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## STATUTORY INSTRUMENTS

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# 2004 No. 1500

## The Criminal Justice (Northern Ireland) Order 2004

### PART IV

#### PROSECUTION APPEALS

##### *General right of appeal in respect of rulings*

##### **General right of appeal in respect of rulings**

**17.**—(1) This Article applies where a judge makes a ruling in relation to a trial on indictment at an applicable time and the ruling relates to one or more offences included in the indictment.

(2) The prosecution may appeal in respect of the ruling in accordance with this Article.

(3) The ruling is to have no effect whilst the prosecution is able to take any steps under paragraph (4).

(4) The prosecution may not appeal in respect of the ruling unless, following the making of the ruling—

(a) it informs the court that it intends to appeal; or

(b) it requests an adjournment to consider whether to appeal and if such an adjournment is granted, it informs the court following the adjournment that it intends to appeal.

(5) If the prosecution requests an adjournment under paragraph (4)(b), the judge may grant such an adjournment.

(6) Where the ruling relates to two or more offences—

(a) any one or more of those offences may be the subject of the appeal; and

(b) if the prosecution informs the court in accordance with paragraph (4) that it intends to appeal, it must at the same time inform the court of the offence or offences which are the subject of the appeal.

(7) Where—

(a) the ruling is a ruling that there is no case to answer; and

(b) the prosecution, at the same time that it informs the court in accordance with paragraph (4) that it intends to appeal, nominates one or more other rulings which have been made by a judge in relation to the trial on indictment at an applicable time and which relate to the offence or offences which are the subject of the appeal,

that other ruling, or those other rulings, are also to be treated as the subject of the appeal.

(8) The prosecution may not inform the court in accordance with paragraph (4) that it intends to appeal, unless, at or before that time, it informs the court that it agrees that, in respect of the offence or each offence which is the subject of the appeal, the defendant in relation to that offence should be acquitted of that offence if either of the conditions mentioned in paragraph (9) is fulfilled.

(9) Those conditions are—

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**Changes to legislation:** *The Criminal Justice (Northern Ireland) Order 2004, Section 17 is up to date with all changes known to be in force on or before 01 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (a) that leave to appeal to the Court of Appeal is not obtained; and
- (b) that the appeal is abandoned before it is determined by the Court of Appeal.

(10) If the prosecution informs the court in accordance with paragraph (4) that it intends to appeal, the ruling mentioned in paragraph (1) is to continue to have no effect in relation to the offence or offences which are the subject of the appeal whilst the appeal is pursued.

(11) If and to the extent that a ruling has no effect in accordance with this Article—

- (a) any consequences of the ruling are also to have no effect;
- (b) the judge may not take any steps in consequence of the ruling; and
- (c) if he does so, any such steps are also to have no effect.

(12) Where the prosecution has informed the court of its agreement under paragraph (8) and either of the conditions mentioned in paragraph (9) is fulfilled, the judge or the Court of Appeal must order that the defendant in relation to the offence or each offence concerned be acquitted of that offence.

(13) In this Article “applicable time”, in relation to a trial on indictment, means any time (whether before or after the commencement of the trial) before the time when the judge starts his summing-up to the jury.

(14) The reference in paragraph (13) to the time when the judge starts his summing-up to the jury includes the time when the judge would start his summing-up if there were a jury.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 4 para. 7A inserted by [S.I. 2008/1769 \(N.I.\) Sch. 1 para. 33\(2\)](#) (Amendment not applied due to drafting error by 2008 1769 (N.I. 2) - the amended provision should read Sch. 2 para. 7A (not Sch. 4 para. 7A). This error has been reported to the relevant Department for correction in due course.)
- Sch. 4 para. 10A inserted by [S.I. 2008/1769 \(N.I.\) Sch. 1 para. 33\(3\)](#) (Amendment not applied due to drafting error by 2008 1769 (N.I. 2) - the amended provision should read Sch. 2 para. 10A (not Sch. 4 para. 10A). This error has been reported to the relevant Department for correction in due course.)
- art. 11A inserted by [2015 c. 9 \(N.I.\) s. 52\(3\)](#)
- art. 14(2)(aa) inserted by [2015 c. 9 \(N.I.\) s. 52\(6\)](#)