail period in relation to the person under this section.
- (3) If the court is satisfied that—
- (a) conditions B to D are met in relation to the person, and
  - (b) the case does not fall within subsection (7),
- it may authorise the applicable bail period to be extended as specified in subsection (4).
- (4) The applicable bail period is to end—
- (a) in a case falling within subsection (1)(a) or (b), at the end of the period of 6 months beginning with the person's bail start date;
  - (b) in a case falling within subsection (1)(c), at the end of the period of 9 months beginning with the person's bail start date.
- (5) If the court is satisfied that—
- (a) conditions B to D are met in relation to the person, and
  - (b) the case falls within subsection (7),
- it may authorise the applicable bail period to be extended as specified in subsection (6).
- (6) The applicable bail period is to end—
- (a) in a case falling within subsection (1)(a) or (b), at the end of the period of 9 months beginning with the person's bail start date;
  - (b) in a case falling within subsection (1)(c), at the end of the period of 12 months beginning with the person's bail start date.
- (7) A case falls within this subsection if the nature of the decision or further investigations mentioned in condition B means that that decision is unlikely to be made or those investigations completed if the applicable bail period in relation to the person is not extended as specified in subsection (6).
- (8) In this section “qualifying applicant” means—
- (a) a constable,
  - (b) a member of staff of the Financial Conduct Authority who is of the description designated for the purposes of this subsection by the Chief Executive of the Authority,
  - (c) a member of the Serious Fraud Office, or
  - (d) a Crown Prosecutor.

#### **47ZG Applicable bail period: subsequent extensions of limit by court**

- (1) Subsections (2) to (6) apply where a court has authorised an extension of the applicable bail period in relation to a person under section 47ZF.
- (2) Before the applicable bail period in relation to the person ends a qualifying applicant may apply to a magistrates' court for it to authorise an extension of the applicable bail period in relation to the person under this section.

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- (3) If the court is satisfied that—
- (a) conditions B to D are met in relation to the person, and
  - (b) the case does not fall within subsection (8),
- it may authorise the applicable bail period to be extended as specified in subsection (4).
- (4) The applicable bail period is to end at the end of the period of 3 months beginning with the end of the current applicable bail period in relation to the person.
- (5) If the court is satisfied that—
- (a) conditions B to D are met in relation to the person, and
  - (b) the case falls within subsection (8),
- it may authorise the applicable bail period to be extended as specified in subsection (6).
- (6) The applicable bail period is to end at the end of the period of 6 months beginning with the end of the current applicable bail period in relation to the person.
- (7) Where a court has authorised an extension of the applicable bail period in relation to a person under subsection (3) or (5), a qualifying applicant may make further applications under subsection (2) (and subsections (3) to (6) apply accordingly).
- (8) A case falls within this subsection if the nature of the decision or further investigations mentioned in condition B means that that decision is unlikely to be made or those investigations completed if the current applicable bail period in relation to the person is not extended as specified in subsection (6).
- (9) For the purposes of this section—
- (a) references to the current applicable bail period in relation to a person are to the applicable bail period applying to the person when the application under this section is made (subject to section 47ZJ(3)), and
  - (b) “qualifying applicant” has the same meaning as in section 47ZF.

#### **47ZH Sections 47ZF and 47ZG: withholding sensitive information**

- (1) This section applies where a qualifying applicant makes an application to a magistrates' court under section 47ZF or 47ZG in relation to a person.
- (2) The qualifying applicant may apply to the court for it to authorise the specified information to be withheld from the person and any legal representative of the person.
- (3) The court may grant an application under subsection (2) only if satisfied that there are reasonable grounds for believing that the specified information is sensitive information.
- (4) For the purposes of this section information is sensitive information if its disclosure would have one or more of the following results—
  - (a) evidence connected with an indictable offence would be interfered with or harmed;

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- (b) a person would be interfered with or physically injured;
  - (c) a person suspected of having committed an indictable offence but not yet arrested for the offence would be alerted;
  - (d) the recovery of property obtained as a result of an indictable offence would be hindered.
- (5) In this section “specified information” means the information specified in the application under subsection (2).

