

---

## EXPLANATORY NOTE

*(This note is not part of the Order)*

Parts 2 and 4 of this Order make provision corresponding to provision in enactments relating to appeals to the Court of Appeal under Part 1 of the Criminal Appeal Act 1968 and appeals from any decision of the Court of Appeal, with modifications, for the purposes of appeals in England and Wales under section 24(1) and (2) of the Serious Crime Act 2007 (“the 2007 Act”). Part 1 of the 2007 Act makes provision for serious crime prevention orders. Section 19 of the 2007 Act gives the Crown Court the power to make a serious crime prevention order. Sections 20 and 21 of the 2007 Act give the Crown Court certain powers to vary a serious crime prevention order. Section 9 of the 2007 Act allows certain persons who are not the subject of a serious crime prevention order to make representations at proceedings relating to serious crime prevention orders. Section 24(1) of the 2007 Act allows the subject of the serious crime prevention order and the relevant applicant authority (who will have applied for the order or its variation) to appeal to the Court of Appeal against a decision of the Crown Court. Section 24(2) of the 2007 Act allows a person who made representations by virtue of section 9(4) of the 2007 Act to appeal to the Court of Appeal as well.

Part 2 of the Order relates to appeals to the Court of Appeal in relation to England and Wales and Part 4 of the Order makes provision in relation to appeals to the Supreme Court from the Court of Appeal in relation to England and Wales. Articles 4 and 5 make provision for the hearing of the appeal by the Court of Appeal and the powers of the Court of Appeal on appeal. The Court of Appeal will only review the decision of the Crown Court unless it considers that it is in the interest of justice to hold a re-hearing. The Court of Appeal is given all the powers of the Crown Court and may affirm, set aside or vary any order or judgment, refer any issue for determination by the Crown Court and order a new hearing. Articles 9 and 10 provide that certain powers of the Court of Appeal can be exercised by a single judge or the registrar of criminal appeals. Section 24(6) of the 2007 Act provides a right of appeal from the Court of Appeal to the Supreme Court. Under article 40, the Supreme Court may exercise any powers of the Court of Appeal or may remit the case to that Court. Article 43 provides a transitional provision, so that until the commencement of paragraph 16(3)(a) of Schedule 9 to the Constitutional Reform Act 2005, references in Parts 2 to 4 to the Supreme Court are to be read as references to the House of Lords.

Part 3 relates to the orders that may be made by the Court of Appeal in relation to the costs of an appeal. Chapter 2 of the Part 3 sets out the orders as to costs that can be made. Article 14 provides for an order (called an appeal costs order) to be made in favour of the subject of a serious crime prevention order or a person who is entitled to appeal under section 24(2) of the 2007 Act. The procedure for determining the amount of costs under an appeal costs order is set out in Chapter 3 of Part 3. Article 15 makes provision in relation to an award of costs against the subject of a serious crime prevention order or a person entitled to appeal under section 24(2). Article 16 make provision for an award of costs following an improper or unnecessary act or omission on the part of one party which has led to costs being incurred by another party. Article 17 makes provision for an award of costs against a legal or other representative for wasted costs. Article 18 makes provision for an award of costs against a person who is not a party to the appeal – a third party costs order. The procedure for such an order is set out in Chapter 4 of Part 3. Article 19 makes provision for paying out of central funds the costs of attendance by a party at an appeal. Article 20 makes provision for the payment of the expenses of witnesses and other persons who attend court. The procedure for such awards is set out in Chapter 5 of Part 3.

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Parts 5 and 6 of this Order make provision corresponding to provision in the Criminal Appeal Act (Northern Ireland) 1980, with modifications, for the purposes of appeals in Northern Ireland under section 24(1) and (2) of the 2007 Act.

Part 5 relates to appeals to the Court of Appeal, in relation to Northern Ireland. Its provisions correspond to Part 2, powers to grant legal aid are set out in article 54 and provisions in relation to the award of costs are set out in article 55. Part 6 relates to appeals to the Supreme Court from the Court of Appeal in relation to Northern Ireland. Its provisions correspond to Part 4. Powers to grant legal aid are set out in article 59 and powers to award costs are set out in articles 60 and 61. References to the Supreme Court are the subject of a transitional provision that is similar to the one in Part 4, such that references to the Supreme Court are to be read as references to the House of Lords prior to the amendment of the Criminal Appeal (Northern Ireland) Act 1980 by the Constitutional Reform Act 2005.