



# Prosecution of Offences Act 1985

## 1985 CHAPTER 23

### PART II **E+W**

#### COSTS IN CRIMINAL CASES

##### *Award of costs out of central funds*

### 16 Defence costs. **E+W**

(1) Where—

- (a) an information laid before a justice of the peace for any area, charging any person with an offence, is not proceeded with;
- (b) [<sup>F1</sup>a magistrates' court inquiring into an indictable offence as examining justices determines not to commit the accused for trial;]
- (c) a magistrates' court dealing summarily with an offence dismisses the information;

that court or, in a case falling within paragraph (a) above, a magistrates' court for that area, may make an order in favour of the accused for a payment to be made out of central funds in respect of his costs (a "defendant's costs order").

(2) Where—

- (a) any person is not tried for an offence for which he has been indicted or [<sup>F2</sup>sent] for trial; or
- [<sup>F3</sup>(aa) [<sup>F4</sup>a notice of transfer is given under [<sup>F5</sup>a relevant transfer provision] but a person in relation to whose case it is given is not tried on a charge to which it relates; or]]
- (b) any person is tried on indictment and acquitted on any count in the indictment; the Crown Court may make a defendant's costs order in favour of the accused.

(3) Where a person convicted of an offence by a magistrates' court appeals to the Crown Court under section 108 of the <sup>M1</sup>Magistrates' Courts Act 1980 (right of appeal against conviction or sentence) and, in consequence of the decision on appeal—

- (a) his conviction is set aside; or

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(b) a less severe punishment is awarded;  
 the Crown Court may make a defendant's costs order in favour of the accused.

(4) Where the Court of Appeal—

- (a) allows an appeal under Part I of the <sup>M2</sup>Criminal Appeal Act 1968 against—
- (i) conviction;
  - (ii) a verdict of not guilty by reason of insanity; or
  - <sup>F6</sup>[(iii) a finding under the Criminal Procedure (Insanity) Act 1964 that the appellant is under a disability, or that he did the act or made the omission charged against him;]

<sup>F7</sup>(aa) directs under section 8(1B) of the Criminal Appeal Act 1968 the entry of a judgment and verdict of acquittal;]

- (b) on an appeal under that Part against conviction—
- (i) substitutes a verdict of guilty of another offence;
  - (ii) in a case where a special verdict has been found, orders a different conclusion on the effect of that verdict to be recorded; or
  - (iii) is of the opinion that the case falls within paragraph (a) or (b) of section 6(1) of that Act (cases where the court substitutes a finding of insanity or unfitness to plead); <sup>F8</sup> . . .

(c) on an appeal under that Part against sentence, exercises its powers under section 11(3) of that Act (powers where the court considers that the appellant should be sentenced differently for an offence for which he was dealt with by the court below);

<sup>F9</sup>or

(d) allows, to any extent, an appeal under section 16A of that Act (appeal against order made in cases of insanity or unfitness to plead);]

the court may make a defendant's costs order in favour of the accused.

<sup>F10</sup>(4A) The court may also make a defendant's costs order in favour of the accused on an appeal under section 9(11) of the Criminal Justice Act 1987 (appeals against orders or rulings at preparatory hearings) <sup>F11</sup>or section 35(1) of the Criminal Procedure and Investigations Act 1996] <sup>F12</sup>or under Part 9 of the Criminal Justice Act 2003] .]

(5) Where—

- (a) any proceedings in a criminal cause or matter are determined before a Divisional Court of the Queen's Bench Division;
- (b) the <sup>F13</sup>Supreme Court] determines an appeal, or application for leave to appeal, from such a Divisional Court in a criminal cause or matter;
- (c) the Court of Appeal determines an application for leave to appeal to the <sup>F13</sup>Supreme Court] under Part II of the <sup>M3</sup>Criminal Appeal Act 1968; or
- (d) the <sup>F13</sup>Supreme Court] determines an appeal, or application for leave to appeal, under Part II of that Act;

the court may make a defendant's costs order in favour of the accused.

(6) A defendant's costs order shall, subject to the following provisions of this section, be for the payment out of central funds, to the person in whose favour the order is made, of such amount as the court considers reasonably sufficient to compensate him for any expenses properly incurred by him in the proceedings.

<sup>F14</sup>(6A) Where the court considers that there are circumstances that make it inappropriate for the accused to recover the full amount mentioned in subsection (6), a defendant's costs

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order must be for the payment out of central funds of such lesser amount as the court considers just and reasonable.

(6B) Subsections (6) and (6A) have effect subject to—

- (a) section 16A, and
- (b) regulations under section 20(1A)(d).

(6C) When making a defendant's costs order, the court must fix the amount to be paid out of central funds in the order if it considers it appropriate to do so and—

- (a) the accused agrees the amount, or
- (b) subsection (6A) applies.

(6D) Where the court does not fix the amount to be paid out of central funds in the order—

- (a) it must describe in the order any reduction required under subsection (6A), and
- (b) the amount must be fixed by means of a determination made by or on behalf of the court in accordance with procedures specified in regulations made by the Lord Chancellor.]

<sup>F15</sup>(7) .....

(8) ..... <sup>F16</sup>

<sup>F17</sup>(9) .....

(10) Subsection (6) above shall have effect, in relation to any case falling within subsection (1)(a) or (2)(a) above, as if for the words “in the proceedings ” there were substituted the words “in or about the defence ”.

