STATUTORY INSTRUMENTS

2008 No. 1863

The Serious Crime Act 2007 (Appeals under Section 24) Order 2008

PART 6

Appeals to the Supreme Court: Northern Ireland

Application for leave to appeal

56.—(1) An application to the Court of Appeal for leave to appeal to the Supreme Court shall be made in writing within 28 days beginning with the date on which the Court of Appeal gives reasons for the decision which is the subject of the appeal.

(2) An application to the Supreme Court for leave to appeal shall be made in writing within 28 days beginning with the date on which the application for leave to appeal is refused by the Court of Appeal.

(3) The Supreme Court or the Court of Appeal may, upon an application made at any time by a person who was a party to the proceedings before the Court of Appeal extend the time within which an application may be made by that party to the Supreme Court or the Court of Appeal under paragraphs (1) and (2).

Hearing and disposal of appeal

57. For the purposes of disposing of an appeal, the Supreme Court may exercise any powers of the Court of Appeal or may remit the case to the Court of Appeal.

Powers of Court of Appeal under Part 6 which are exercisable by a single judge

58.—(1) There may be exercised by a single judge in the same manner as by the Court of Appeal and subject to the same provisions, the powers of the Court of Appeal under this Part specified in paragraph (2).

(2) The powers referred to in paragraph (1) are—

(a) to extend time for making an application for leave to appeal;

(b) to grant legal aid; and

(c) to make an order under article 60(1) (costs).

(3) If the single judge refuses an application on the part of a person who is a party to the appeal to exercise any of the powers conferred on the judge by this article, that person shall be entitled to have the application determined by the Court of Appeal.

Legal Aid

59.—(1) The Court of Appeal may assign to the subject of the serious crime prevention order or a party under section 24(2) (whether that person is appellant or respondent in the appeal) a solicitor

or counsel, or counsel only, in the case of an appeal, or of proceedings preliminary or incidental to such an appeal, at any time when it appears to the Court of Appeal—

(a) that it is desirable in the interests of justice that the person concerned should have legal aid; and

(b) that the person concerned does not have sufficient means to enable that person to obtain that aid.

(2) If on a question of granting a subject of a serious crime prevention order or a party under section 24(2) free legal aid under this article there is doubt as to the matters in sub-paragraph (1)(a) or (b) the doubt shall be resolved in favour of granting the person free legal aid.

(3) The fees of any counsel, and the expenses and fees of any solicitor, assigned to the subject of the serious crime prevention order or a party under section 24(2) by virtue of this article, in either case up to an amount allowed by the Supreme Court shall be paid by the Lord Chancellor.

Costs

60.—(1) Where the Court of Appeal or the Supreme Court dismisses an application for leave to appeal, the Court concerned may, if it thinks fit—

(a) where the application was made by the relevant applicant authority, order the payment by the Secretary of State to the subject of the serious crime prevention order or a party under section 24(2) of such sums as appear to the Court concerned reasonably sufficient to compensate the person concerned for any expenses properly incurred by that person in resisting the application;

(b) where the application was made by the subject of the serious crime prevention order, order that person to pay the whole or any part of the costs of the application; or

(c) where the application was made by a party under section 24(2), order that person to pay the whole or any part of the costs of the application.

(2) Where an appeal to the Supreme Court is determined in favour of the subject of the serious crime prevention order or a party under section 24(2), the Supreme Court may, if it thinks fit, order the payment by the Secretary of State of such sums as appear to the Supreme Court reasonably sufficient to compensate the person concerned for any expenses properly incurred by that person in the appeal to the Supreme Court or in the proceedings before the Court of Appeal, as the case may be (including the cost of any application for leave to appeal).

(3) Where in any proceedings on an appeal or application for leave to appeal to the Supreme Court, an interpreter is required because of the lack of English of the subject of a serious crime prevention order or a party under section 24(2), the expenses properly incurred on the interpreter's employment shall be defrayed by the Secretary of State up to an amount allowed by the Supreme Court.

(4) Except as provided by this article, no costs shall be allowed on the hearing or determination of an appeal or of any proceedings preliminary or incidental to such an appeal.

Taxation of costs

61.—(1) Any amount which the Court of Appeal orders to be paid under article 60(1) shall, except where it is a specific amount ordered to be paid towards the costs of the application as a whole, be ascertained as soon as practicable by the Court of Appeal.

(2) Any amount which the Supreme Court orders to be paid under article 60(1) or (2) shall, except where it is a specific amount ordered to be paid towards the costs of the application as a whole, be ascertained as soon as practicable by such officer as may be prescribed by order of the Supreme Court.

(3) Where the Supreme Court orders the payment of costs by the subject of the serious crime prevention order or a party under section 24(2) under article 60, the order shall be enforceable in the same manner as an order for payment of costs made by the High Court in a civil case.

Transitional provisions in relation to the Supreme Court

62.—(1) In the application of this Part before the commencement of paragraph 33(2)(b) of Schedule 9 to the Constitutional Reform Act 2005 (amendment of section 31 of the Criminal Appeal (Northern Ireland) Act 1980(**1**)), references to the Supreme Court are to be read as references to the House of Lords.

(2) During the time that this Part is to be read as referring to the House of Lords in accordance with paragraph (1)—

(a) an appeal shall not be heard and determined by the House of Lords unless there are present at least three of the persons designated Lords of Appeal by section 5 of the Appellate Jurisdiction Act 1876;

(b) any order of the House of Lords which provides for the hearing of applications for leave to appeal by a committee constituted in accordance with section 5 of that Act may direct that the decision of that committee shall be taken on behalf of the House; and

(c) in article 61(2) any amount payable shall be ascertained by the Clerk of the Parliaments rather than by such officer as may be prescribed by order of the Supreme Court.

(**1**) 1980 c. 47.