

**AN ACT** to amend the Criminal Procedure Act.

**ENACTED** by the Legislature of Gibraltar.

**1. Title and commencement.**

(1) This Act may be cited as the Criminal Procedure (Amendment) Act 1995.

(2) The provisions of this Act shall have effect in respect of any person brought before the Magistrates' Court on or after the day immediately following the day on which the Governor shall have signified his assent.

**2. Amendment to the Criminal Procedure Act.**

The Criminal Procedure Act is amended by inserting after section 52 the following new section -

**“52A. Prosecution appeal against the grant of bail.**

(1) Where the Magistrates' Court grants bail to a person who is charged with or convicted of an offence punishable by a term of imprisonment of five years or more, the prosecution may appeal to the Supreme Court against the granting of bail.

(2) Sub-section (1) applies only where the prosecution is conducted -

(a) by or on behalf of the Attorney General; or

(b) by or on behalf of the Commissioner of Police; or

(c) by or on behalf of the Collector of Customs.

(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 sub-section (1), 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 sub-section (5), to serve one or both of the notices required by that sub-section, the appeal shall be deemed to have been disposed of.

(8) The hearing of an appeal under sub-section (1) against the decision of the Magistrates' Court to grant bail shall be commenced within 48 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, any appeal shall be by way of rehearing 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 -

- (a) the reference in sub-section (1) 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 sub-section (6) to remand in custody is to be read subject to the provisions of this Act in respect of the detention of persons under the age of eighteen years.

(11) Rules of court may be made for the purpose of giving effect to this section.”.