(11) Where a person ordered to be retried is acquitted at his retrial, the costs which may be ordered to be paid out of central funds under this section shall include—

- (a) any costs which, at the original trial, could have been ordered to be so paid under this section if he had been acquitted; and
- (b) if no order was made under this section in respect of his expenses on appeal, any sums for the payment of which such an order could have been made.

[<sup>F18</sup>(12) [<sup>F19</sup>In subsection (2)(aa) “relevant transfer provision ” means—

- (a) section 4 of the Criminal Justice Act 1987, or
- (b) section 53 of the Criminal Justice Act 1991.]]

#### Textual Amendments

- F1** S. 16(1)(b) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 57\(3\)\(a\)](#), [Sch. 37 Pt. 4](#); [S.I. 2012/1320](#), art. 4(1)(c)(d)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c)(d), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)
- F2** Word in s. 16(2)(a) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 57\(3\)\(b\)\(i\)](#); [S.I. 2005/1267](#), art. 2(1)(2)(a), [Sch. Pt. 1](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F3** S. 16(2)(aa) inserted by [Criminal Justice Act 1987 \(c. 38, SIF 39:1\)](#), s. 15, [Sch. 2 para. 14](#)

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- F4** S. 16(2)(aa) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 57(3)(b)(ii), Sch. 37 Pt. 4; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)
- F5** Words in s. 16(2)(aa) substituted (3.2.1995) by 1994 c. 33, s. 168(3), Sch. 9 para. 25(a); S.I. 1995/127, art. 2(1), Sch. 1 Appendix A
- F6** S. 16(4)(a)(iii) substituted (1.1.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), s. 7, Sch. 3 para. 7; S.I. 1991/2488, art. 2.
- F7** S. 16(4)(aa) inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, Sch. 15 para. 103
- F8** Word in s. 16(4) repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, Sch. 11; S.I. 2005/579, art. 3(h)(i)(vii)
- F9** S. 16(4) and preceding word inserted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, Sch. 10 para. 25; S.I. 2005/579, art. 3(f)(g)
- F10** S. 16(4A) added by Criminal Justice Act 1987 (c. 38, SIF 39:1), s. 15, Sch. 2 para. 15
- F11** Words in s. 16(4A) inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 312, 336; S.I. 2005/950, art. 2(1), Sch. 1 para. 25 (subject to art. 2(2), Sch. 2) (as amended by 2005/2122, art. 2 and 2007/391, art. 2)
- F12** Words in s. 16(4A) inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 69(2), 336; S.I. 2005/950, art. 2(1), Sch. 1 para. 4 (subject to art. 2(2), Sch. 2) (as amended by 2005/2122, art. 2 and 2007/391, art. 2)
- F13** Words in s. 16(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 9 para. 41(3); S.I. 2009/1604, art. 2(d)
- F14** S. 16(6A)-(6D) inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 7 para. 2(2) (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F15** S. 16(7) omitted (1.10.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 7 para. 2(3) (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F16** S. 16(8) repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, Sch. 6
- F17** S. 16(9) omitted (1.10.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 7 para. 2(3) (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F18** S. 16(12) inserted (3.2.1995) by 1994 c. 33, s. 168(3), Sch. 9 para. 25(b); S.I. 1995/127, art. 2(1), Sch. 1 Appendix A
- F19** S. 16(12) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 57(3)(c), Sch. 37 Pt. 4; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

#### Modifications etc. (not altering text)

- C1** S. 16 applied by S.I. 1986/1335, art. 14(4)
- C2** S. 16(1)(c) applied (with modifications): (15.3.1996) by S.I. 1996/716, arts. 1(2), 24(1)(a); (1.4.1997) by 1989 c. 33, s. 9(2), Sch. 1 para. 6(1) (as amended by 1994 c. 33, ss. 158(5)(a), 158(8)(a) and S.I. 1997/882, art. 3 (with savings in art. 3(2))
- S. 16(1)(c) applied (with modifications) (1.9.2001) by 2001 c. 17, s. 6(2)(d); S.I. 2001/2161, art. 2 (subject to art. 3)

#### Marginal Citations

- M1** 1980 c. 43.  
**M2** 1968 c. 19.  
**M3** 1968 c. 19.

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## [<sup>F20</sup>16A Legal costs **E+W**

- (1) A defendant's costs order may not require the payment out of central funds of an amount that includes an amount in respect of the accused's legal costs, subject to the following provisions of this section.
- (2) Subsection (1) does not apply where condition A, B [<sup>F21</sup>, C or D] is met.
- (3) Condition A is that the accused is an individual and the order is made under—
  - (a) section 16(1),
  - (b) section 16(3), or
  - (c) section 16(4)(a)(ii) or (iii) or (d).
- (4) Condition B is that the accused is an individual and the legal costs were incurred in proceedings in a court below which were—
  - (a) proceedings in a magistrates' court, or
  - (b) proceedings on an appeal to the Crown Court under section 108 of the Magistrates' Courts Act 1980 (right of appeal against conviction or sentence).
- (5) Condition C is that the legal costs were incurred in proceedings in the Supreme Court.