#### **47ZI Sections 47ZF to 47ZH: proceedings in magistrates' court**

- (1) An application made to a magistrates' court under section 47ZF or 47ZG in relation to a person is to be determined by a single justice of the peace on written evidence unless subsection (2) or (3) applies.
- (2) This subsection applies if—
- (a) the effect of the application would be to extend the applicable bail period in relation to the person so that it ends at or before the end of the period of 12 months beginning with the person's bail start date, and
  - (b) a single justice of the peace considers that the interests of justice require an oral hearing.
- (3) This subsection applies if—
- (a) the effect of the application would be to extend the applicable bail period in relation to the person so that it ends after the end of the period of 12 months beginning with the person's bail start date, and
  - (b) the person, or the person who made the application, requests an oral hearing.
- (4) If subsection (2) or (3) applies, the application is to be determined by two or more justices of the peace sitting otherwise than in open court.
- (5) Where an application under section 47ZF or 47ZG in relation to a person is to be determined as mentioned in subsection (4), the justices may direct that the person and any legal representative of the person be excluded from any part of the hearing.
- (6) The justices may give a direction under subsection (5) only if satisfied that there are reasonable grounds for believing that sensitive information would be disclosed at the part of the hearing in question.
- (7) An application under section 47ZH is to be determined by a single justice of the peace on written evidence unless the justice determines that the interests of justice require an oral hearing.
- (8) If the justice makes a determination under subsection (7)—
- (a) the application is to be determined by two or more justices of the peace sitting otherwise than in open court, and
  - (b) the justices hearing the application must direct that the person to whom the application relates and any legal representative of the person be excluded from the hearing.
- (9) In this section “sensitive information” has the meaning given in section 47ZH(4).

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### **47ZJ Sections 47ZF and 47ZG: late applications to magistrates' court**

- (1) This section applies where—
  - (a) an application under section 47ZF or 47ZG is made to a magistrates' court before the end of the applicable bail period in relation to a person, but
  - (b) it is not practicable for the court to determine the application before the end of that period.
- (2) The court must determine the application as soon as is practicable.
- (3) The applicable bail period in relation to the person is to be treated as extended until the application is determined.
- (4) If it appears to the court that it would have been reasonable for the application to have been made in time for it to have been determined by the court before the end of the applicable bail period in relation to the person, it may refuse the application.

### **47ZK Rules**

Criminal Procedure Rules may make provision in connection with applications under sections 47ZF, 47ZG and 47ZH and the proceedings for determining such applications.

### **47ZL Applicable bail period and bail return date: special case of release on bail under section 37(7)(a) or 37C(2)(b)**

- (1) This section applies where a person is released on bail under section 37(7)(a) or 37C(2)(b).
- (2) The running of the applicable bail period in relation to the person—
  - (a) does not begin (in the case of a first release on bail), or
  - (b) is suspended (in any other case),
 (subject to subsection (6)).
- (3) Accordingly section 47ZA does not apply to the exercise of the power mentioned in section 47ZA(1) when releasing the person on bail.
- (4) Subsections (5) and (6) apply if a DPP request is made in relation to the person.
- (5) A custody officer must exercise the power mentioned in section 47(4A) to appoint a different time for the person to attend at the police station (and section 47(4B) to (4D) applies accordingly).
- (6) The applicable bail period in relation to the person—
  - (a) begins to run on the day on which the DPP request is made (in the case of a first release on bail), or
  - (b) resumes running on that day (in any other case).
- (7) Subsection (8) applies where—
  - (a) a DPP request has been made in relation to the person, and

