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STATUTORY INSTRUMENTS

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**2012 No. 1726**

**The Criminal Procedure Rules 2012**

**PART 19**

**BAIL AND CUSTODY TIME LIMITS**

*SECTION 2: BAIL*

**Prosecutor's representations about bail**

**19.5.**—(1) This rule applies whenever the court can grant or withhold bail.

(2) The prosecutor must provide the court with all the information in the prosecutor's possession which is material to what the court must decide.

(3) A prosecutor who opposes the grant of bail must specify—

- (a) each exception to the general right to bail on which the prosecutor relies; and
- (b) each consideration that the prosecutor thinks relevant.

(4) A prosecutor who wants the court to impose a condition on any grant of bail must—

- (a) specify each condition proposed; and
- (b) explain what purpose would be served by such a condition.

*[Note. A summary of the general entitlement to bail and of the exceptions to that entitlement is at the end of this Part.]*

**Reconsideration of police bail by magistrates' court**

**19.6.**—(1) This rule applies where a party wants a magistrates' court to reconsider a bail decision by a police officer.

(2) An application under this rule must be made to—

- (a) the magistrates' court to whose custody the defendant is under a duty to surrender, if any; or
- (b) any magistrates' court acting for the police officer's local justice area, in any other case.

(3) The applicant party must—

- (a) apply in writing; and
- (b) serve the application on—
  - (i) the court officer,
  - (ii) the other party, and
  - (iii) any surety affected or proposed.

(4) The application must—

- (a) specify—

- (i) the decision that the applicant wants the court to make,
  - (ii) each offence charged, or for which the defendant was arrested, and
  - (iii) the police bail decision to be reconsidered and the reasons given for it;
- (b) explain, as appropriate—
- (i) why the court should grant bail itself, or withdraw it, or impose or vary a condition, and
  - (ii) if the applicant is the prosecutor, what material information has become available since the police bail decision was made;
- (c) propose the terms of any suggested condition of bail; and
- (d) if the applicant wants an earlier hearing than paragraph (7) requires, ask for that, and explain why it is needed.
- (5) A prosecutor who applies under this rule must serve on the defendant, with the application, notice that the court has power to withdraw bail and, if the defendant is absent when the court makes its decision, order the defendant's arrest.
- (6) A party who opposes an application must—
- (a) so notify the court officer and the applicant at once; and
  - (b) serve on each notice of the reasons for opposition.
- (7) Unless the court otherwise directs, the court officer must arrange for the court to hear the application as soon as practicable and in any event—
- (a) if it is an application to withdraw bail, no later than the second business day after it was served;
  - (b) in any other case, no later than the fifth business day after it was served.
- (8) The court may—
- (a) vary or waive a time limit under this rule;
  - (b) allow an application to be in a different form to one set out in the Practice Direction;
  - (c) if rule 19.2 allows, determine without a hearing an application to vary a condition.

*[Note. The Practice Direction sets out a form of application for use in connection with this rule.*

*Under section 5B of the Bail Act 1976(1), where—*

- (a) *a defendant has been charged with an offence; and*
- (b) *the offence is one which can be tried in the Crown Court,*

*on application by the prosecutor a magistrates' court may withdraw bail granted by a constable, impose conditions of bail, or vary conditions of bail. See also sections 37, 37C(2)(b), 37CA(2)(b), 46A and 47(1B) of the Police and Criminal Evidence Act 1984(2).*

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(1) 1976 c. 63; section 5B was inserted by section 30 of the Criminal Justice and Public Order Act 1994 (c. 33) and amended by section 129(3) of the Criminal Justice and Police Act 2001 (c. 16), section 109 of, and paragraph 183 of Schedule 8 and Schedule 10 to, the Courts Act 2003 (c. 39) and section 198 of the Extradition Act 2003 (c. 41).