[ Condition D is that—

- <sup>F22</sup>(5A)
  - (a) the accused is an individual,
  - (b) the order is made under section 16(2),
  - (c) the legal costs were incurred in relevant Crown Court proceedings, and
  - (d) the Director of Legal Aid Casework has made a determination of financial ineligibility in relation to the accused and those proceedings  
(and condition D continues to be met if the determination is withdrawn).]
- (6) The Lord Chancellor may by regulations make provision about exceptions from the prohibition in subsection (1), including—
  - (a) provision amending this section by adding, modifying or removing an exception, and
  - (b) provision for an exception to arise where a determination has been made by a person specified in the regulations.
- (7) Regulations under subsection (6) may not remove or limit the exception provided by condition C.
- (8) Where a court makes a defendant's costs order requiring the payment out of central funds of an amount that includes an amount in respect of legal costs, the order must include a statement to that effect.
- (9) Where, in a defendant's costs order, a court fixes an amount to be paid out of central funds that includes an amount in respect of legal costs incurred in proceedings in a court other than the Supreme Court, the latter amount must not exceed an amount specified by regulations made by the Lord Chancellor.

(10) In this section—

“legal costs” means fees, charges, disbursements and other amounts payable in respect of advocacy services or litigation services including, in particular, expert witness costs;

“advocacy services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right

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of audience in relation to any proceedings, or contemplated proceedings, to provide;

“expert witness costs” means amounts payable in respect of the services of an expert witness, including amounts payable in connection with attendance by the witness at court or elsewhere;

“litigation services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right to conduct litigation in relation to proceedings, or contemplated proceedings, to provide.]

[<sup>F23</sup>(11) In subsection (5A)—

“determination of financial ineligibility”, in relation to an individual and proceedings, means a determination under section 21 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 that the individual’s financial resources are such that the individual is not eligible for representation under section 16 of that Act for the purposes of the proceedings;

“Director of Legal Aid Casework” means the civil servant designated under section 4(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“relevant Crown Court proceedings” means any of the following—

- (a) proceedings in the Crown Court in respect of an offence for which the accused has been sent by a magistrates’ court to the Crown Court for trial;
- (b) proceedings in the Crown Court relating to an offence in respect of which a bill of indictment has been preferred by virtue of section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933;
- (c) proceedings in the Crown Court following an order by the Court of Appeal or the Supreme Court for a retrial.]

#### Textual Amendments

- F20** S. 16A inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 3](#) (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F21** Words in s. 16A(2) substituted (27.1.2014) by [The Costs in Criminal Cases \(Legal Costs\) \(Exceptions\) Regulations 2014 \(S.I. 2014/130\), regs. 1, 2\(2\)](#)
- F22** S. 16A(5A) inserted (27.1.2014) by [The Costs in Criminal Cases \(Legal Costs\) \(Exceptions\) Regulations 2014 \(S.I. 2014/130\), regs. 1, 2\(3\)](#)
- F23** S. 16A(11) inserted (27.1.2014) by [The Costs in Criminal Cases \(Legal Costs\) \(Exceptions\) Regulations 2014 \(S.I. 2014/130\), regs. 1, 2\(4\)](#)

## 17 Prosecution costs. **E+W**

- (1) Subject to [<sup>F24</sup>subsections (2) and (2A)] below, the court may—
  - (a) in any proceedings in respect of an indictable offence; and
  - (b) in any proceedings before a Divisional Court of the Queen’s Bench Division or the [<sup>F25</sup>Supreme Court] in respect of a summary offence;
 order the payment out of central funds of such amount as the court considers reasonably sufficient to compensate the prosecutor for any expenses properly incurred by him in the proceedings.
- (2) No order under this section may be made in favour of—

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- (a) a public authority; or
- (b) a person acting—
  - (i) on behalf of a public authority; or
  - (ii) in his capacity as an official appointed by such an authority.

[<sup>F26</sup>(2A) Where the court considers that there are circumstances that make it inappropriate for the prosecution to recover the full amount mentioned in subsection (1), an order under this section must be for the payment out of central funds of such lesser amount as the court considers just and reasonable.

(2B) When making an order under this section, the court must fix the amount to be paid out of central funds in the order if it considers it appropriate to do so and—

- (a) the prosecutor agrees the amount, or
- (b) subsection (2A) applies.

(2C) Where the court does not fix the amount to be paid out of central funds in the order—

- (a) it must describe in the order any reduction required under subsection (2A), and
- (b) the amount must be fixed by means of a determination made by or on behalf of the court in accordance with procedures specified in regulations made by the Lord Chancellor.]

<sup>F27</sup>(3) . . . . .

<sup>F27</sup>(4) . . . . .

(5) Where the conduct of proceedings to which subsection (1) above applies is taken over by the Crown Prosecution Service, that subsection shall have effect as if it referred to the prosecutor who had the conduct of the proceedings before the intervention of the Service and to expenses incurred by him up to the time of intervention.

(6) In this section “public authority ” means—

- (a) a police force within the meaning of section 3 of this Act;
- (b) the Crown Prosecution Service or any other government department;
- (c) a local authority or other authority or body constituted for purposes of—
  - (i) the public service or of local government; or
  - (ii) carrying on under national ownership any industry or undertaking or part of an industry or undertaking; or
- (d) any other authority or body whose members are appointed by Her Majesty or by any Minister of the Crown or government department or whose revenues consist wholly or mainly of money provided by Parliament.

