
STATUTORY INSTRUMENTS

2006 No. 2135

**The Serious Organised Crime and Police Act
2005 (Appeals under Section 74) Order 2006**

PART 3

Appeals to the House of Lords: England and Wales

Right of appeal to the House of Lords

15.—(1) An appeal lies to the House of Lords⁽¹⁾ at the instance of the offender or a specified prosecutor, from any decision of the Court of Appeal on an appeal to that court under section 74(8) of the Act.

(2) The appeal lies only with the leave of the Court of Appeal or the House of Lords.

(3) Leave shall not be granted unless it is certified by the Court of Appeal that a point of law of general public importance is involved in the decision and it appears to the Court of Appeal or the House of Lords (as the case may be) that the point is one which ought to be considered by that House.

Application for leave to appeal

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

(2) An application to the House of Lords 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 House of Lords or the Court of Appeal may, upon an application made at any time by the offender or the specified prosecutor extend the time within which an application may be made by him to that House or the Court under paragraphs (1) and (2).

(4) An appeal to the House of Lords shall be treated as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of.

(5) For the purposes of this Part, an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it may be made, if it is not made within that time.

(1) The appellate jurisdiction of the House of Lords under the Criminal Appeal Act 1968 c. 19 will be transferred to the Supreme Court following commencement on a date to be appointed under section 40(4) of, and paragraph 16 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4).

Hearing and disposal of appeal

17.—(1) 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⁽²⁾.

(2) 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.

(3) For the purposes of disposing of an appeal, the House of Lords may exercise any powers of the Court of Appeal or may remit the case to the Court.

Bail on appeal by the offender

18. The Court of Appeal may, subject to section 25 of the Criminal Justice and Public Order Act 1994, if they think fit, on the application of the offender, grant him bail pending the determination of his appeal.

Detention of offender on appeal by the specified prosecutor

19.—(1) This article applies where, immediately after the decision of the Court of Appeal from which an appeal lies to the House of Lords, the specified prosecutor is granted, or gives notice in writing that he intends to apply, for leave to appeal.

(2) If, but for the decision of the Court of Appeal, the offender would be liable to be detained, the Court of Appeal may make an order providing for his detention, or directing that he shall not be released except on bail (which may be granted by that Court under article 18), so long as an appeal to the House of Lords is pending.

(3) An order under this article shall (unless the appeal has previously been disposed of) cease to have effect at the expiration of the period for which the offender would have been liable to be detained but for the decision of the Court of Appeal.

(4) Where the Court of Appeal have power to make an order under this article, and either no such order is made or the offender is released, by virtue of paragraph (3), before the appeal is disposed of, the offender shall not be liable to be again detained as a result of the decision of the House of Lords on the appeal.

Presence of offender at hearing

20. An offender who is detained pending an appeal to the House of Lords shall not be entitled to be present on the hearing of the appeal or of any proceedings preliminary or incidental thereto, except where an order of the House of Lords authorises him to be present, or where the House or the Court of Appeal, as the case may be, give him leave to be present.

Effect of appeal on sentence

21. Where an offender subject to a sentence is granted bail under article 18, the time during which he is released on bail shall be disregarded in computing the term of his sentence.

Powers of Court of Appeal under Part 3 which are exercisable by single judge

22. There may be exercised by a single judge, the powers of the Court of Appeal under this Part—

(2) 1876 c. 59. Section 5 has been prospectively repealed by sections 145 and 146 of, and paragraph 9 of Part 2 of Schedule 17 and Part 5 of Schedule 18 to, the Constitutional Reform Act 2005.

- (a) to extend the time for making an application for leave to appeal;
- (b) to make an order for or in relation to bail; and
- (c) to give leave for an offender to be present at the hearing of any proceedings preliminary or incidental to an appeal;

but where the judge refuses an application to exercise any of the powers specified in this article, the offender or the specified prosecutor shall be entitled to have the application determined by the Court of Appeal.