

**EXPLANATORY MEMORANDUM TO
THE CRIMINAL APPEAL (RETRIAL FOR SERIOUS OFFENCES) (AMENDMENT)
RULES (NORTHERN IRELAND) 2006**

Statutory Rule 2006 No. 11

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This instrument amends the Criminal Appeal (Retrial for Serious Offences) Rules (Northern Ireland) 2005 (S.R. 2005 No. 158) (*“the principal Rules”*), which regulate the practice and procedure relating to applications to the Court of Appeal under Part 10 of the Criminal Justice Act 2003 to set aside an acquittal and order the retrial of a defendant for certain specified serious criminal offences.
3. **Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments.**
 - 3.1 None
4. **Legislative Background**
 - 4.1 As indicated above, the Rules make a number of amendments to the principal Rules. In particular, they amend the principal Rules –
 - to prescribe the powers of the Court of Appeal which may be exercised by either a single judge or by the proper officer (i.e. the Master (Queen’s Bench and Appeal); and
 - to provide for the review of decisions made by either a single judge or the proper officer.
 - 4.2 At the time the principal Rules were made, an Order under section 97 of the 2003 Act, containing provision corresponding to the Criminal Appeal (Northern Ireland) Act 1980, had not been made. In the absence of this Order, the Northern Ireland Supreme Court Rules Committee was concerned that their may have been insufficient vires for the inclusion of these particular provisions.
 - 4.3 The powers under section 97 have now been exercised to make the Criminal Justice Act 2003 (Retrial for Serious Offences) (Northern Ireland) Order 2005 (*S.R. 2005 No. 203*).
5. **Extent**
 - 5.1 This instrument applies to Northern Ireland only

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 Part 10 of the 2003 Act reforms the law relating to double jeopardy permitting retrials in respect of a number of very serious offences, where there has been an acquittal in court but where new and compelling evidence has subsequently come to light. The measures amend the law to permit the police to re-investigate a person acquitted of serious offences in these circumstances, to enable the prosecuting authorities to apply to the Court of Appeal for an acquittal to be quashed, and for a retrial to take place where the Court of Appeal is satisfied that the new evidence is highly probative of the case against the acquitted person.
- 7.2 The measures provide safeguards aimed at preventing the possible harassment of acquitted persons in cases where there is not a genuine questions of new and compelling evidence, and apply only in respect of offences listed in Schedule 5 to the 2003 Act, which are offences carrying a maximum sentence of life imprisonment, and for which the consequences for victims or for society as a whole are particularly serious.
- 7.3 The Northern Ireland Supreme Court Rules Committee is responsible for making rules regulating the practice and procedure of any proceedings before the High Court and Court of Appeal. In making these Rules, the Committee has provided for certain applications to the Court of Appeal under Part 10 of the 2003 Act to be determined by a single judge or by the proper officer, rather than the full Court of Appeal, thereby allowing such applications to be dealt with effectively. The Rules also provide for the review of such decisions.
- 7.4 The Rules are procedural in nature and are therefore of limited public interest. It is not considered that the amendments made by these Rules are politically or legally important

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 This instrument has no impact on the public sector.

9. Contact

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