

CRIMINAL PROCEDURE (AMENDMENT) (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Bail

Section 18 - Bail review: rights of prosecutor to be heard

155. **Section 18** widens the right of the prosecutor to be heard in certain situations where the court is considering bail issues.
156. Subsection (2) amends section 25 of the 1995 Act so as to require an accused to intimate any application to alter his bail address in writing to the Crown Agent and requires the court to give the prosecutor an opportunity to be heard before determining the application. At present, although the prosecutor will normally be present in the bail court, the court does not have to hear the Crown's views.
157. Subsection (3) amends section 30 of the 1995 Act so as to require an accused or an appellant convicted on indictment who makes an application for a review of either the refusal of bail or of the conditions imposed to intimate the application to the Crown Agent. It also provides that the prosecutor must have the opportunity of being heard and that in the case of an application by an appellant the application must be heard not less than seven days after the date of intimation.
158. Subsection (4) amends section 31 of the 1995 Act so as to provide that where the prosecutor has applied for a bail review the hearing on the application shall be not more than seven days after the day on which the application is made. This time limit is consistent with that in new section 105A (as inserted by section 66 of the Criminal Justice (Scotland) Act 2003) which provides for the appeal by a prosecutor against the grant of bail pending appeal to a convicted person to be heard within 7 days. It is designed to ensure that the period of uncertainty for the convicted person is kept as short as is practicable.