#### Textual Amendments

- F24** Words in s. 17(1) substituted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 4\(2\)](#) (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F25** Words in s. 17(1)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 41\(3\)](#); S.I. 2009/1604, art. 2(d)
- F26** S. 17(2A)-(2C) inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 4\(3\)](#) (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F27** S. 17(3)(4) omitted (1.10.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 4\(4\)](#) (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)

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**Modifications etc. (not altering text)**

C3 S. 17 applied by S.I. 1986/1335, art. 14(1)

*Award of costs against accused*

**18 Award of costs against accused. E+W**

(1) Where—

- (a) any person is convicted of an offence before a magistrates' court;
- (b) the Crown Court dismisses an appeal against such a conviction or against the sentence imposed on that conviction; or
- (c) any person is convicted of an offence before the Crown Court;

the court may make such order as to the costs to be paid by the accused to the prosecutor as it considers just and reasonable.

(2) Where the Court of Appeal dismisses—

- (a) an appeal or application for leave to appeal under Part I of the <sup>M4</sup>Criminal Appeal Act 1968; or
- (b) an application by the accused for leave to appeal to the <sup>F28</sup>Supreme Court] under Part II of that Act;

it may make such order as to the costs to be paid by the accused, to such person as may be named in the order, as it considers just and reasonable <sup>F29</sup>or

- (c) an appeal or application for leave to appeal under section 9(11) of the Criminal Justice Act 1987;]

<sup>F30</sup>or

- (d) an appeal or application for leave to appeal under section 35(1) of the Criminal Procedure and Investigations Act 1996.]

<sup>F31</sup>(2A) Where the Court of Appeal reverses or varies a ruling on an appeal under Part 9 of the Criminal Justice Act 2003, it may make such order as to the costs to be paid by the accused, to such person as may be named in the order, as it considers just and reasonable.]

(3) The amount to be paid by the accused in pursuance of an order under this section shall be specified in the order.

(4) Where any person is convicted of an offence before a magistrates' court and—

- (a) under the conviction the court orders payment of any sum as a fine, penalty, forfeiture or compensation; and
- (b) the sum so ordered to be paid does not exceed £5;

the court shall not order the accused to pay any costs under this section unless in the particular circumstances of the case it considers it right to do so.

(5) Where any person under <sup>F32</sup>the age of eighteen] is convicted of an offence before a magistrates' court, the amount of any costs ordered to be paid by the accused under this section shall not exceed the amount of any fine imposed on him.

(6) Costs ordered to be paid under subsection (2) <sup>F33</sup>or (2A)] above may include the reasonable cost of any transcript of a record of proceedings made in accordance with rules of court made for the purposes of section 32 of the Act of 1968.



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#### Textual Amendments

- F28** Words in s. 18(2)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 41\(3\)](#); S.I. 2009/1604, art. 2(d)
- F29** S. 18(2)(c) added by [Criminal Justice Act 1987 \(c. 38, SIF 39:1\), s. 15, Sch. 2 para. 16](#)
- F30** S. 18(2)(d) and preceding word inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), ss. 312\(3\), 336; S.I. 2005/950, art. 2\(1\), Sch. 1 para. 25](#) (subject to [art. 2\(2\), Sch. 2](#)) (as amended by 2005/2122, art. 2 and 2007/391, art. 2)
- F31** S. 18(2A) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), ss. 69\(3\), 336; S.I. 2005/950, art. 2\(1\), Sch. 1 para. 4](#) (subject to [art. 2\(2\), Sch. 2](#)) (as amended by 2005/2122, art. 2 and 2007/391, art. 2)
- F32** Words in s. 18(5) substituted (3.2.1995) by 1994 c. 33, s. 168(3), [Sch. 9 para. 26](#); S.I. 1995/127, art. 2(1), [Sch. Appendix A](#)
- F33** Words in s. 18(6) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), ss. 69\(4\), 336; S.I. 2005/950, art. 2\(1\), Sch. 1 para. 4](#) (subject to [art. 2\(2\), Sch. 2](#)) (as amended by 2005/2122, art. 2 and 2007/391, art. 2)

#### Modifications etc. (not altering text)

- C4** S. 18 applied by [S.I. 1986/1335, art. 14\(1\)\(2\)\(3\)](#)

#### Marginal Citations

- M4** 1968 c. 19.

#### *Other awards*

### 19 Provision for orders as to costs in other circumstances. **E+W**

- (1) The Lord Chancellor may by regulations make provision empowering magistrates' courts, the Crown Court and the Court of Appeal, in any case where the court is satisfied that one party to criminal proceedings has incurred costs as a result of an unnecessary or improper act or omission by, or on behalf of, another party to the proceedings, to make an order as to the payment of those costs.
- (2) Regulations made under subsection (1) above may, in particular—
  - (a) allow the making of such an order at any time during the proceedings;
  - (b) make provision as to the account to be taken, in making such an order, of any other order as to costs . . . <sup>F34</sup> which has been made in respect of the proceedings [<sup>F35</sup>or [<sup>F36</sup>of whether, for the purposes of the proceedings, representation has been provided under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012] ;]
  - (c) make provision as to the account to be taken of any such order in the making of any other order as to costs in respect of the proceedings; and
  - (d) contain provisions similar to those in section 18(4) and (5) of this Act.
- (3) The Lord Chancellor may by regulations make provision for the payment out of central funds, in such circumstances and in relation to such criminal proceedings as may be specified, of such sums as appear to the court to be reasonably necessary—
  - (a) to compensate any witness in the proceedings [<sup>F37</sup>, and any other person who in the opinion of the court necessarily attends for the purpose of the proceedings otherwise than to give evidence,] for the expense, trouble or loss of time properly incurred in or incidental to his attendance;

