



# Prosecution of Offences Act 1985

## 1985 CHAPTER 23

### PART II

#### COSTS IN CRIMINAL CASES

##### *Other awards*

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

- (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>F1</sup> which has been made in respect of the proceedings [<sup>F2</sup>or any grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service;]
  - (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>F3</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>F4</sup>section 11 of the <sup>M1</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>F5</sup>within subsection (3B) below;]
 for the expenses properly incurred in or incidental to his reporting to the court.
- <sup>F6</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>F7</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>F8</sup>(3A) In subsection (3)(a) above “attendance” means attendance at the court or elsewhere.]

<sup>F9</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 in a community order (within the meaning of Part 12 of the Criminal Justice Act 2003) a mental health treatment requirement under section 207 of that Act 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).]
- (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>M2</sup>Criminal Appeal Act 1968.
- (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

- F1** Words repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, Sch. 5 para. 12, [Sch. 6](#)
- F2** 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\(a\)\(ii\)](#)
- F3** Words inserted (retrospectively) (1.10.1986) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 166(2) (4), [Sch. 8 para. 16](#)

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- F4** Words in s. 19(3)(c) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 99**
- F5** 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
- F6** 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.
- F7** 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))
- F8** 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**
- F9** 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

#### Marginal Citations

- M1** 2000 c. 6  
**M2** 1968 c. 19.

### [<sup>F10</sup>19A Costs against legal representatives etc.

- (1) In any criminal proceedings—
- the Court of Appeal;
  - the Crown Court; or
  - 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—
- 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
  - 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.

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#### Textual Amendments

**F10** 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)**

#### [<sup>F11</sup>19B Provision for award of costs against third parties

- (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

**F11** S. 19B inserted (1.2.2004) by [Courts Act 2003 \(c. 39\)](#), **ss. 93, 110**; [S.I. 2004/174](#), **art. 2(a)**

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