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BAIL ACT 1952

The text of this Act is shown “as amended” by amendments found within the Justice Reform Act 2021, and any additional amendments set out within the Justice Reform (Amendment) Bill 2025 (JRAB) once these take effect.

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BAIL ACT 1952

<i>Received Royal Assent:</i>	23 May 1952
<i>Passed:</i>	7 July 1952
<i>Commenced:</i>	7 July 1952

AN ACT to consolidate and amend the law relating to bail.

1 Short title

This Act may be cited as the Bail Act, 1952, and this Act and the Criminal Law Acts, 1872 to 1946, may be together cited as the Criminal Law Acts, 1872 to 1952, and shall be construed as one.

2 Bail in offences triable by a Court of Summary Jurisdiction

Where any person is charged with any offence before a Court of Summary Jurisdiction, the Court which is trying the charge, if it shall see fit, or if it shall refuse to do so, one of the Judges of the High Court of Justice, if he shall see fit, may, at any time, admit such accused person to bail by recognizance, with or without a surety or sureties, conditioned that he will appear at the time and place when and where the charge is to be further inquired into, or when or where he is to be tried for such offence, and that he will surrender and take his trial, and will not depart the court without leave.

3 Bail in offences triable on information

(1) Where any person is charged with an offence triable on information before a justice or justices of the peace, the justice or justices, if he or they shall see fit, may, at any time, admit such accused person to bail by recognizance, with or without a surety or sureties, conditioned that he will appear at the time and place when or where the charge is to be further inquired into, or when or where he is to be tried, for such offence, and that he will surrender and take his trial, and will not depart the court without leave.

(2) [Repealed]¹

- (3) Where any person is charged with an offence triable on information before a justice or justices of the peace, one of the judges of the High Court may, at any time (whether the justice or justices has or have refused to do so or not) admit such accused person to bail by recognizance with or without a surety or sureties, conditioned that he will appear at the time and place when or where the charge is to be further inquired into, or when or where he is to be tried for such offence, and that he will surrender and take his trial, and will not depart the court without leave.²

3A Offence of absconding by person released on bail

P1976/63/6 and drafting

- (1) If a person who has been released on bail fails without reasonable excuse to surrender to custody at the appointed time and place he or she commits an offence.
- (2) If a person who, —
- (a) has been released on bail in criminal proceedings; and
 - (b) having reasonable cause for failing to do so, has failed to surrender to custody,
- fails to surrender to custody at the appointed place as soon after the appointed time as is reasonably practicable he or she commits an offence.
- (3) It is for the accused to prove that he or she had reasonable cause for his or her failure to surrender to custody.
- (4) A failure to give to a person granted bail in criminal proceedings a copy of the record of the decision does not constitute a reasonable excuse for that person's failure to surrender to custody.
- (5) An offence under subsection (1) or (2) is punishable either on summary conviction or as if it were a criminal contempt of court.
- (6) Where a court of summary jurisdiction convicts a person of an offence under subsection (1) or (2) 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 sends that person for trial to a Court of General Gaol Delivery for another offence, that it would be appropriate for him or her to be dealt with for the offence under subsection (1) or (2) by a Court of General Gaol Delivery before which he is to be tried for the other offence,
- commit him or her in custody or on bail to that court for sentence.
- (7) A person who is convicted summarily of an offence under subsection (1) or (2) and is not committed to a Court of General Gaol Delivery for sentence shall be liable to custody for a term not exceeding three months

or to a fine not exceeding level 5 on the standard scale or to both, and a person who is so committed for sentence or is dealt with as for such a contempt shall be liable to custody for a term not exceeding 12 months or to a fine or to both.