(2) 1984 c. 60; section 37 was amended by section 108(7) of, and Schedule 15 to, the Children Act 1989 (c. 41), sections 72 and 101(2) of, and Schedule 13 to, the Criminal Justice Act 1991 (c. 53), sections 29(4) and 168(3) of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 28 of, and paragraphs 1 and 2 of Schedule 2 to, the Criminal Justice Act 2003 (c. 44), section 23(1) of, and paragraphs 1 and 2 of Schedule 1 to, the Drugs Act 2005 (c. 17) and sections 11 and 52 of, and paragraph 9 of Schedule 14 to, the Police and Justice Act 2006 (c. 48). Section 37C was inserted by section 28 of, and paragraphs 1 and 3 of Schedule 2 to, the Criminal Justice Act 2003 (c. 44). Section 37CA was inserted by section 10 of, and paragraphs 1 and 8 of Schedule 6 to, the Police and Justice Act 2006 (c. 48). Section 46A was inserted by section 29 of the Criminal Justice and Public Order Act 1994 (c. 33), and amended by section 28 of, and paragraphs 1 and 5 of Schedule 2 to, the Criminal Justice Act 2003 (c. 44), sections 10 and 46 of, and paragraphs 1 and 7 of Schedule 6 to, the Police and Justice Act 2006 (c. 48) and sections 107 and 178 of, and Part 3 of Schedule 3 to, the Coroners and Justice Act 2009 (c. 25). Section 47(1B) was inserted by section 28 of, and paragraphs 1 and 6 of Schedule 2 to, the Criminal Justice

*Under section 43B of the Magistrates' Courts Act 1980(3), where a defendant has been charged with an offence, on application by the defendant a magistrates' court may grant bail itself, in substitution for bail granted by a custody officer; or vary the conditions of bail granted by a custody officer. See also sections 37, 37C(2)(b), 37CA(2)(b), 46A and 47(1C), (1D) of the Police and Criminal Evidence Act 1984(4).*

*Under section 47(1E) of the Police and Criminal Evidence Act 1984(5), where a defendant has been released on bail by a custody officer without being charged with an offence, on application by the defendant a magistrates' court may vary any conditions of that bail. See also sections 37, 37C(2)(b), 37CA(2)(b), 46A and 47(1C) of the Act.]*

### **Notice of application to consider bail**

**19.7.**—(1) This rule applies where—

- (a) in a magistrates' court—
  - (i) a prosecutor wants the court to withdraw bail granted by the court, or to impose or vary a condition of such bail, or
  - (ii) a defendant wants the court to reconsider such bail before the next hearing in the case;
- (b) in the Crown Court, a party wants the court to grant bail that has been withheld, or to withdraw bail that has been granted, or to impose a new bail condition or to vary a present one;

(2) Such a party must—

- (a) apply in writing;
- (b) serve the application on—
  - (i) the court officer,
  - (ii) the other party, and
  - (iii) any surety affected or proposed; and
- (c) serve the application not less than 2 business days before any hearing in the case at which the applicant wants the court to consider it, if such a hearing is already due.

(3) The application must—

- (a) specify—
  - (i) the decision that the applicant wants the court to make,
  - (ii) each offence charged, and
  - (iii) each relevant previous bail decision and the reasons given for each;
- (b) if the applicant is a defendant, explain—
  - (i) as appropriate, why the court should not withhold bail, or why it should vary a condition, and

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Act 2003 (c. 44) and amended by section 10 of, and paragraphs 1 and 11 of Schedule 6 to, the Police and Justice Act 2006 (c. 48).

(3) 1980 c. 43; section 43B was inserted by section 27 of, and paragraph 3 of Schedule 3 to, the Criminal Justice and Public Order Act 1994 (c. 33).

(4) 1984 c. 60; section 47(1C) and (1D) were inserted by section 28 of, and paragraphs 1 and 6 of Schedule 2 to, the Criminal Justice Act 2003 (c. 44), and section 47(1C) was amended by section 10 of, and paragraphs 1 and 11 of Schedule 6 to, the Police and Justice Act 2006 (c. 48).

(5) 1984 c. 60; section 47(1E) was inserted by section 28 of, and paragraphs 1 and 6 of Schedule 2 to, the Criminal Justice Act 2003 (c. 44).

- (ii) what further information or legal argument, if any, has become available since the most recent previous bail decision was made;
  - (c) if the applicant is the prosecutor, explain—
    - (i) as appropriate, why the court should withdraw bail, or impose or vary a condition, and
    - (ii) what material information has become available since the most recent previous bail decision was made;
  - (d) propose the terms of any suggested condition of bail; and
  - (e) if the applicant wants an earlier hearing than paragraph (6) requires, ask for that, and explain why it is needed.
- (4) A prosecutor who applies under this rule must serve on the defendant, with the application, notice that the court has power to withdraw bail and, if the defendant is absent when the court makes its decision, order the defendant's arrest.
- (5) A party who opposes an application must—
- (a) so notify the court officer and the applicant at once; and
  - (b) serve on each notice of the reasons for opposition.
- (6) Unless the court otherwise directs, the court officer must arrange for the court to hear the application as soon as practicable and in any event—
- (a) if it is an application to grant or withdraw bail, no later than the second business day after it was served;
  - (b) if it is an application to impose or vary a condition, no later than the fifth business day after it was served.
- (7) The court may—
- (a) vary or waive a time limit under this rule;
  - (b) allow an application to be in a different form to one set out in the Practice Direction, or to be made orally;
  - (c) if rule 19.2 allows, determine without a hearing an application to vary a condition.

