

**EXPLANATORY MEMORANDUM TO  
THE PROCEEDS OF CRIME ACT 2002 (APPEALS UNDER PART 2)  
(AMENDMENT) ORDER 2013**

**2013 No. 24**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This Order amends the Proceeds of Crime Act 2002 (Appeals Under Part 2) Order 2003. It contains provisions which correspond to those under the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 (England and Wales) (Appeals Under Part 2) Order 2012 (SI 2012 No. 138). SI 2012 No. 138 makes provision corresponding to provisions in the Criminal Appeal Act 1968 with modifications for the purposes of an appeal to the Court of Appeal (and from there to the Supreme Court) introduced by articles 47(3) and 48(2) of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 that was made under sections 444 and 459(2) of the Proceeds of Crime Act 2002. The purpose of the amendments in this Order is to ensure consistency between appeals to the Court of Appeal and then on to the Supreme Court under part 2 of the Proceeds of Crime Act 2002 and those which relate to external requests. It applies to appeals that are both ongoing at the time this Order comes into force and those commenced after.

**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 Order is made in exercise of the powers conferred by sections 89(3), 90(2) and 459(2) of the Proceeds of Crime Act 2002. This Order makes provisions corresponding to provisions (subject to specified modifications) in the Criminal Appeal Act 1968 (the 1968 Act). The 1968 Act sets out the procedure and provisions to be followed in respect of general domestic criminal appeals.

**5. Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

**6. European Convention on Human Rights**

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

## **7. Policy background**

7.1 Part 2 of the Proceeds of Crime Act 2002 provides a regime for the restraint, confiscation and recovery of assets. The 2013 Order seeks to amend the Proceeds of Crime Act 2002 (Appeals Under Part 2) Order 2003 which provides appeals procedure and provisions in relation to confiscation proceedings in England and Wales under part 2 of the Proceeds of Crime Act 2002. It parallels provisions under the Criminal Appeal Act 1968 which is the general law relating to criminal appeals procedure and provisions. The amending Order reflects amendments that have been made to the Criminal Appeal Act 1968 since 2003, the date of the original Order.

## **8. Consultation outcome**

8.1 The Order has been developed with the close assistance of the Registrar of the Supreme Court, the Court of Appeal Criminal Appeal Office, the Ministry of Justice, the Crown Prosecution Office and the Serious Fraud Office. They are content with the Order.

## **9. Guidance**

9.1 Guidance is not necessary and will not be issued. The Supreme Court and the Court of Appeal Criminal Appeal Office have been consulted during the development of the Order. The Order also makes provision corresponding to provisions in the Criminal Appeal Act 1968 and so judges and legal representatives will be familiar with the provisions.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument. The Order only provides for procedure and provisions in respect of appeals; the right of appeal already exists and so no additional impact or burden is being created.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 In development of this Order the Home Office has been in close contact with the Supreme Court and the Court of Appeal Criminal Appeal Office, government departments and prosecutors. Established lines of communication will be available to monitor and review the few cases that will be subject to this Order.

### **13. Contact**

Stephen Goadby at the Home Office Tel: 020 7035 1559 or email: [stephen.goadby@homeoffice.gsi.gov.uk](mailto:stephen.goadby@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.