- (8) In any proceedings for an offence under subsection (1) or (2) a document purporting —
- (a) to be a copy of the part of the prescribed record which relates to the time and place appointed for the person specified in the record to surrender to custody; and
 - (b) to be duly certified to be a true copy of that part of the record,
- constitutes evidence of the time and place appointed for that person to surrender to custody.
- (9) For the purposes of subsection (8) above, —
- (a) “the prescribed record” means the record of the decision of the court or constable granting bail subject to a duty to surrender to the custody of the court;
 - (b) the copy of the prescribed record is duly certified if it is certified —
 - (i) by the appropriate officer of the court;
 - (ii) by the constable who took the decision; or
 - (iii) by a constable designated for the purpose by the officer in charge of the police station from which the person to whom the record relates was released;
 - (c) “the appropriate officer” of the court is, —
 - (i) in the case of a court of summary jurisdiction, the High Bailiff or a justice of the peace who is a member of the court;
 - (ii) in the case of a Court of General Gaol Delivery or the Appeal Division, the Deemster presiding over the court.
- (10) Section 75 of the *Summary Jurisdiction Act 1989* shall not apply in relation to an offence under subsection (1) or (2).
- (11) Where a person has been released on bail in criminal proceedings and that bail was granted by a constable, a court of summary jurisdiction shall not try that person for an offence under subsection (1) or (2) in relation to that bail (the “relevant offence”) unless either or both of subsections (12) and (13) below applies.
- (12) This subsection applies if a complaint is laid for the relevant offence within six months from the time of the commission of the relevant offence.
- (13) This subsection applies if a complaint is laid for the relevant offence no later than three months from the time of the occurrence of the first of the events mentioned in subsection (14) to occur after the commission of the relevant offence.

- (14) Those events are, —
- (a) the person surrenders to custody at the appointed place;
 - (b) the person is arrested, or attends at a police station, in connection with the relevant offence or the offence for which he was granted bail;
 - (c) the person appears or is brought before a court in connection with the relevant offence or the offence for which he was granted bail.

3A3B Conditions for bail

- (1) A court may require a person to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that —
- (a) he surrenders to custody;
 - (b) he does not commit an offence while on bail;
 - (c) he does not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person;
 - (d) he makes himself available for the purpose of enabling inquiries or a report to be made to assist the court in dealing with him for the offences.
- (2) If it appears to the court that a person who is to be released on bail is unlikely to remain in the Isle of Man until the time appointed to him to surrender to custody, that person may be required, before release on bail, to give security for his surrender to custody.³

3C Reconsideration of decisions granting bail

P1976/63/5B and drafting

- (1) This section applies where a court has granted bail in criminal proceedings in connection with an offence to which this section applies or in proceedings for such an offence.
- (2) The court may, on application by the prosecutor for the decision to be reconsidered —
- (a) vary the conditions of bail;
 - (b) impose conditions in respect of bail which has been granted unconditionally; or
 - (c) withhold bail.
- (3) The offences to which this section applies are offences triable on information and offences triable either way.
- (4) No application for the reconsideration of a decision under this section shall be made unless it is based on information which was not available to the court or constable when the decision was taken.

- (5) Whether or not the person to whom the application relates appears before it, the court shall take the decision in accordance with section 3B.
- (6) Where the decision of the court on a reconsideration under this section is to withhold bail from the person to whom it was originally granted the court shall—
 - (a) if that person is before the court, remand him in custody, and
 - (b) if that person is not before the court, order him to surrender himself forthwith into the custody of the court.
- (7) Where a person surrenders himself into the custody of the court in compliance with an order under subsection (5), the court shall remand the person in custody.
- (8) A person who has been ordered to surrender to custody under subsection (5) above may be arrested without warrant by a constable if the person fails without reasonable cause to surrender to custody in accordance with the order.
- (9) A person arrested under subsection (7) above shall be brought as soon as practicable, and in any event within 24 hours after his or her arrest, before a justice of the peace and the justice shall remand him or her in custody.
- (10) In reckoning for the purposes of this subsection any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.
- (11) Where the court, on a reconsideration under this section, refuses to withhold bail from a relevant person after hearing representations from the prosecutor in favour of withholding bail, then the court shall give reasons for refusing to withhold bail.
- (12) In subsection (9), “relevant person” means a person to whom section 3B is applicable.
- (13) A court which under subsection (11) is required to give reasons for its decision shall include a note of those reasons in any record of its decision and, if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of any such record as soon as practicable after the record is made.
- (14) Rules of Court shall include provision—
 - (a) requiring notice of an application under this section and of the grounds for it to be given to the person affected, including notice of the powers available to the court under it;
 - (b) for securing that any representations made by the person affected (whether in writing or orally) are considered by the court before making its decision.

