



# Courts and Legal Services Act 1990

## 1990 CHAPTER 41

### PART I

#### PROCEDURE ETC. IN CIVIL COURTS

##### *Costs*

#### 4 Costs.

- (1) The following section shall be substituted for section 51 of the <sup>M1</sup>[<sup>F1</sup>Senior Courts Act 1981] (costs in civil division of Court of Appeal and High Court)—

**“51 Costs in civil division of Court of Appeal, High Court and county courts.**

- (1) Subject to the provisions of this or any other enactment and to rules of court, the costs of and incidental to all proceedings in—
- (a) the civil division of the Court of Appeal;
  - (b) the High Court; and
  - (c) any county court,
- shall be in the discretion of the court.
- (2) Without prejudice to any general power to make rules of court, such rules may make provision for regulating matters relating to the costs of those proceedings including, in particular, prescribing scales of costs to be paid to legal or other representatives.
- (3) The court shall have full power to determine by whom and to what extent the costs are to be paid.
- (4) In subsections (1) and (2) “proceedings” includes the administration of estates and trusts.

**Changes to legislation:** *Courts and Legal Services Act 1990, Cross Heading: Costs is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (5) Nothing in subsection (1) shall alter the practice in any criminal cause, or in bankruptcy.
- (6) In any proceedings mentioned in subsection (1), the court may disallow, or (as the case may be) order the legal or other representative concerned to meet, the whole of any wasted costs or such part of them as may be determined in accordance with rules of court.
- (7) In subsection (6), “wasted costs” means any costs incurred by a party—
- (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative; or
  - (b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.
- (8) Where—
- (a) a person has commenced proceedings in the High Court; but
  - (b) those proceedings should, in the opinion of the court, have been commenced in a county court in accordance with any provision made under section 1 of the Courts and Legal Services Act 1990 or by or under any other enactment,
- the person responsible for determining the amount which is to be awarded to that person by way of costs shall have regard to those circumstances.
- (9) Where, in complying with subsection (8), the responsible person reduces the amount which would otherwise be awarded to the person in question—
- (a) the amount of that reduction shall not exceed 25 per cent; and
  - (b) on any taxation of the costs payable by that person to his legal representative, regard shall be had to the amount of the reduction.
- (10) The Lord Chancellor may by order amend subsection (9)(a) by substituting, for the percentage for the time being mentioned there, a different percentage.
- (11) Any such order shall be made by statutory instrument and may make such transitional or incidental provision as the Lord Chancellor considers expedient.
- (12) No such statutory instrument shall be made unless a draft of the instrument has been approved by both Houses of Parliament.
- (13) In this section “legal or other representative”, in relation to a party to proceedings, means any person exercising a right of audience or right to conduct litigation on his behalf.”
- (2) In section 52 of that Act (costs in Crown Court) the following subsection shall be inserted after subsection (2)—
- “(2A) Subsection (6) of section 51 applies in relation to any civil proceedings in the Crown Court as it applies in relation to any proceedings mentioned in subsection (1) of that section”.

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#### Textual Amendments

- F1** S. 4: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148(1), [Sch. 11 para. 1\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
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#### Commencement Information

- I1** S. 4 wholly in force at 1.10.1991 see s. 124(3) and S.I. 1991/1883, [art. 2](#)
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#### Marginal Citations

- M1** 1981 c. 54.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 58A(2)(fe) inserted by [2021 c. 17 s. 53](#)