*[Note. The Practice Direction sets out a form of application for use in connection with this rule.*

*In addition to the court's general powers in relation to bail—*

- (a) *under section 3(8) of the Bail Act 1976(6), on application by either party the court may impose a bail condition or vary a condition it has imposed. Until the Crown Court makes its first bail decision in the case, a magistrates' court may vary a condition which it imposed on committing or sending a defendant for Crown Court trial.*
- (b) *under section 5B of the Bail Act 1976(7), where the defendant is on bail and the offence is one which can be tried in the Crown Court, on application by the prosecutor a magistrates' court may withdraw bail, impose conditions of bail or vary the conditions of bail.*

*Under Part IIA of Schedule 1 to the Bail Act 1976(8), if the court withholds bail then at the first hearing after that the defendant may support an application for bail with any argument as to fact*

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(6) 1976 c. 63; section 3(8) was amended by section 65 of, and Schedule 12 to, the Criminal Law Act 1977 (c. 45) and is further amended by paragraph 48 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), commenced in part, for certain purposes and in relation to certain local justice areas (see S.I. 2012/1320), and otherwise with effect from a date to be appointed.

(7) 1976 c. 63; section 5B was inserted by section 30 of the Criminal Justice and Public Order Act 1994 (c. 33) and amended by section 129(3) of the Criminal Justice and Police Act 2001 (c. 16), section 109 of, and paragraph 183 of Schedule 8 and Schedule 10 to, the Courts Act 2003 (c. 39) and section 198 of the Extradition Act 2003 (c. 41).

(8) 1976 c. 63; Schedule 1, Part IIA was added by section 154 of the Criminal Justice Act 1988 (c. 33).

*or law, whether or not that argument has been advanced before. At subsequent hearings, the court need not hear arguments which it has heard previously.]*

**Defendant’s application or appeal to the Crown Court after magistrates’ court bail decision**

**19.8.**—(1) This rule applies where a defendant wants to—

- (a) apply to the Crown Court for bail after a magistrates’ court has withheld bail; or
- (b) appeal to the Crown Court after a magistrates’ court has refused to vary a bail condition as the defendant wants.

(2) The defendant must—

- (a) apply to the Crown Court in writing as soon as practicable after the magistrates’ court’s decision; and
- (b) serve the application on—
  - (i) the Crown Court officer,
  - (ii) the magistrates’ court officer,
  - (iii) the prosecutor, and
  - (iv) any surety affected or proposed.

(3) The application must—

- (a) specify—
  - (i) the decision that the applicant wants the Crown Court to make, and
  - (ii) each offence charged;
- (b) explain—
  - (i) as appropriate, why the Crown Court should not withhold bail, or why it should vary the condition under appeal, and
  - (ii) what further information or legal argument, if any, has become available since the magistrates’ court’s decision;
- (c) propose the terms of any suggested condition of bail; and
- (d) if the applicant wants an earlier hearing than paragraph (6) requires, ask for that, and explain why it is needed.

(4) The magistrates’ court officer must as soon as practicable serve on the Crown Court officer—

- (a) a copy of the note or record made under rule 19.4(1) in connection with the magistrates’ court’s decision; and
- (b) the date of the next hearing, if any, in the magistrates’ court.

(5) A prosecutor who opposes the application must—

- (a) so notify the Crown Court officer and the defendant at once; and
- (b) serve on each notice of the reasons for opposition.

(6) Unless the Crown Court otherwise directs, the court officer must arrange for the court to hear the application or appeal as soon as practicable and in any event no later than the business day after it was served.

(7) The Crown Court may vary a time limit under this rule.