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- (b) the applicable bail period in relation to the person would end before the end of the period of 7 days beginning with the day on which the DPP request was made.
- (8) The running of the applicable bail period in relation to the person is suspended for the number of days necessary to secure that the applicable bail period ends at the end of the period of 7 days beginning with the day on which the DPP request was made.
- (9) Subsections (10) and (11) apply if the DPP request made in relation to the person is met.
- (10) The running of the applicable bail period in relation to the person is suspended.
- (11) Accordingly section 47(4D) does not apply to any exercise of the power under section 47(4A).
- (12) For the purposes of this section—
  - (a) a “DPP request”, in relation to a person, means a request by the Director of Public Prosecutions for the further information specified in the request to be provided before the Director decides under section 37B(2) whether there is sufficient evidence to charge the person with the relevant offence,
  - (b) a DPP request is met when the further information specified in the request is provided, and
  - (c) references to the case of a first release on bail are to a case where the person has not been released on bail in relation to the relevant offence under any other provision of this Part or under section 30A.

**47ZM Applicable bail period: special cases of release on bail under section 30A and periods in hospital**

- (1) Subsections (2) and (3) apply where a person was released on bail under section 30A.
- (2) The period of 28 days mentioned in section 30B(8) in relation to the person is to be treated as being the period of 28 days mentioned in section 47ZB(1)(b) in relation to the person.
- (3) Any reference to the relevant offence, in relation to the person, is to be read as a reference to the offence in respect of which the power in section 30A(1) was exercised.
- (4) Subsection (5) applies if, at any time on the day on which the applicable bail period in relation to a person would end, the person is in hospital as an in-patient.
- (5) The running of the applicable bail period in relation to the person is to be treated as having been suspended for any day on which the patient was in hospital as an in-patient.”

**Commencement Information**

**I12** S. 63 in force for specified purposes at Royal Assent, see s. 183

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## 64 Section 63: consequential amendments

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) Section 37D (release on bail under section 37) is amended as follows.
- (3) Omit subsections (1) to (3).
- (4) In subsections (4) to (5) for “subsection (1) above” substitute “ section 47(4A) ”.
- (5) Section 47 (bail after arrest) is amended as follows.
- (6) In subsection (3)(c) at the end insert “ (subject to section 47ZA) ”.
- (7) After subsection (4) insert—
  - “(4A) Where a person has been granted bail under this Part subject to a duty to attend at a police station, a custody officer may subsequently appoint a different time, or an additional time, at which the person is to attend at the police station to answer bail.
  - (4B) The custody officer must give the person notice in writing of the exercise of the power under subsection (4A).
  - (4C) The exercise of the power under subsection (4A) does not affect the conditions of bail (if any).
  - (4D) A custody officer may not appoint a time for a person's attendance under subsection (4A) which is after the end of the applicable bail period in relation to the person.
  - (4E) Subsection (4D) is subject to section 47ZL.”
- (8) In the Criminal Justice Act 2003—
  - (a) in section 24A(5)(b) (purposes for which person may be kept in police detention) for “section 37D(1)” substitute “ section 47(4A) ”, and
  - (b) in section 24B(5) (application of provisions of the Police and Criminal Evidence Act 1984)—
    - (i) omit paragraph (a), and
    - (ii) in paragraph (c) at the end insert “ except subsections (4D) and (4E) ”.

### Commencement Information

**I13** S. 64 in force for specified purposes at Royal Assent, see s. 183

### *Re-arrest of person released under provisions of PACE*

## 65 Release under provisions of PACE: re-arrest

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 30C(4) (re-arrest without warrant of person released under section 30A) for the words from “new” to the end substitute “ , since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before the person's release ”.



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- (3) In section 41(9) (re-arrest without warrant of person released under section 41(7)) for the words from “new” to “since” substitute “ , since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before ”.
- (4) In section 42(11) (re-arrest without warrant of person released under section 42(10)) for the words from “new” to “since” substitute “ , since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before ”.
- (5) In section 43(19) (re-arrest without warrant of person released under section 43(18)) for the words from “new” to “since” substitute “ , since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before ”.
- (6) In section 47(2) (re-arrest without warrant of person released on bail subject to a duty to attend at a police station) for the words from “new” to the end substitute “ , since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before the person's release ”.

