



# Justice (Northern Ireland) Act 2004

## 2004 CHAPTER 4

### *Bail*

#### **10 Prosecution right of appeal against grant of bail by magistrates' court**

(1) Where a magistrates' court 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.

[<sup>F1</sup>(1A) Where a magistrates' court grants bail to a person in connection with extradition proceedings, the prosecution may appeal to the High Court against the granting of bail.]

(2) Subsection (1) applies only where the prosecution is conducted—

- (a) by or on behalf of the Director of Public Prosecutions, or
- (b) on behalf of the Police Service of Northern Ireland (whether by a member of that Service or any other person).

(3) An appeal under subsection (1) [<sup>F2</sup>or (1A)] may be made only if—

- (a) the prosecution made representations that bail should not be granted, and
- (b) the representations were made before it was granted.

(4) Where the prosecution wishes to exercise the right of appeal under subsection (1) [<sup>F3</sup>or (1A)], oral notice of appeal shall be given to [<sup>F4</sup>the court which has granted bail] at the conclusion of the proceedings in which bail has been granted and before the release from custody of the person concerned.

(5) Written notice of appeal shall thereafter be served on [<sup>F5</sup>the court which has granted bail] and the person concerned within two hours of the conclusion of such proceedings.

(6) On receipt from the prosecution of oral notice of appeal from its decision to grant bail, [<sup>F5</sup>the court which has granted bail] shall remand in custody the person concerned, until the appeal is determined or otherwise disposed of.

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*Changes to legislation: There are currently no known outstanding effects for the Justice (Northern Ireland) Act 2004, Section 10. (See end of Document for details)*

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- (7) Where the prosecution fails, within the period of two hours mentioned in subsection (5), to serve one or both of the notices required by that subsection, the appeal shall be deemed to have been disposed of.
- (8) The hearing of an appeal under subsection (1) [<sup>F6</sup>or (1A)] against a decision of the <sup>F7</sup>. . . court to grant bail shall be commenced within 48 hours, excluding weekends, Christmas Day, Good Friday and a bank holiday, from the time when oral notice of appeal is given.
- (9) An appeal by the prosecution under this section shall be by way of re-hearing, and on such an appeal the High Court may—
- (a) remand the person concerned in custody, or
  - (b) grant bail subject to such conditions (if any) as it thinks fit.
- (10) No appeal lies against the decision of the High Court on an appeal under this section.
- (11) In relation to a person under the age of 21, the reference in subsection (1) to an offence punishable by imprisonment is to be read as a reference to an offence which would be so punishable in the case of a person over that age.
- [<sup>F8</sup>(12) In this section—
- “extradition proceedings” means proceedings under the Extradition Act 2003;
- “magistrates' court” and “court”, in relation to extradition proceedings, mean a resident magistrate designated in accordance with section 67 or section 139 of the Extradition Act 2003;
- “prosecution”, in relation to extradition proceedings, means the person acting on behalf of the territory to which extradition is sought.]

#### Textual Amendments

- F1** S. 10(1A) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, Sch. 13 para. 29(2); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F2** Words in s. 10(3) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, Sch. 13 para. 29(3); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F3** Words in s. 10(4) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, Sch. 13 para. 29(4)(a); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F4** Words in s. 10(4) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, Sch. 13 para. 29(4)(b); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F5** Words in s. 10(5)(6) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, Sch. 13 para. 29(5); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F6** Words in s. 10(8) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, Sch. 13 para. 29(6)(a); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)
- F7** Words in s. 10(8) omitted (15.1.2007) by virtue of [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, Sch. 13 para. 29(6)(b) ; S.I. 2006/3364, [art. 2\(d\)\(e\)](#) (and those words repealed (prosp.) by Sch. 15 Pt. 4 of that amending Act)
- F8** S. 10(12) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, Sch. 13 para. 29(7); S.I. 2006/3364, [art. 2\(d\)\(e\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Justice (Northern Ireland) Act 2004, Section 10.