

EXPLANATORY MEMORANDUM TO
THE CRIMINAL APPEAL (OFFENDERS ASSISTING INVESTIGATIONS
AND PROSECUTIONS) (AMENDMENT) RULES (NORTHERN IRELAND)
2009

S.R. 2009 No. 209

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.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.
2. **Purpose of the instrument**
 - 2.1 These Rules amend the Criminal Appeal (Offenders Assisting Investigations and Prosecutions) (Amendment) Rules (Northern Ireland) 2008 (“the principal Rules”) (S.R. 2008 No.23) by substituting a new Form for Form 4 of the Rules.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 The Joint Committee on Statutory Instruments in its twelfth report of Session in 2007/2008 reported the principal Rules for defective drafting. These Rules amend the principal Rules to address the points raised by the Joint Committee in its report.
<http://www.publications.parliament.uk/pa/jt200708/jtselect/jtstatin/71/7105.htm>
4. **Legislative Context**
 - 4.1 The principal Rules were prepared to take account of provisions governing the discounting of sentences of offenders offering assistance to prosecutors in Chapter 2, Part 2 of the Serious Organised Crime and Police Act 2005 and the Serious Organised Crime and Police Act 2005 (Appeals under Section 74) Order 2006) (“the 2006 Order”).
 - 4.2 The 2006 Order provided for certain applications relating to the discounting of sentences to be determined by a single judge and permitted parties to apply to have such decision determined by the full Court. Rule 9(2) of the principal Rules provides that, as soon as practicable after a single judge of the court determines such an

application, the Master shall serve notice of the judge's decision in Form 4. Rule 9(3) provides that a party aggrieved may have the application determined by the Court by serving notice in Form 4 on the Master.

- 4.3 These Rules clarify, for the benefit of court users, the manner in which Form 4 of the principal Rules should be used to notify the parties of a determination of a single judge and by any party who wishes to apply to have such a decision considered by the full Court.

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 The Parliamentary Joint Committee on Statutory Instruments considered that, as originally drafted, Form 4 did not make it sufficiently clear which parts should be completed by the Master, and which by an aggrieved party seeking to have an application determined by the full Court. These Rules amend the principal Rules to address these concerns.

- 7.2 These Rules insert a new Form 4 into the principal Rules. The revised form is divided into two sections. Part A is to be completed by the Master to serve notice on parties to an appeal of a judge's decision. Part B of the form is to be completed by a party aggrieved by a decision of a single judge seeking determination by the Court

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 Angela Bell at the Northern Ireland Court Service Tel: 028 9041 2201 or email: angelabell@courtsni.gsi.gov.uk can answer any queries regarding the instrument.