3D Prosecution right of appeal against granting of bail

P1993/26/1 and drafting

- (1) Where a court of summary jurisdiction grants bail to a person who is charged with, or convicted of, an offence punishable by imprisonment, the prosecution may appeal to a Court of General Gaol Delivery against the granting of bail.
- (2) Where a Court of General Gaol Delivery grants bail to a person who is charged with, or convicted of, an offence punishable by imprisonment, the prosecution may appeal to the High Court against the granting of bail.
- (3) An appeal under subsection (2) may not be made where a Deemster has granted bail on an appeal under subsection (1).
- (4) Subsections (1) and (2) apply only where the prosecution is conducted –
 - (a) by or on behalf of the Attorney General; or
 - (b) by a person falling within such class or description of person as may be prescribed for the purposes of this section by order made by the Department.

Tynwald procedure – negative.

- (5) An appeal under subsection (1) or (2) may be made only if –
 - (a) the prosecution made representations that bail should not be granted; and
 - (b) the representations were made before bail was granted.
- (6) If the prosecution wishes to exercise the right of appeal set under subsection (1) or (2), the prosecution must –
 - (a) give oral notice of appeal to the court which granted bail at the conclusion of the proceedings in which bail has been granted and before the release from custody of the person concerned; and
 - (b) serve written notice of appeal within two hours of the conclusion of such proceedings on the court which granted bail and on the person concerned.
- (7) Upon receipt from the prosecution of oral notice of appeal from its decision to grant bail the court which has granted bail must remand in custody the person concerned until the appeal is determined or otherwise disposed of.
- (8) Where the prosecution fails to serve one or both of the notices required by subsection (6)(b) within the period of two hours mentioned in that subsection, the appeal shall be deemed to have been disposed of.
- (9) The hearing of an appeal under subsection (1) or (2) against a decision of the court to grant bail shall be commenced within forty-eight hours, excluding weekends and any public holiday, from the date on which oral notice of appeal is given.

- (10) At the hearing of any appeal by the prosecution under this section, such appeal shall be by way of re-hearing, and the Deemster hearing any such appeal may remand the person concerned in custody or may grant bail subject to such conditions (if any) as the Deemster thinks fit.
- (11) In relation to a person under the age of 18 –
 - (a) the references in subsections (1) and (2) to an offence punishable by imprisonment are to be read as references to an offence which would be so punishable in the case of an adult; and
 - (b) the references in subsections (7) and (10) to remand in custody are to be read as remands to accommodation provided by the Department of Health and Social Care.

3E Limit on applications for bail

P1976/63/sch 1, Part IIA and drafting

- (1) If the court decides not to grant the defendant bail, it is the court's duty to consider, at each subsequent hearing while the defendant is a person to whom section 3C applies and remains in custody, whether the defendant ought to be granted bail.
- (2) At the first hearing after that at which the court decided not to grant the defendant bail, the defendant may support an application for bail with any argument as to fact or law that he or she desires (whether or not he or she has advanced that argument previously).
- (3) At subsequent hearings the court need not hear arguments as to fact or law which it has heard previously.

4 Continuous bail

[E1914/19]

Where a person is remanded on bail, the recognizance may be conditioned for his appearance at every time or place to which during the course of the proceedings the hearing may be from time to time adjourned, without prejudice, however, to the power of the court to vary the order at any subsequent hearing.