*[Note. The Practice Direction sets out a form of application for use in connection with this rule.*

*Under section 81 of the Senior Courts Act 1981(9), the Crown Court may grant bail in a magistrates' court case in which the magistrates' court has withheld bail.*

*Under section 16 of the Criminal Justice Act 2003(10), a defendant may appeal to the Crown Court against a bail condition imposed by a magistrates' court only where—*

- (a) *the condition is one that the defendant must—*
  - (i) *live and sleep at a specified place, or away from a specified place,*
  - (ii) *give a surety or a security,*
  - (iii) *stay indoors between specified hours,*
  - (iv) *comply with electronic monitoring requirements, or*
  - (v) *make no contact with a specified person; and*
- (b) *the magistrates' court has determined an application by either party to vary that condition.*

*In an extradition case, where a magistrates' court withholds bail or imposes bail conditions, on application by the defendant the High Court may grant bail, or vary the conditions, under section 22 of the Criminal Justice Act 1967(11). For the procedure in the High Court, see Schedule 1 to the Civil Procedure Rules 1998 (RSC Order 79)(12).]*

### **Prosecutor's appeal against grant of bail**

- 19.9.**—(1) This rule applies where a prosecutor wants to appeal—
- (a) to the Crown Court against a grant of bail by a magistrates' court, in a case in which the defendant has been charged with, or convicted of, an offence punishable with imprisonment; or
  - (b) to the High Court against a grant of bail—
    - (i) by a magistrates' court, in an extradition case, or
    - (ii) by the Crown Court, except in a case in which the Crown Court granted bail on an appeal to which paragraph (1)(a) applies.
- (2) The prosecutor must tell the court which has granted bail of the decision to appeal—
- (a) at the end of the hearing during which the court granted bail; and
  - (b) before the defendant is released on bail.
- (3) The court which has granted bail must exercise its power to remand the defendant in custody pending determination of the appeal.
- (4) The prosecutor must serve an appeal notice—
- (a) on the court officer for the court which has granted bail and on the defendant;

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(9) 1981 c. 54; section 81(1) was amended by sections 29 and 60 of the Criminal Justice Act 1982 (c. 48), section 15 of, and paragraph 2 of Schedule 12 to, the Criminal Justice Act 1987 (c. 38), section 168 of, and paragraph 19 of Schedule 9 and paragraph 48 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 119 of, and paragraph 48 of Schedule 8 and Schedule 10 to, the Crime and Disorder Act 1998 (c. 37), section 165 of, and paragraph 87 of Schedule 9 and Schedule 12 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), paragraph 54 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), articles 2 and 6 of S.I. 2004/1033 and section 177(1) of, and paragraph 76 of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25). It is further amended by paragraph 54 of Schedule 3, paragraph 4 of Schedule 36 and Part 4 of Schedule 37, to the Criminal Justice Act 2003 (c. 44) in relation to certain local justice areas (see S.I. 2012/1320) and otherwise with effect from a date to be appointed.

(10) 2003 c. 44.

(11) 1967 c. 80; section 22 was amended by section 56 of, and paragraph 48 of Schedule 8 and Schedule 11 to, the Courts Act 1971 (c. 23), section 12 of, and paragraphs 36 and 37 of Schedule 2 and Schedule 3 to, the Bail Act 1976 (c. 63), section 65 of, and Schedules 12 and 13 to, the Criminal Law Act 1977 (c. 45), paragraph 15 of Schedule 10 to the Criminal Justice and Public Order Act 1994 (c. 33), sections 17 and 332 of, and Schedule 37 to, the Criminal Justice Act 2003 (c. 44) and section 42 of, and paragraph 27 of Schedule 13 to, the Police and Justice Act 2006 (c. 48).

(12) S.I. 1998/3132; Schedule 1 RSC Order 79 was amended by S.I. 1999/1008, 2001/256, 2003/3361 and 2005/617.

- (b) not more than 2 hours after telling that court of the decision to appeal.
- (5) The appeal notice must specify—
  - (a) each offence with which the defendant is charged;
  - (b) the decision under appeal;
  - (c) the reasons given for the grant of bail; and
  - (d) the grounds of appeal.
- (6) The court officer for the court which has granted bail must, as soon as practicable, serve on the appeal court officer—
  - (a) the appeal notice;
  - (b) a copy of the note or record made under rule 19.4(1); and
  - (c) the date of the next hearing, if any, in the court which has granted bail.
- (7) If the Crown Court so directs, the Crown Court officer must arrange for the defendant to be assisted by the Official Solicitor in a case in which the defendant—
  - (a) has no legal representative; and
  - (b) asks for such assistance.
- (8) On an appeal to the Crown Court, the Crown Court officer must arrange for the court to hear the appeal as soon as practicable and in any event no later than the second business day after the appeal notice was served.
- (9) The prosecutor—
  - (a) may abandon an appeal to the Crown Court without the court’s permission, by serving a notice of abandonment, signed by or on behalf of the prosecutor, on—
    - (i) the defendant,
    - (ii) the Crown Court officer, and
    - (iii) the magistrates’ court officerbefore the hearing of the appeal begins; but
  - (b) after the hearing of the appeal begins, may only abandon the appeal with the Crown Court’s permission.
- (10) The court officer for the court which has granted bail must instruct the defendant’s custodian to release the defendant on the bail granted by that court, subject to any condition or conditions of bail imposed, if—
  - (a) the prosecutor fails to serve an appeal notice within the time to which paragraph (4) refers; or
  - (b) the prosecutor serves a notice of abandonment under paragraph (9).