#### Commencement Information

**I14** S. 65 in force for specified purposes at Royal Assent, see s. 183

#### *Notification of decision not to prosecute*

### **66 Duty to notify person released under section 34, 37 or 37CA of PACE that not to be prosecuted**

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 34 (limitations on police detention) after subsection (5A) (inserted by section 54 of this Act) insert—
  - “(5B) Subsection (5C) applies where—
    - (a) a person is released under subsection (5), and
    - (b) the custody officer determines that—
      - (i) there is not sufficient evidence to charge the person with an offence, or
      - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
  - (5C) The custody officer must give the person notice in writing that the person is not to be prosecuted.
  - (5D) Subsection (5C) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.
  - (5E) In this Part “caution” includes—

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- (a) a conditional caution within the meaning of Part 3 of the Criminal Justice Act 2003;
  - (b) a youth conditional caution within the meaning of Chapter 1 of Part 4 of the Crime and Disorder Act 1998;
  - (c) a youth caution under section 66ZA of that Act.”
- (3) Section 37 (duties of custody officer before charge) is amended as follows.
- (4) After subsection (6) insert—
- “(6A) Subsection (6B) applies where—
- (a) a person is released under subsection (2), and
  - (b) the custody officer determines that—
    - (i) there is not sufficient evidence to charge the person with an offence, or
    - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
- (6B) The custody officer must give the person notice in writing that the person is not to be prosecuted.
- (6C) Subsection (6B) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”
- (5) After subsection (8) insert—
- “(8ZA) Where—
- (a) a person is released under subsection (7)(b) or (c), and
  - (b) the custody officer makes a determination as mentioned in subsection (6A)(b),
- subsections (6B) and (6C) apply.”
- (6) Section 37B (consultation with Director of Public Prosecutions) is amended as follows.
- (7) After subsection (5) insert—
- “(5A) Subsection (5) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”
- (8) Omit subsection (9).
- (9) In section 37CA (release following arrest for breach of bail) after subsection (4) insert—
- “(5) Subsection (6) applies where—
- (a) a person is released under subsection (2), and
  - (b) a custody officer determines that—
    - (i) there is not sufficient evidence to charge the person with an offence, or
    - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

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- (6) The custody officer must give the person notice in writing that the person is not to be prosecuted.
- (7) Subsection (6) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”
- (10) In section 24B(2) of the Criminal Justice Act 2003 (application of provisions of Police and Criminal Evidence Act 1984)—
  - (a) in paragraph (d) for “(5)” substitute “ (5E) ”, and
  - (b) in paragraph (f) for “(6)” substitute “ (6C) ”.

#### Commencement Information

**I15** S. 66 in force for specified purposes at Royal Assent, see s. 183

### **67 Duty to notify person released under any of sections 41 to 44 of PACE that not to be prosecuted**

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 41 (limits on period of detention without charge) after subsection (9) insert—
  - “(10) Subsection (11) applies where—
    - (a) a person is released under subsection (7), and
    - (b) a custody officer determines that—
      - (i) there is not sufficient evidence to charge the person with an offence, or
      - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
  - (11) The custody officer must give the person notice in writing that the person is not to be prosecuted.
  - (12) Subsection (11) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”
- (3) In section 42 (authorisation of continued detention) after subsection (11) insert—
  - “(12) Subsection (13) applies where—
    - (a) a person is released under subsection (10), and
    - (b) a custody officer determines that—
      - (i) there is not sufficient evidence to charge the person with an offence, or
      - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
  - (13) The custody officer must give the person notice in writing that the person is not to be prosecuted.