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- (b) to cover the proper expenses of an interpreter who is required because of the accused's lack of English;
  - (c) to compensate a duly qualified medical practitioner who—
    - (i) makes a report otherwise than in writing for the purpose of [<sup>F38</sup>section 11 of the <sup>M5</sup>Powers of Criminal Courts (Sentencing) Act 2000] (remand for medical examination); or
    - (ii) makes a written report to a court in pursuance of a request [<sup>F39</sup>within subsection (3B) below;]
 for the expenses properly incurred in or incidental to his reporting to the court.
  - <sup>F40</sup>[(d) to cover the proper fee or costs of a person appointed by the Crown Court under section 4A of the Criminal Procedure (Insanity) Act 1964 to put the case for the defence.]
  - <sup>F41</sup>(e) to cover the proper fee or costs of a legal representative appointed under section 38(4) of the Youth Justice and Criminal Evidence Act 1999 (defence representation for purposes of cross-examination) and any expenses properly incurred in providing such a person with evidence or other material in connection with his appointment.]
- <sup>F42</sup>(3ZA) In relation to a sum that may be required by a court other than the Supreme Court to be paid out of central funds under regulations under subsection (3)—
- (a) the requirement under that subsection for the sum to be such sum as the court considers reasonably necessary to cover or compensate for expenses, fees, costs, trouble or losses is subject to regulations made under section 20(1A) (d), and
  - (b) regulations under subsection (3) may make provision accordingly.]
- <sup>F43</sup>(3A) In subsection (3)(a) above “attendance ” means attendance at the court or elsewhere.]
- <sup>F44</sup>(3B) A request is within this subsection if—
- (a) it is a request to a registered medical practitioner to make a written or oral report on the medical condition of an offender or defendant; and
  - (b) it is made by a court—
    - (i) for the purpose of determining whether or not to include [<sup>F45</sup>a mental health treatment requirement in a community order or youth rehabilitation order] or make an order under section 37 of the Mental Health Act 1983 (hospital orders and guardianship orders) or otherwise for the purpose of determining the most suitable method of dealing with an offender; or
    - (ii) in exercise of the powers conferred by section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand of a defendant for medical examination).]
- <sup>F46</sup>(3C) For the purposes of subsection (3B)(b)(i)—
- “community order” has the same meaning as in Part 12 of the Criminal Justice Act 2003;
- “mental health treatment requirement” means—
- (a) in relation to a community order, a mental health treatment requirement under section 207 of the Criminal Justice Act 2003, and
  - (b) in relation to a youth rehabilitation order, a mental health treatment requirement under paragraph 20 of Schedule 1 to the Criminal Justice and Immigration Act 2008;

*Status: Point in time view as at 24/02/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part II. (See end of Document for details)*

“youth rehabilitation order” has the same meaning as in Part 1 of the Criminal Justice and Immigration Act 2008.]

[<sup>F47</sup>(3D) Regulations under subsection (3) may make provision generally or only in relation to particular descriptions of persons, expenses, fees, costs, trouble or losses.]

(4) The Court of Appeal may order the payment out of central funds of such sums as appear to it to be reasonably sufficient to compensate an appellant who is not in custody and who appears before it on, or in connection with, his appeal under Part I of the <sup>M6</sup>Criminal Appeal Act 1968.

[<sup>F48</sup>(4A) Subsection (4) has effect subject to regulations under section 20(1A)(d).

(4B) An order under subsection (4) may not require the payment out of central funds of a sum that includes a sum in respect of legal costs (as defined in section 16A), except where regulations made by the Lord Chancellor provide otherwise.

(4C) Regulations under subsection (4B) may, in particular, include—

- (a) provision for an exception to arise where a determination has been made by a person specified in the regulations,
- (b) provision requiring the court, when it orders the payment of a sum that includes a sum in respect of legal costs, to include a statement to that effect in the order, and
- (c) provision that the court may not order the payment of a sum in respect of legal costs exceeding an amount specified in the regulations.]

(5) The Lord Chancellor may by regulations provide that any provision made by or under this Part which would not otherwise apply in relation to any category of proceedings in which an offender is before a magistrates’ court or the Crown Court shall apply in relation to proceedings of that category, subject to any specified modifications.

