



# Prosecution of Offences Act 1985

## 1985 CHAPTER 23

### PART II

#### COSTS IN CRIMINAL CASES

##### *Supplemental*

#### **20 Regulations**

- (1) The Lord Chancellor may make regulations for carrying this Part into effect and the regulations may, in particular, make provision as to—
  - (a) the scales or rates of payments of any costs payable out of central funds in pursuance of any costs order, the circumstances in which and conditions under which such costs may be allowed and paid and the expenses which may be included in such costs ; and
  - (b) the review, as respects costs payable out of central funds in pursuance of any costs order, of any decision on taxation, or determination of the amount, of the costs;and any provision made by or under this Part enabling any sum to be paid out of central funds shall have effect subject to any such regulations.
- (2) The Lord Chancellor may by regulations make provision for the recovery of sums paid out of the legal aid fund or central funds in cases where—
  - (a) a costs order has been made against a party to proceedings ; and
  - (b) the person in whose favour the order was made is a legally assisted person or a person in whose favour a defendant's costs order or, as the case may be, an order under section 17 of this Act has been made.
- (3) Regulations made under subsection (1) above may provide that rates or scales of allowances payable out of central funds under a costs order shall be determined by the Lord Chancellor with the consent of the Treasury.
- (4) Regulations made under subsection (2) above may, in particular—

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*Status: This is the original version (as it was originally enacted).*

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- (a) require the person mentioned in paragraph (a) of that subsection to pay sums due under the costs order in accordance with directions given by the Lord Chancellor (either generally or in respect of the particular case); and
  - (b) enable the Lord Chancellor to enforce those directions in cases to which they apply.
- (5) Subsection (4) of section 61 of the Justices of the Peace Act 1979 (regulations as to accounts of justices' clerks) shall apply in relation to sums payable to the Lord Chancellor by virtue of regulations made under subsection (2) above as it applies in relation to sums payable to the Secretary of State under that section.
- (6) Any regulations under this Part may contain such incidental and supplemental provisions as the Lord Chancellor considers appropriate.
- (7) Before making any regulations under section 19(1) of this Act which affect the procedure of any court, the Lord Chancellor shall so far as is reasonably practicable consult any rule committee by whom, or on whose advice, rules of procedure for the court may be made or whose concurrence is required to any such rules.
- (8) In this section " costs order " means—
- (a) an order made under or by virtue of this Part for payment to be made—
    - (i) out of central funds ; or
    - (ii) by a party to proceedings ; or
  - (b) an order made in a criminal case by the House of Lords for the payment of costs by a party to proceedings.

## **21 Interpretation, etc.**

- (1) In this Part—
- " defendant's costs order " has the meaning given in section 16 of this Act;
  - " legal aid order " means an order under any provision of section 28 of the Legal Aid Act 1974 and includes, in relation to proceedings in a Divisional Court of the Queen's Bench Division, any certificate or other instrument under which legal aid is given ;
  - " legally assisted person " means a person to whom aid is ordered to be given by a legal aid order ;
  - " proceedings " includes—
    - (a) proceedings in any court below ; and
    - (b) in relation to the determination of an appeal by any court, any application made to that court for leave to bring the appeal; and
  - " witness " means any person properly attending to give evidence, whether or not he gives evidence or is called at the instance of one of the parties or of the court, but does not include a person attending as a witness to character only unless the court has certified that the interests of justice required his attendance.
- (2) Except as provided by or under this Part no costs shall be allowed on the hearing or determination of, or of any proceedings preliminary or incidental to, an appeal to the Court of Appeal under Part I of the Criminal Appeal Act 1968.
- (3) Subject to rules of court made under section 53(1) of the Supreme Court Act 1981 (power by rules to distribute business of Court of Appeal between its civil and criminal

divisions), the jurisdiction of the Court of Appeal under this Part, or under regulations made under this Part, shall be exercised by the criminal division of that Court; and references in this Part to the Court of Appeal shall be construed as references to that division.

- (4) For the purposes of sections 16 and 17 of this Act, the costs of any party to proceedings shall be taken to include the expense of compensating any witness for the expenses, trouble or loss of time properly incurred in or incidental to his attendance.
- (5) Where, in any proceedings in a criminal cause or matter or in either of the cases mentioned in subsection (6) below, an interpreter is required because of the accused's lack of English, the expenses properly incurred on his employment shall not be treated as costs of any party to the proceedings.
- (6) The cases are—
  - (a) where an information charging the accused with an offence is laid before a justice of the peace for any area but not proceeded with and the expenses are incurred on the employment of the interpreter for the proceedings on the information ; and
  - (b) where the accused is committed for trial but not tried and the expenses are incurred on the employment of the interpreter for the proceedings in the Crown Court.