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STATUTORY INSTRUMENTS

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**2010 No. 60**

**The Criminal Procedure Rules 2010**

**PART 76**

**COSTS**

*SECTION 3: PAYMENT OF COSTS BY ONE PARTY TO ANOTHER*

**Costs on appeal**

**76.6.**—(1) This rule—

- (a) applies where a magistrates' court, the Crown Court or the Court of Appeal can order a party to pay another person's costs on an appeal, or an application for permission to appeal;
- (b) authorises the Crown Court, in addition to its other powers, to order a party to pay another party's costs on an appeal to that court, except on an appeal under—
  - (i) section 108 of the Magistrates' Courts Act 1980(1), or
  - (ii) section 45 of the Mental Health Act 1983(2).
- (2) In this rule, costs include—
  - (a) costs incurred in the court that made the decision under appeal; and
  - (b) costs funded by the Legal Services Commission.
- (3) The court may make an order—
  - (a) on application by the person who incurred the costs; or
  - (b) on its own initiative.
- (4) A person who wants the court to make an order must—
  - (a) apply as soon as practicable;
  - (b) notify each other party;
  - (c) specify—
    - (i) the amount claimed, and
    - (ii) against whom; and
  - (d) where an appellant abandons an appeal to the Crown Court by serving a notice of abandonment—

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(1) 1980 c. 43; section 108 was amended by sections 66(2) and 78 of, and Schedule 16 to, the [Criminal Justice Act 1982 \(c. 48\)](#), section 23(3) of the [Football Spectators Act 1989 \(c. 37\)](#), section 101(2) of, and Schedule 13 to, the [Criminal Justice Act 1991 \(c. 53\)](#), sections 119 and 120(2) of, and paragraph 43 of Schedule 8 and Schedule 10 to, the [Crime and Disorder Act 1998 \(c. 37\)](#), section 7(2) of the [Football \(Offences and Disorder\) Act 1999 \(c. 21\)](#), section 165(1) of, and paragraph 71 of Schedule 9 to, the [Powers of Criminal Courts \(Sentencing\) Act 2000 \(c. 6\)](#), section 1 of, and Schedule 3 to, the [Football \(Disorder\) Act 2000 \(c. 25\)](#), section 58(1) of, and paragraph 10 of Schedule 10 to, the [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), section 52(2) of, and paragraph 14 of Schedule 3 to, the [Violent Crime Reduction Act 2006 \(c. 38\)](#) and section 64 of, and paragraph 10 of Schedule 3 to, the [Animal Welfare Act 2006 \(c. 45\)](#).

(2) 1983 c. 20.

- (i) apply in writing not more than 14 days later, and
  - (ii) serve the application on the appellant and on the Crown Court officer.
- (5) A party who wants to oppose an order must—
- (a) make representations as soon as practicable; and
  - (b) where the application was under paragraph (4)(d), serve written representations on the applicant, and on the Crown Court officer, not more than 7 days after it was served.
- (6) Where the application was under paragraph (4)(d), the Crown Court officer may—
- (a) submit it to the Crown Court; or
  - (b) serve it on the magistrates' court officer, for submission to the magistrates' court.
- (7) If the court makes an order, it may direct an assessment under rule 76.11, or assess the amount itself where—
- (a) the appellant abandons an appeal to the Crown Court;
  - (b) the Crown Court decides an appeal, except an appeal under—
    - (i) section 108 of the Magistrates' Courts Act 1980, or
    - (ii) section 45 of the Mental Health Act 1983; or
  - (c) the Court of Appeal decides an appeal to which Part 69 applies (appeal to the Court of Appeal regarding reporting or public access restriction).
- (8) If the court makes an order in any other case, it must assess the amount itself.

*[Note. See also rule 76.2.*

*A magistrates' court can order an appellant to pay a respondent's costs on abandoning an appeal to the Crown Court.*

*The Crown Court can order—*

- (a) *the defendant to pay the prosecutor's costs on dismissing a defendant's appeal—*
  - (i) *against conviction or sentence, under section 108 of the Magistrates' Courts Act 1980, or*
  - (ii) *where the magistrates' court makes a hospital order or guardianship order without convicting the defendant, under section 45 of the Mental Health Act 1983; and*
- (b) *one party to pay another party's costs on deciding any other appeal to which Part 63 applies.*

*The Court of Appeal can order—*

- (a) *the defendant to pay another person's costs on dismissing a defendant's appeal or application to which Part 66 (appeal to the Court of Appeal against ruling at preparatory hearing), Part 68 (appeal to the Court of Appeal about conviction or sentence) or Part 74 (appeal or reference to the Supreme Court) applies;*
- (b) *the defendant to pay another person's costs on allowing a prosecutor's appeal to which Part 67 (appeal to the Court of Appeal against ruling adverse to the prosecution) applies;*
- (c) *the appellant to pay another person's costs on dismissing an appeal or application by a person affected by a serious crime prevention order;*
- (d) *one party to pay another party's costs on deciding an appeal to which Part 69 (appeal to the Court of Appeal regarding reporting or public access restriction) applies.*

*See section 109 of the Magistrates' Courts Act 1980(3); section 52 of the Senior Courts Act 1981(4) (which allows rules of court to authorise the Crown Court to order costs); section 18 of the Prosecution of Offences Act 1985; section 159(5) of the Criminal Justice Act 1988(5); and article 15 of The Serious Crime Act 2007 (Appeals under Section 24) Order 2008(6).]*

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- (3) 1980 c. 43; section 109(2) was amended by section 109 of, and paragraph 234 of Schedule 8 to, the [Courts Act 2003](#) (c. 39).
- (4) 1981 c. 54. The Act's title was amended by section 59(5) of, and paragraph 1 of Schedule 11 to, the [Constitutional Reform Act 2005](#) (c. 4).
- (5) 1988 c. 33.
- (6) S.I. 2008/1863.