#### Textual Amendments

- F34** Words repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, [Sch. 5 para. 12](#), [Sch. 6](#)
- F35** Words in s. 19(2)(b) substituted (2.4.2001) by [1999 c. 22, s. 24, Sch. 4 para. 28](#) (with [Sch. 14 para. 7\(2\)](#)); [S.I. 2001/916, art. 3\(a\)\(ii\)](#)
- F36** Words in s. 19(2)(b) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 23](#); [S.I. 2013/453, art. 3\(h\)](#) (with savings and transitional provisions in [S.I. 2013/534, art. 6](#))
- F37** Words inserted (retrospectively) (1.10.1986) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 166(2)(4), [Sch. 8 para. 16](#)
- F38** Words in s. 19(3)(c) substituted (25.8.2000) by [2000 c. 6, ss. 165\(1\), 168\(1\), Sch. 9 para. 99](#)
- F39** Words in s. 19(3)(c)(ii) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 107\(a\)](#); [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)
- F40** S. 19(3)(d) inserted (01. 01. 1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 7, [Sch. 3 para. 8](#); [S.I. 1991/2488, art. 2](#).
- F41** S. 19(3)(e) inserted (27.7.1999) by [1999 c. 23, ss. 40\(1\), 68\(4\)\(c\)](#) (with s. 63(2), [Sch. 7 paras. 3\(3\), 4, 5\(2\)](#))
- F42** S. 19(3ZA) inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 7 para. 5\(2\)](#) (with [Sch. 7 Pt. 4](#)); [S.I. 2012/2412, art. 2\(g\)](#)
- F43** S. 19(3A) inserted (retrospectively) (1.10.1986) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 166(3)(4), [Sch. 8 para. 16](#)

*Status: Point in time view as at 24/02/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part II. (See end of Document for details)*

- F44** S. 19(3B) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006** (c. 52), s. 383(2), **Sch. 16 para. 107(b)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F45** Words in s. 19(3B)(b)(i) substituted (30.11.2009) by **Criminal Justice and Immigration Act 2008** (c. 4), s. 153(7), **Sch. 4 para. 32(2)** (with Sch. 27 para. 15); S.I. 2009/3074, art. 2(p)(v)
- F46** S. 19(3C) inserted (30.11.2009) by **Criminal Justice and Immigration Act 2008** (c. 4), s. 153(7), **Sch. 4 para. 32(3)** (with Sch. 27 para. 15); S.I. 2009/3074, art. 2(p)(v)
- F47** S. 19(3D) inserted (1.10.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 7 para. 5(3)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F48** S. 19(4A)-(4C) inserted (1.10.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 7 para. 5(4)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)

#### Marginal Citations

- M5** 2000 c. 6  
**M6** 1968 c. 19.

### [<sup>F49</sup>19A Costs against legal representatives etc. **E+W**]

- (1) In any criminal proceedings—
- (a) the Court of Appeal;
  - (b) the Crown Court; or
  - (c) a magistrates' 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 regulations.
- (2) Regulations shall provide that a legal or other representative against whom action is taken by a magistrates' court under subsection (1) may appeal to the Crown Court and that a legal or other representative against whom action is taken by the Crown Court under subsection (1) may appeal to the Court of Appeal.
- (3) In this section—
- “legal or other representative”, in relation to any proceedings, means a person who is exercising a right of audience, or a right to conduct litigation, on behalf of any party to the proceedings;
- “regulations” means regulations made by the Lord Chancellor; and
- “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 representative or any employee of 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.]

#### Subordinate Legislation Made

- P1** S. 19A: s. 20 (with s. 19A) power exercised (21.3.1991) by **S.I. 1991/789**.

#### Textual Amendments

- F49** S. 19A inserted (1.5.1991) by **Courts and Legal Services Act 1990** (c. 41, SIF 37), s. 111; S.I. 1991/985, art. 2(a)

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[<sup>F50</sup>**19B Provision for award of costs against third parties** **E+W**]

- (1) The Lord Chancellor may by regulations make provision empowering magistrates' courts, the Crown Court and the Court of Appeal to make a third party costs order if the condition in subsection (3) is satisfied.
- (2) A “third party costs order” is an order as to the payment of costs incurred by a party to criminal proceedings by a person who is not a party to those proceedings (“the third party”).
- (3) The condition is that—
  - (a) there has been serious misconduct (whether or not constituting a contempt of court) by the third party, and
  - (b) the court considers it appropriate, having regard to that misconduct, to make a third party costs order against him.
- (4) Regulations made under this section may, in particular—
  - (a) specify types of misconduct in respect of which a third party costs order may not be made;
  - (b) allow the making of a third party costs order at any time;
  - (c) make provision for any other order as to costs which has been made in respect of the proceedings to be varied on, or taken account of in, the making of a third party costs order;
  - (d) make provision for account to be taken of any third party costs order in the making of any other order as to costs in respect of the proceedings.
- (5) Regulations made under this section in relation to magistrates' courts must provide that the third party may appeal to the Crown Court against a third party costs order made by a magistrates' court.
- (6) Regulations made under this section in relation to the Crown Court must provide that the third party may appeal to the Court of Appeal against a third party costs order made by the Crown Court.]

**Textual Amendments**

**F50** S. 19B inserted (1.2.2004) by [Courts Act 2003 \(c. 39\)](#), **ss. 93, 110**; [S.I. 2004/174](#), **art. 2(a)**

*Supplemental*

**20 Regulations.** **E+W**

- (1) The Lord Chancellor may make regulations for carrying this Part into effect <sup>F51</sup>...

