

## **7. Duty imposed on judicial officers in respect of unconvicted defendants**

- (1) Upon and following a defendant's initial appearance in court for an offence every judicial officer who may thereafter order his detention or continued detention in custody before conviction for the offence (including detention during the period of his trial) is under a duty, unless subsection (2) applies, to consider the defendant's case for bail, whether or not an application for bail is made by the defendant or on his behalf.
- (2) Where under section 15 only a Judge of the Supreme Court or a Judge of the Children's Court has power to grant bail for an offence, the judicial officer referred to in subsection (1), other than a Judge of the Supreme Court or a Judge of the Children's Court, shall, whether or not an application for bail is made by the person or on his behalf, cause the defendant to be taken as soon as is practicable before a Judge of the Supreme Court or a Judge of the Children's Court, as the case may require for the purpose of having the defendant's case for bail considered by the Judge.
- (3) Notwithstanding subsection (2), where —
  - (a) the duty described in that subsection or in section 6(3) has been discharged once in relation to a defendant's case for bail; and
  - (b) bail has on that occasion been refused by a Judge of the Supreme Court or a Judge of the Children's Court,

the defendant's case for bail need not be considered on any subsequent occasion in the same case when the defendant's continued detention may be ordered unless the defendant satisfies the judicial officer who may order his detention that —

- (c) new facts have been discovered, new circumstances have arisen or the circumstances have changed since bail was refused on the occasion mentioned in paragraph (b); or
    - (d) he failed to adequately present his case for bail on that occasion,
- but if the judicial officer is so satisfied he shall cause the defendant to be taken as soon as is practicable before a Judge of the Supreme Court or a Judge of the Children's Court as the case may require for the purpose of having the defendant's case for bail considered by the Judge.
- (4) Notwithstanding subsection (1), after the duty described in that subsection has been discharged once in relation to a defendant's case for bail or after a Judge of the Supreme Court or a Judge of the Children's Court has considered the case under section 15, it is sufficient on any subsequent consideration of bail in the same case for a judicial officer, including a Judge of the Supreme Court or a Judge of the Children's Court acting under section 15 —
    - (a) to inquire whether any new fact has been discovered or new circumstance has arisen, or whether the circumstances have changed, since bail was previously granted or refused and whether the defendant considers that he failed to adequately present his case for bail on a previous occasion; and
    - (b) unless he is satisfied that there is any reason of the kind mentioned in paragraph (a) for not doing so, to adopt the decision previously made

in the case, but with power to make such variations of the terms and conditions of bail as he thinks fit.

- (5) The operation of this section is subject to the exercise of the power conferred by section 9 and to the provisions of sections 10, 12 and 16(2) and clause 3A of Part C of Schedule 1.

*[Section 7 amended by No. 74 of 1984 s. 5; No. 49 of 1988 s. 80; No. 45 of 1993 s. 6.]*