*[Note. See section 1 of the Bail (Amendment) Act 1993(13). The time limit for serving an appeal notice is prescribed by section 1(5) of the Act. It may be neither extended nor shortened.*

*For the procedure in the High Court, see Schedule 1 to the Civil Procedure Rules 1998 (RSC Order 79).]*

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(13) 1993 c. 26; section 1 was amended by sections 200 and 220 of, and Schedule 4 to, the Extradition Act 2003 (c. 41), section 18 of the Criminal Justice Act 2003 (c. 44), section 15 of, and paragraph 231 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4) and section 42 of, and paragraph 28 of Schedule 13 to, the Police and Justice Act 2006 (c. 48). It is further amended by paragraph 32 of Schedule 11 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), with effect from a date to be appointed.

### Consideration of bail in a murder case

**19.10.**—(1) This rule applies in a case in which—

- (a) the defendant is charged with murder; and
- (b) the Crown Court has not yet considered bail.

(2) The magistrates' court officer must arrange with the Crown Court officer for the Crown Court to consider bail as soon as practicable and in any event no later than the second business day after—

- (a) a magistrates' court sends the defendant to the Crown Court for trial; or
- (b) the first hearing in the magistrates' court, if the defendant is not at once sent for trial.

*[Note. See section 115 of the Coroners and Justice Act 2009(14).]*

### Condition of residence

**19.11.**—(1) The defendant must notify the prosecutor of the address at which the defendant will live and sleep if released on bail with a condition of residence—

- (a) as soon as practicable after the institution of proceedings, unless already done; and
- (b) as soon as practicable after any change of that address.

(2) The prosecutor must help the court to assess the suitability of an address proposed as a condition of residence.

### Electronic monitoring requirements

**19.12.**—(1) This rule applies where the court imposes electronic monitoring requirements, where available, as a condition of bail.

(2) The court officer must—

- (a) inform the person responsible for the monitoring ('the monitor') of—
  - (i) the defendant's name, and telephone number if available,
  - (ii) each offence with which the defendant is charged,
  - (iii) details of the place at which the defendant's presence must be monitored,
  - (iv) the period or periods during which the defendant's presence at that place must be monitored, and
  - (v) if fixed, the date on which the defendant must surrender to custody;
- (b) inform the defendant and, where the defendant is under 16, an appropriate adult, of the monitor's identity and the means by which the monitor may be contacted; and
- (c) notify the monitor of any subsequent—
  - (i) variation or termination of the electronic monitoring requirements, or
  - (ii) fixing or variation of the date on which the defendant must surrender to custody.

*[Note. Under section 3(6ZAA) of the Bail Act 1976(15), the conditions of bail that the court may impose include requirements for the electronic monitoring of a defendant's compliance with*

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(14) 2009 c. 25.

(15) 1976 c. 63; 1976 c. 63; section 3(6ZAA) was substituted, with sub-section (6ZAB), for sub-section (6ZAA) as inserted by section 131 of the Criminal Justice and Police Act 2001 (c. 16) by section 51 of, and paragraphs 1 and 2 of Schedule 11 to, the Criminal Justice and Immigration Act 2008 (c. 4). It is amended by paragraph 3 of Schedule 11 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), with effect from a date to be appointed.



