
STATUTORY INSTRUMENTS

1980 No. 705

MINISTERS OF THE CROWN

The Transfer of Functions (Legal Aid in Criminal Proceedings and Costs in Criminal Cases) Order 1980

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| <i>Made</i> | - - - - | <i>21st May 1980</i> |
| <i>Laid before Parliament</i> | | <i>29th May 1980</i> |
| <i>Coming into Operation</i> | | <i>1st July 1980</i> |

At the Court at Buckingham Palace, the 21st day of May 1980

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 1 of the Ministers of the Crown Act 1975, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and Commencement

1.—(1) This Order may be cited as the Transfer of Functions (Legal Aid in Criminal Proceedings and Costs in Criminal Cases) Order 1980.

(2) This Order comes into operation on 1st July 1980.

Transfer of functions

2. The functions of the Secretary of State under the following provisions namely—

- (a) sections 13(2), 16(2) and 17 of the Costs in Criminal Cases Act 1973(1);
- (b) sections 34, 37(1)(b) and 39 of the Legal Aid Act 1974;
- (c) regulations 4 and 5 of the Costs in Criminal Cases (Central Funds) (Appeals) Regulations 1977;
- (d) regulation 2(2) of the Costs in Criminal Cases (Allowances) Regulations 1977;
- (e) regulations 7(1) and 30(1) of the Legal Aid in Criminal Proceedings (General) Regulations 1968; and

(1) Section 16(2) was extended and modified by the Administration of Justice Act 1973 (c. 15), section 17(2); section 17 was amended by the Administration of Justice Act 1977 (c. 38), Schedule 2, paragraph 4.

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(f) regulations 9(4) to (5D) and 10 of the Legal Aid in Criminal Proceedings (Fees and Expenses) Regulations 1968(2),
are hereby transferred to the Lord Chancellor.

Supplementary

3.—(1) The Schedule to this Order (which contains amendments incidental to or consequential on the transfer of functions effected by Article 2) shall have effect.

(2) This Order shall not affect the validity of anything done by or in relation to the Secretary of State before the coming into operation of this Order, and anything which at the coming into operation of this Order is in process of being done by or in relation to the Secretary of State may, if it relates to any functions transferred by this Order, be continued by or in relation to the Lord Chancellor.

(3) Any request made, notice given or other thing whatsoever done by or on behalf of the Secretary of State in connection with any functions transferred by this Order shall, if in force at the commencement of this Order, have effect as if made, given or done by or, as the case may be, on behalf of the Lord Chancellor so far as that is required for continuing its effect after the commencement of this Order.

N.E. Leigh
Clerk of the Privy Council

(2) The relevant provisions of regulations 9 and 10 were substituted by S.I. 1979/360, regulations 5 and 7.

SCHEDULE

Article 3(1)

INCIDENTAL AND CONSEQUENTIAL AMENDMENTS

1. In each of the following provisions, namely—

- (a) the provisions specified in Article 2;
- (b) section 16(1) of the Costs in Criminal Cases Act 1973(3);
- (c) sections 35(7), 36(1)(b) and 37(5) of the Legal Aid Act 1974;
- (d) regulations 26(1) and 30(2) of the Legal Aid in Criminal Proceedings (General) Regulations 1968(4); and
- (e) regulation 9(8) of the Legal Aid in Criminal Proceedings (Fees and Expenses) Regulations 1968(5),

for “the Secretary of State”, wherever it occurs, substitute “the Lord Chancellor”.

2. In section 16 of the Costs in Criminal Cases Act 1973 (payment of costs ordered to be paid out of central funds and by accused or prosecutor), after subsection (2) insert—

“(3) 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 subsection (2) above as it applies in relation to sums payable to the Secretary of State under that section.”.

3. In section 35(7) of the Legal Aid Act 1974(6) (destination of sums paid by way of contribution towards costs to a clerk of a magistrates' court) for the words from “and subsection (1)” onwards substitute “and 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 under this subsection as it applies in relation to sums payable to the Secretary of State under that section”.

4. In Schedule 2 to the Justices of the Peace Act 1979 (consequential amendments), omit subparagraph (b) of paragraph 27.

EXPLANATORY NOTE

Legal aid in criminal proceedings and costs in criminal cases in England and Wales have hitherto been the responsibility of the Secretary of State (generally in effect the Home Secretary) under Part II of the Legal Aid Act 1974 and the Costs in Criminal Cases Act 1973. The effect of this Order is to transfer the functions of the Secretary of State under those Acts and the regulations made thereunder to the Lord Chancellor (except where the functions are not carried out by the Home Secretary but by another Secretary of State) and to make amendments to them incidental to and consequential on such transfer.

(3) Section 16(1) was extended by the Administration of Justice Act 1973 (c. 15), section 17(2).

(4) Regulation 26 was substituted by S.I. 1970/1980, regulation 14.

(5) Regulation 9(8) was amended by S.I. 1979/360, regulation 6.

(6) Section 35(7) was amended by the Justices of the Peace Act 1979 (c. 55), Schedule 2.