[<sup>F52</sup>(1A) The Lord Chancellor may by regulations—

- (a) make provision as to the amounts that may be ordered to be paid out of central funds in pursuance of a costs order, whether by specifying rates or scales or by making other provision as to the calculation of the amounts,
- (b) make provision as to the circumstances in which and conditions under which such amounts may be paid or ordered to be paid,

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- (c) make provision requiring amounts required to be paid out of central funds by a costs order to be calculated having regard to regulations under paragraphs (a) and (b),
  - (d) make provision requiring amounts required to be paid to a person out of central funds by a relevant costs order to be calculated in accordance with such regulations (whether or not that results in the fixing of an amount that the court considers reasonably sufficient or necessary to compensate the person), and
  - (e) make provision as to the review of determinations of amounts required to be paid out of central funds by costs orders.
- (1B) In subsection (1A)(d) “relevant costs order” means a costs order other than—
- (a) an order made by any court under section 17, and
  - (b) so much of a costs order made by the Supreme Court as relates to expenses, fees, costs, trouble or losses incurred in proceedings in that court.
- (1C) Regulations under subsection (1A) may, in particular—
- (a) make different provision in relation to amounts to be paid in respect of different expenses, fees, costs, trouble and losses,
  - (b) make different provision in relation to different costs orders and different areas, and
  - (c) make different provision in relation to the fixing of an amount in a costs order and the fixing of an amount by means of a determination.]
- (2) The Lord Chancellor may by regulations make provision for the recovery of sums paid <sup>[F53]</sup>by the Lord Chancellor under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 or out of central funds in accordance with a costs order] in cases where—
- (a) a costs order has been made against a <sup>[F54]</sup>person]; 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 <sup>[F55]</sup>subsection (1A)] above may provide that <sup>[F56]</sup>provision as to the calculation of amounts] payable out of central funds under a costs order <sup>[F57]</sup>(whether in the form of rates or scales or other provision)] shall be determined by the Lord Chancellor with the consent of the Treasury.
- (4) Regulations made under subsection (2) above may, in particular—
- (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) <sup>F58</sup> .....
- (6) Any regulations under this Part may contain such incidental <sup>[F59]</sup>, supplemental and transitional] provisions as the Lord Chancellor considers appropriate.
- (7) Before making any regulations under section 19(1) <sup>[F60]</sup>, 19A or 19B] 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

*Status: Point in time view as at 24/02/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part II. (See end of Document for details)*

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 [<sup>F61</sup>any person] ; or
  - (b) an order made in a criminal case by the [<sup>F62</sup>Supreme Court] for the payment of costs by a party to proceedings.

#### Subordinate Legislation Made

- P2** S. 20: power previously exercised by [S.I. 1986/1335](#);  
S. 20 (with s. 19A) power exercised by [S.I. 1991/789](#).

#### Textual Amendments

- F51** Words in s. 20(1) omitted (1.10.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 6\(2\)](#) (with Sch. 7 Pt. 4); [S.I. 2012/2412, art. 2\(g\)](#)
- F52** S. 20(1A)-(1C) inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 6\(3\)](#) (with Sch. 7 Pt. 4); [S.I. 2012/2412, art. 2\(g\)](#)
- F53** Words in s. 20(2) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 5 para. 24](#); [S.I. 2013/453, art. 3\(h\)](#) (with savings and transitional provisions in [S.I. 2013/534, art. 6](#))
- F54** Words in s. 20(2)(a) substituted (1.5.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 125\(3\), Sch. 18 para. 53](#); [S.I. 1991/985, art. 2\(b\)](#)
- F55** Words in s. 20(3) substituted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 6\(4\)\(a\)](#) (with Sch. 7 Pt. 4); [S.I. 2012/2412, art. 2\(g\)](#)
- F56** Words in s. 20(3) substituted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 6\(4\)\(b\)](#) (with Sch. 7 Pt. 4); [S.I. 2012/2412, art. 2\(g\)](#)
- F57** Words in s. 20(3) inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 6\(4\)\(c\)](#) (with Sch. 7 Pt. 4); [S.I. 2012/2412, art. 2\(g\)](#)
- F58** S. 20(5) repealed (1.4.2005) by [Courts Act 2003 \(c. 39\), ss. 109\(1\)\(3\), 110, Sch. 8 para. 288\(2\), Sch. 10](#); [S.I. 2005/910, art. 3\(y\)\(aa\)](#)
- F59** Words in s. 20(6) substituted (1.2.2004) by [Courts Act 2003 \(c. 39\), ss. 109\(1\), 110, Sch. 8 para. 288\(3\)](#); [S.I. 2004/174, art. 2\(b\)](#)
- F60** Words in s. 20(7) inserted (1.2.2004) by [Courts Act 2003 \(c. 39\), ss. 109\(1\), 110, Sch. 8 para. 288\(4\)](#); [S.I. 2004/174, art. 2\(b\)](#)
- F61** Words in s. 20(8)(a)(ii) substituted (1.2.2004) by [Courts Act 2003 \(c. 39\), ss. 109\(1\), 110, Sch. 8 para. 288\(5\)](#); [S.I. 2004/174, art. 2\(b\)](#)
- F62** Words in s. 20(8)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 41\(4\)](#); [S.I. 2009/1604, art. 2\(d\)](#)

