

EXPLANATORY MEMORANDUM TO
THE CRIMINAL APPEAL (SERIOUS CRIME PREVENTION ORDERS)
RULES (NORTHERN IRELAND) 2009

2009 No. 208

1. 1.1 This explanatory memorandum has been prepared by the Ministry of Justice (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Rules make provision for the procedure relating to applications to the Court of Appeal to appeal against a decision made by the Crown Court in relation to a serious crime prevention order. A serious crime prevention order is a new kind of civil injunctive order, to be used against persons involved in serious crime.

3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments

- 3.1 None

4. Legislative Context

- 4.1 This instrument is made to take account of the relevant provisions of Part 1 of the Serious Crime Act 2007 (“the 2007 Act”) and Parts 5 and 6 of the Serious Crime Act 2007 (Appeals under Section 24) Order 2008 (“the 2008 Order”).

- 4.2 Part 1 of the 2007 Act provides for the making of a serious crime prevention order, and Parts 5 and 6 of the 2008 Order provide for appeals to the Court of Appeal (and onward to the House of Lords) in respect of a decision of the Crown Court in relation to a serious crime prevention order.

- 4.3 In particular, the Rules;

- prescribe procedure in relation to giving notice of appeal or making an application for leave to appeal under section 24 of the 2007 Act;
- make provision in relation to the provision of notes, documents and exhibits (excepting transcripts) from the original proceedings;

- make provision in relation to applications that can be heard by the Master or a single judge of the Court of Appeal, and in relation to applications by aggrieved parties for decisions arising from those applications to be determined by the full Court of Appeal;
- prescribe the procedure for making an application to the Court of Appeal for leave to appeal to the House of Lords under Part 6 of the 2008 Order; and
- prescribe procedure governing the abandonment of proceedings by the applicant.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland.

6. European Convention on Human Rights

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

7. Policy background

7.1 Part 1 of the 2007 Act makes provision for a new kind of civil injunctive order which is aimed at preventing serious crime, known as a “serious crime prevention order.” The purpose of a serious crime prevention order will be to protect the public by preventing, restricting or disrupting a person’s involvement in serious crime.

7.2 Section 24 of the 2007 Act provides that a person who is the subject of a serious crime prevention order, or the Director of Public Prosecutions may appeal to the Court of Appeal against a decision of the Crown Court in relation to that order.

7.3 In addition, any person who was given an opportunity to make representations in the proceedings by virtue of section 9(4) of the 2007 Act may appeal to the Court of Appeal against a decision of the Crown Court to make, vary or not vary a serious crime prevention order.

7.4 Parts 5 and 6 of the 2008 Order make further provision in relation to appeals under section 24 of the 2007 Act. Part 5 of the 2008 Order relates to appeals to the Court of Appeal, and Part 6 relates to appeals to the Supreme Court from the Court of Appeal.

7.5 The Northern Ireland Supreme Court Rules Committee is responsible for making rules to regulate the practice and procedure of any proceedings before the Court of Appeal in Northern Ireland. In making these Rules, the Committee has provided for certain applications to be determined by the Master (High Court), and by a single judge, rather than the full Court of Appeal, thereby allowing applications to be dealt with effectively.

7.6 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. Consultation outcome

8.1 Due to the representative nature of the Supreme Court Rules Committee (which makes these Rules with the agreement of the Lord Chancellor) and the fact that these Rules are procedural in nature (and therefore of limited public interest) no formal consultation was considered necessary on this occasion.

9. Guidance

9.1 These Rules will be published on the Northern Ireland Court Service website.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 These Rules do not apply to small businesses.

12. Monitoring & review

12.1 The Rules are freestanding and are kept under review by the Supreme Court Rules Committee. Any subsequent amendment to these Rules will be made by the Supreme Court Rules Committee with the agreement of the Lord Chancellor.

13. Contact

13.1 Graham Walker at the Northern Ireland Court Service Tel: 028 9041 2255 or email: grahamwalker@courtsni.gsi.gov.uk can answer any queries regarding the instrument.