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- (14) Subsection (13) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”
- (4) In section 43 (warrants of further detention) after subsection (19) insert—
- “(20) Subsection (21) applies where—
- (a) a person is released under subsection (15) or (18), and
  - (b) a custody officer determines that—
    - (i) there is not sufficient evidence to charge the person with an offence, or
    - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
- (21) The custody officer must give the person notice in writing that the person is not to be prosecuted.
- (22) Subsection (21) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”
- (5) In section 44 (extension of warrants of further detention) after subsection (8) insert—
- “(9) Subsection (10) applies where—
- (a) a person is released under subsection (7), and
  - (b) a custody officer determines that—
    - (i) there is not sufficient evidence to charge the person with an offence, or
    - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
- (10) The custody officer must give the person notice in writing that the person is not to be prosecuted.
- (11) Subsection (10) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”

#### Commencement Information

**I16** S. 67 in force for specified purposes at Royal Assent, see s. 183

### *Breach of pre-charge bail conditions relating to travel*

## **68 Offence of breach of pre-charge bail conditions relating to travel**

- (1) This section applies where—
- (a) a person is arrested under section 24 of the Police and Criminal Evidence Act 1984, or under Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12), in respect of an offence mentioned in section 41(1) or (2) of the Counter-Terrorism Act 2008,
  - (b) the person is released without charge and on bail under Part 4 of the 1984 Act or (as the case may be) Part 5 of the 1989 Order, and

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- (c) the release on bail is subject to a travel restriction condition.
- (2) Each of the following is a travel restriction condition—
- (a) a condition that the person must not leave the United Kingdom,
  - (b) a condition that the person must not enter any port, or one or more particular ports, in the United Kingdom,
  - (c) a condition that the person must not go to a place in Northern Ireland that is within one mile of the border between Northern Ireland and the Republic of Ireland,
  - (d) a condition that the person must surrender all of his or her travel documents or all of his or her travel documents that are of a particular kind,
  - (e) a condition that the person must not have any travel documents, or travel documents of a particular kind, in his or her possession (whether the documents relate to that person or to another person),
  - (f) a condition that the person must not obtain, or seek to obtain, any travel documents (whether relating to that person or to another person) or travel documents of a particular kind.
- (3) The person commits an offence if—
- (a) the person's release on bail is subject to the travel restriction condition mentioned in subsection (2)(a) and he or she fails to comply with the condition, or
  - (b) the person's release on bail is subject to a travel restriction condition mentioned in subsection (2)(b) to (f) and he or she fails, without reasonable excuse, to comply with the condition.
- (4) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding [<sup>F1</sup>the general limit in a magistrates' court] (or, in relation to offences committed before [<sup>F2</sup>2 May 2022], 6 months) or to a fine, or to both;
    - (ii) in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine, or to both.
- (5) Where an offence under this section is committed by a person released without charge and on bail under Part 4 of the Police and Criminal Evidence Act 1984, the offence is to be treated as having been committed in England and Wales (whether or not the conduct constituting the offence took place there).
- (6) Where an offence under this section is committed by a person released without charge and on bail under Part 5 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)), the offence is to be treated as having been committed in Northern Ireland (whether or not the conduct constituting the offence took place there).
- (7) Section 69 defines words used in subsection (2).

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### Textual Amendments

- F1** Words in s. 68(4)(a)(i) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1**
- F2** Words in s. 68(4)(a)(i) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), **Sch. Pt. 1**

### Commencement Information

- I17** S. 68 in force for specified purposes at Royal Assent, see s. 183

## 69 Offence of breach of pre-charge bail conditions relating to travel: interpretation

- (1) This section defines words used in section 68(2).
- (2) “Travel document” means anything that is or appears to be—
- (a) a passport, or
  - (b) a ticket or other document that permits a person to make a journey by any means from a place within the United Kingdom to a place outside the United Kingdom.
- (3) “Passport” means—
- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971),
  - (b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or
  - (c) a document that can be used (in some or all circumstances) instead of a passport.
- (4) “Port” means—
- (a) an airport,
  - (b) a sea port,
  - (c) a hoverport,
  - (d) a heliport,
  - (e) a railway station where passenger trains depart for places outside the United Kingdom, or
  - (f) any other place at which a person is able, or attempting, to get on or off any craft, vessel or vehicle in connection with leaving the United Kingdom.

### Commencement Information

- I18** S. 69 in force for specified purposes at Royal Assent, see s. 183

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1139, reg. 2 by [S.I. 2017/1162 reg. 2](#)