*other bail conditions, for example a curfew. Sections 3AA and 3AB of the 1976 Act(16) set out conditions for imposing such requirements.*

*Under section 3AC of the 1976 Act(17), where the court imposes electronic monitoring requirements they must provide for the appointment of a monitor.]*

### **Accommodation or support requirements**

**19.13.**—(1) This rule applies where the court imposes as a condition of bail a requirement, where available, that the defendant must—

- (a) reside in accommodation provided for that purpose by, or on behalf of, a public authority;
  - (b) receive bail support provided by, or on behalf of, a public authority.
- (2) The court officer must—
- (a) inform the person responsible for the provision of any such accommodation or support ('the service provider') of—
    - (i) the defendant's name, and telephone number if available,
    - (ii) each offence with which the defendant is charged,
    - (iii) details of the requirement,
    - (iv) any other bail condition, and
    - (v) if fixed, the date on which the defendant must surrender to custody;
  - (b) inform the defendant and, where the defendant is under 16, an appropriate adult, of—
    - (i) the service provider's identity and the means by which the service provider may be contacted, and
    - (ii) the address of any accommodation in which the defendant must live and sleep; and
  - (c) notify the service provider of any subsequent—
    - (i) variation or termination of the requirement,
    - (ii) variation or termination of any other bail condition, and
    - (iii) fixing or variation of the date on which the defendant must surrender to custody.

### **Requirement for a surety or payment, etc.**

**19.14.**—(1) This rule applies where the court imposes as a condition of bail a requirement for—

- (a) a surety;
  - (b) a payment;
  - (c) the surrender of a document or thing.
- (2) The court may direct how such a condition must be met.
- (3) Unless the court otherwise directs, if any such condition or direction requires a surety to enter into a recognizance—

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(16) 1976 c. 63; 1976 c. 63; section 3AA was inserted by section 131 of the Criminal Justice and Police Act 2001 (c. 16) and amended by sections 51 and 149 of, and paragraphs 1 and 3 of Schedule 11 to, and Part 4 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4). It is further amended by paragraph 4 of Schedule 11 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), with effect from a date to be appointed. Section 3AB was inserted by section 51 of, and paragraphs 1 and 4 of Schedule 11 to, the Criminal Justice and Immigration Act 2008 (c. 4). It is amended by paragraph 6 of Schedule 11 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), with effect from a date to be appointed.

(17) 1976 c. 63; section 3AC was inserted by section 51 of, and paragraphs 1 and 4 of Schedule 11 to, the Criminal Justice and Immigration Act 2008 (c. 4). It is amended by paragraph 7 of Schedule 11 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), with effect from a date to be appointed.

- (a) the recognizance must specify—
    - (i) the amount that the surety will be required to pay if the purpose for which the recognizance is entered is not fulfilled, and
    - (ii) the date, or the event, upon which the recognizance will expire;
  - (b) the surety must enter into the recognizance in the presence of—
    - (i) the court officer,
    - (ii) the defendant’s custodian, where the defendant is in custody, or
    - (iii) someone acting with the authority of either; and
  - (c) the person before whom the surety enters into the recognizance must at once serve a copy on—
    - (i) the surety, and
    - (ii) as appropriate, the court officer and the defendant’s custodian.
- (4) Unless the court otherwise directs, if any such condition or direction requires someone to make a payment, or surrender a document or thing—
- (a) that payment, document or thing must be made or surrendered to—
    - (i) the court officer,
    - (ii) the defendant’s custodian, where the defendant is in custody, or
    - (iii) someone acting with the authority of either; and
  - (b) the court officer or the custodian, as appropriate, must serve immediately on the other a statement that the payment, document or thing has been made or surrendered.
- (5) The custodian must release the defendant when each requirement ordered by the court has been met.

*[Note. See also section 119 of the Magistrates’ Courts Act 1980(18).]*

#### **Forfeiture of a recognizance given by a surety**

**19.15.**—(1) This rule applies where the court imposes as a condition of bail a requirement that a surety enter into a recognizance and, after the defendant is released on bail,—

- (a) the defendant fails to surrender to custody as required, or
  - (b) it appears to the court that the surety has failed to comply with a condition or direction.
- (2) The court officer must serve notice on—
- (a) the surety; and
  - (b) each party to the decision to grant bail,

of the hearing at which the court will consider the forfeiture of the recognizance.

(3) The court must not forfeit the recognizance less than 5 business days after service of notice under paragraph (2).

*[Note. If the purpose for which a recognizance is entered is not fulfilled, that recognizance may be forfeited by the court. If the court forfeits a surety’s recognizance, the sum promised by that person is then payable to the Crown. See also section 120 of the Magistrates’ Courts Act 1980(19).]*

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(18) 1980 c. 43; section 119 was amended by section 77 of, and paragraph 55 of Schedule 14 to, the Criminal Justice Act 1982 (c. 48).

(19) 1980 c. 43; section 120 was amended by section 55 of the Crime and Disorder Act 1998 (c. 37). It is further amended by section 62 of, and paragraphs 45 and 56 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15) with effect from a date to be appointed.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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