



# Bail (Amendment) Act 1993

## 1993 CHAPTER 26

An Act to confer upon the prosecution a right of appeal against decisions to grant bail. [20th July 1993]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Prosecution right of appeal**

- (1) Where a magistrates' court grants bail to a person who is charged with or convicted of—
  - (a) an offence punishable by a term of imprisonment of 5 years or more, or
  - (b) an offence under section 12 (taking a conveyance without authority) or 12A (aggravated vehicle taking) of the Theft Act 1968,the prosecution may appeal to a judge of the Crown Court against the granting of bail.
- (2) Subsection (1) above applies only where the prosecution is conducted—
  - (a) by or on behalf of the Director of Public Prosecutions; or
  - (b) by a person who falls within such class or description of person as may be prescribed for the purposes of this section by order made by the Secretary of State.
- (3) Such an appeal 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) In the event of the prosecution wishing to exercise the right of appeal set out in subsection (1) above, oral notice of appeal shall be given to the magistrates' court at the conclusion of the proceedings in which such 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) Upon 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) above, 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) above against a decision of the magistrates' court to grant bail shall be commenced within forty-eight hours, excluding weekends and any public holiday (that is to say, Christmas Day, Good Friday or a bank holiday), from the date on which oral notice of appeal is given.
- (9) At the hearing of any appeal by the prosecution under this section, such appeal shall be by way of re-hearing, and the judge hearing any such appeal may remand the person concerned in custody or may grant bail subject to such conditions (if any) as he thinks fit.
- (10) In relation to a child or young person (within the meaning of the Children and Young Persons Act 1969)—
  - (a) the reference in subsection (1) above to an offence punishable by a term of imprisonment is to be read as a reference to an offence which would be so punishable in the case of an adult; and
  - (b) the reference in subsection (5) above to remand in custody is to be read subject to the provisions of section 23 of the Act of 1969 (remands to local authority accommodation).
- (11) The power to make an order under subsection (2) above shall be exercisable by statutory instrument and any instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **2 Citation, commencement and extent**

- (1) This Act may be cited as the Bail (Amendment) Act 1993.
- (2) This Act (except this section) shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (3) This Act extends to England and Wales only.