#### Modifications etc. (not altering text)

- C5** S. 20(1)(3) applied (1.1.2004) by [Extradition Act 2003 \(c. 41\), ss. 62\(1\)\(2\), 221](#); [S.I. 2003/3103, art. 2](#) (subject to savings in Order (as amended by [S.I. 2003/3312, art. 2\(2\)](#) and [S.I. 2003/3258, art. 3\(2\)](#)))  
S. 20(1)(3) applied (1.1.2004) by [Extradition Act 2003 \(c. 41\), ss. 135\(1\)\(2\), 221](#); [S.I. 2003/3103, art. 2](#) (subject to savings in Order (as amended by [S.I. 2003/3312, art. 2\(2\)](#) and [S.I. 2003/3258, art. 3\(2\)](#)))
- C6** S. 20(1A)-(1C) applied by 1972 c. 51, s. 36(5C) (as inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 7 para. 9\(4\)](#) (with Sch. 7 Pt. 4); [S.I. 2012/2412, art. 2\(g\)](#)))

*Status: Point in time view as at 24/02/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part II. (See end of Document for details)*

- C7** S. 20(1A)-(1C) applied by 1988 c. 33, Sch. 3 para. 11(4) (as inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 11(2)(c)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g))
- C8** S. 20(1A)-(1C) applied by 2003 c. 41, s. 62A(6) (as inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 15** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g))
- C9** S. 20(1A)-(1C) applied by 2003 c. 41, s. 134A(6) (as inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 18** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g))
- C10** S. 20(3) applied by 1972 c. 51, s. 36(5C) (as inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 9(4)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g))
- C11** S. 20(3) applied by 1988 c. 33, Sch. 3 para. 11(4) (as inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 11(2)(c)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g))
- C12** S. 20(3) applied by 2003 c. 41, s. 62A(6) (as inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 15** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g))
- C13** S. 20(3) applied by 2003 c. 41, s. 134A(6) (as inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 18** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g))

## 21 Interpretation, etc. **E+W**

(1) In this Part—

[<sup>F63</sup>“accused” and “appellant”, in a case where section 44A of the Criminal Appeal Act 1968 (death of convicted person) applies, include the person approved under that section;]

“defendant’s costs order” has the meaning given in section 16 of this Act;  
.....<sup>F64</sup>

[<sup>F65</sup>“legally assisted person”, in relation to any proceedings, means a person [<sup>F66</sup>for whom advice, assistance or representation is provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012];]

“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 <sup>M7</sup>Criminal Appeal Act 1968.

(3) Subject to rules of court made under section 53(1) of the <sup>M8</sup>[<sup>F67</sup>Senior Courts 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



*Status: Point in time view as at 24/02/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part II. (See end of Document for details)*

references in this Part to the Court of Appeal shall be construed as references to that division.

- (4) For the purposes of sections 16 [<sup>F68</sup>, 16A] 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.

[<sup>F69</sup>(4A) Where one party to any proceedings is a legally assisted person then—

- (a) for the purposes of sections 16 [<sup>F70</sup>, 16A] and 17 of this Act, his costs shall be taken [<sup>F71</sup>not to include the cost of advice, assistance or representation provided to the person under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012] ; and
- (b) for the purposes of sections 18 [<sup>F72</sup>, [<sup>F73</sup>to 19B] of this Act, his costs shall be taken to include [<sup>F74</sup>the cost of such advice, assistance or representation] ;]

- (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 <sup>F75</sup> . . . 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 [<sup>F76</sup>sent] for trial but not tried and the expenses are incurred on the employment of the interpreter for the proceedings in the Crown Court.

#### Textual Amendments

- F63** Definitions of "accused" and "appellant" in s. 21(1) inserted (1.1.1996) by 1995 c. 35, s. 29(1), **Sch. 2 para. 15**; S.I. 1995/3061, **art. 3(d)(h)**
- F64** Definition of "legal aid order" repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 6**
- F65** Definition substituted by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 5 para. 14**
- F66** Words in s. 21(1) substituted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 25(2)**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F67** Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)
- F68** Words in s. 21(4) inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 7(2)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F69** S. 21(4A) inserted by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 5 para. 15**
- F70** Words in s. 21(4A) inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 7 para. 7(3)** (with Sch. 7 Pt. 4); S.I. 2012/2412, art. 2(g)
- F71** Words in s. 21(4A)(a) substituted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 25(3)**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F72** Words in s. 21(4A)(b) substituted (2.4.2001) by 1999 c. 22, s. 106, **Sch. 4 para. 30(3)(b)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)**
- F73** Words in s. 21(4A)(b) substituted (1.2.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 289**; S.I. 2004/174, **art. 2(b)**

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*Status: Point in time view as at 24/02/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part II. (See end of Document for details)*

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- F74** Words in s. 21(4A)(b) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 25\(4\)](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F75** Words in 21(6)(a) repealed (31.8.2000) by 1999 c. 22, s. 106, [Sch. 15 pt. V\(3\)](#) (with [Sch. 14 paras. 7\(2\), 36\(9\)](#)); S.I. 2000/1920, [art. 3\(c\)](#)
- F76** Word in s. 21(6)(b) substituted (9.5.2005 for certain purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 41, 336, [Sch. 3 para. 57\(4\)](#); S.I. 2005/1267, [art. 2](#), [Sch. Pt. 1 para. 1\(m\)](#); S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(1)(c)(2)(3), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

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#### **Marginal Citations**

**M7** 1968 c. 19.

**M8** 1981 c. 54.

**Status:**

Point in time view as at 24/02/2014.

**Changes to legislation:**

There are currently no known outstanding effects for the Prosecution of Offences Act 1985, Part II.