5 Notice of right to apply for bail

[E1914/23]

Where a court of summary jurisdiction commits a person charged with ~~any felony or misdemeanour~~ **an offence** for trial and does not admit him to bail the court shall inform the person accused of his right to apply for bail to a judge of the High Court of Justice.

6 Mode of entering into recognizances

[E1914/24]

Where as a condition of the release of any person he is required to enter into a recognizance with a surety or sureties, the recognizances of the surety or sureties may be taken separately and either before or after the recognizances of the principal, and if so taken the recognizances of the principal and surety or sureties shall be as binding as if they had been taken together and at the same time.

7 Recognizances taken out of Court

[M1927/21]

- (1) When any court has fixed, as respects any recognizance, the amount in which the principal and the surety or sureties (if any) is or are to be bound, the recognizance, notwithstanding anything in this or any other Act, may be entered into before such court, or may be entered into by the parties before any other court, or before the Chief Registrar or the clerk to a Court of General Gaol Delivery or a court of summary jurisdiction, or before a superintendent or inspector or sergeant of police or other officer of police of equal or superior rank or in charge of any police station, or before such other person as the court may direct, or where any of the parties are in prison, before the gaoler or other keeper of such prison; and thereupon all the consequences of the law shall ensue, and the provisions of this Act with respect to recognizances taken before a court shall apply, as if the recognizance had been entered into before the said court.⁴
- (2) For the purposes of this section the expression "Court" means the High Court of Justice, the Court of General Gaol Delivery, a court of summary jurisdiction, a justice or justices of the peace.⁵

8 Recognizances of prisoners may be taken before any justice

[M1927/22]

In any case of an offence triable on information, where a person is imprisoned until he, with or without a surety or sureties, may enter into a recognizance, such recognizance may be taken by and before any justice or authorised person, and it shall be lawful for the gaoler or other person having charge of the prisoner to convey the prisoner to a justice or other authorised person for the purpose of having the recognizance taken. This section shall have effect notwithstanding that in the order of committal it may be directed that the recognizance be taken in the General Registry.⁶

9 Recognizances taken elsewhere than General Registry to be lodged at General Registry⁷

[M1927/2]

In any case of an offence triable on information, where any recognizance is taken elsewhere than at the General Registry, it shall be the duty of the gaoler, or other

person having charge of the prisoner, forthwith to cause such recognizance to be lodged in the General Registry.⁸

10 — ~~Copy of bail bond to be sent to the Attorney General~~

~~[M1927/24]~~

~~When any person committed for trial to the Court of General Gaol Delivery is released on bail, a copy of the bail bond shall forthwith be sent to the Attorney General by the clerk of the court by which bail was granted or, in the case of bail granted by a judge of the High Court, by the Chief Registrar.⁹~~

11 [Repealed]¹⁰

12 Bail on arrest

- (1) Where a person has been granted bail under Part IV of the *Police Powers and Procedures Act 1998* subject to a duty to appear before a court of summary jurisdiction, the court before which he is to appear may appoint a later time as the time at which he is to appear and may enlarge the recognizances of any sureties for him at that time.
- (2) The recognizance of any surety for any person granted bail subject to a duty to attend at a police station may be enforced as if it were conditioned for his appearance before a court of summary jurisdiction.¹¹

13 Persons admitted to bail who may be about to abscond may be arrested

[M1927/26]

Whenever any person charged with any offence triable on information shall have been bailed, it shall be lawful for one of the judges of the High Court of Justice, if he shall see fit, upon application of the surety or either of the sureties of such person, and upon complaint being made in writing and upon oath by such surety, or by some person on his behalf, that the person bailed is about to abscond for the purpose of evading justice, to issue his warrant for the arrest of such person so bailed, and afterwards, upon being satisfied that the ends of justice would otherwise be defeated, to commit such person when so arrested to gaol, until trial, or until he shall produce other sufficient surety, as the case may be, in like manner as before.

