



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.
- (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) 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), oral notice of appeal shall be given to the magistrates' court 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 the magistrates' court 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, the magistrates' court shall remand in custody the person concerned, until the appeal is determined or otherwise disposed of.
- (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) against a decision of the magistrates' court to grant bail shall be commenced within 48 hours, excluding weekends,

Status: This is the original version (as it was originally enacted).

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.