

**EXPLANATORY MEMORANDUM TO  
THE CRIMINAL APPEAL (PROSECUTION APPEALS) (AMENDMENT) RULES  
(NORTHERN IRELAND) 2006**

**Statutory Rule 2006 No. 12**

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 (Prosecution Appeals) Rules (Northern Ireland) 2005 (S.R. 2005 No. 159) (*“the principal Rules”*) which regulate the practice and procedure relating to the prosecution right of appeal to the Court of Appeal against terminating rulings by a Crown Court judge under Part IV of the Criminal Justice (Northern Ireland) Order 2004.

**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, these Rules make a number of minor 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 a single judge; or
- to provide that where a single judge has refused an application, the party may renew his application and have it determined by the full Court.

4.2 These provisions were omitted from the principal Rules as the Northern Ireland Supreme Court Rules Committee was concerned that there may have been insufficient vires for their inclusion. This issue has since been explored with the Joint Committee on Statutory Instruments, which indicated that there could be no objection on vires grounds to the inclusion of the new Rules.

**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 IV of the 2004 Order provides for an interlocutory prosecution right of appeal against judicial rulings in the Crown Court that are either terminating in themselves or de facto terminating in that the prosecution consider to be fatal to their case (i.e. if it were not for the right of appeal it would offer no or no further evidence). Leave to appeal must be obtained from either the trial judge or the Court of Appeal.
- 7.2 Depending on the circumstances the judge will decide whether the appeal follows either an expedite route, where the trial is adjourned pending the conclusion of the appeal, or a non-expedited route, where any jury that has been empanelled may be discharged. Where the Court of Appeal concludes that the trial judge's ruling was wrong, the trial will either continue or a fresh trial will be directed.
- 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 relating to prosecution appeals to be determined by a single judge, rather than the full Court of Appeal, thereby allowing such applications to be dealt with effectively.
- 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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