14 Bail by Staff of Government Division

- (1) The Staff of Government Division may, if it sees fit, on the application of the appellant, admit the appellant to bail pending the determination of an appeal under Part IX of the *Summary Jurisdiction Act 1989*.¹²
- (2) The power of the Staff of Government Division under subsection (1) may be exercised by any judge of the High Court in the same manner as it may be exercised by that Division and subject to the same provisions.¹³

15 Forfeited recognizances for bail

- (1) Where by a recognizance —
- (a) a person who is charged with an offence (hereinafter called “**the principal party**”) binds himself to perform the following obligation, namely that he will appear before a court at the time and place when and where the said charge will be enquired into or further enquired into, or when or where he is to be tried for such offence, and that he will surrender and take his trial, and will not depart the court without leave; and
 - (b) the principal party either alone, or together with any other person or persons (each such other person being hereinafter called “**the surety**”) acknowledges himself, or severally acknowledge themselves, bound to forfeit to the Crown the sum, or the several sums, stated in the said recognizance, in case the principal party fails to perform the said obligation (the bond of the principal party being hereinafter called “**the principal party’s bond**” and the bond of the surety being hereinafter called “**the surety’s bond**”);

and the principal party fails to perform the said obligation, the court shall inquire into the circumstances of the case, and, at its discretion, may do any one or more of the following, namely:

- (i) order the discharge of the forfeited principal party’s bond;
- (ii) order the discharge of the forfeited surety’s bond (or where there are two or more sureties each forfeited surety’s bond);
- (iii) declare that the recognizance of the principal party’s bond be forfeited;¹⁴
- (iv) declare that the recognizance of the surety’s bond (or, where there are 2 or more sureties, each surety’s bond) be forfeited;¹⁵

and all sums paid in respect of a recognizance so declared to be forfeited shall be applied as fines imposed by the court.¹⁶

- (2) For the purposes of this section, the word “court” means the High Court or the Court of General Gaol Delivery.¹⁷

16 [Repealed]¹⁸

17 [Repealed]¹⁹

18 Commencement of Act

This Act shall come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys.

SCHEDULE²⁰

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ENDNOTES

Table of Endnote References

-
- ¹ Subs (2) repealed by Coroner of Inquests Act 1987 Sch 2.
- ² Subs (3) amended by Coroner of Inquests Act 1987 Sch 2.
- ³ S 3A inserted by Criminal Justice Act 1991 Sch 4.
- ⁴ Subs (1) amended by Criminal Justice Act 1991 Sch 4 and by Law Reform Act 1997 Sch 5.
- ⁵ Subs (2) amended by Coroners of Inquests Act 1987 Sch 2.
- ⁶ S 8 amended by Central Registry Act 2018 Sch.
- ⁷ S 9 heading amended by Central registry Act 2018 Sch.
- ⁸ S 9 amended by Central Registry Act 2018 Sch.
- ⁹ S 10 amended by Law Reform Act 1997 Sch 5.
- ¹⁰ S 11 repealed by Police Powers and Procedures Act 1998 s 51.
- ¹¹ S 12 substituted by Police Powers and Procedures Act 1998 s 51.
- ¹² Subs (1) amended by Criminal Jurisdiction Act 1993 Sch 3.
- ¹³ S 14 substituted by High Court Act 1991 Sch 3.
- ¹⁴ Subpara (iii) substituted by Collection of Fines etc. Act 1985 Sch 1.
- ¹⁵ Subpara (iv) substituted by Collection of Fines etc. Act 1985 Sch 1.
- ¹⁶ Para (b) amended by Collection of Fines etc. Act 1985 Sch 1.
- ¹⁷ Subs (2) amended by Summary Jurisdiction Act 1989 Sch 6 and by High Court Act 1991 Sch 5.
- ¹⁸ S 16 repealed by Summary Jurisdiction Act 1989 Sch 6.
- ¹⁹ S 17 repealed by Statute Law Revision Act 1983 Sch 2.
- ²⁰ Sch repealed by Statute Law Revision Act 1983 Sch 2.