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STATUTORY INSTRUMENTS

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**2013 No. 2830**

**CRIMINAL LAW, ENGLAND AND WALES**

**The Costs in Criminal Cases (General)  
(Amendment) (No. 2) Regulations 2013**

<i>Made</i>	- - - -	<i>1st November 2013</i>
<i>Laid before Parliament</i>		<i>4th November 2013</i>
<i>Coming into force</i>	- -	<i>27th January 2014</i>

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 20(1) and (1A)(b) and 29(2) of the Prosecution of Offences Act 1985(1).

**Citation and commencement**

1. These Regulations may be cited as the Costs in Criminal Cases (General) (Amendment) (No. 2) Regulations 2013(2) and come into force on 27th January 2014.

**Amendment to the Costs in Criminal Cases (General) Regulations 1986**

2.—(1) The Costs in Criminal Cases (General) Regulations 1986(3) are amended as follows.

(2) In regulation 4—

(a) after the definition of “costs order”, insert—

““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(4);”

(b) after the definition of “presiding judge”, insert—

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(1) 1985 c.23. Sections 20 and 29(2) of the Prosecution of Offences Act 1985 have been amended by paragraphs 6 and 8 respectively of Schedule 7 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10).  
(2) The Costs in Criminal Cases (General) Regulations 1986 (S.I. 1986/1335) were also amended by S.I. 2013/2526.  
(3) S.I. 1986/1335 as amended by S.I. 1999/2096, S.I. 2008/2448 and S.I. 2012/1804. There are other amendments that are not relevant to the subject matter of these Regulations.  
(4) 2012 c. 10.

“;

“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<sup>(5)</sup>;
- (c) proceedings in the Crown Court following an order by the Court of Appeal or the Supreme Court for a retrial.”

(3) In regulation 7(6)—

- (a) in sub-paragraph (b)(ii), omit “or”;
- (b) in sub-paragraph (c), for “,” substitute “; or”;
- (c) after sub-paragraph (c), insert—
  - “(d) the order was made under section 16(2) of the Act and—
    - (i) the legal costs were incurred in relevant Crown Court proceedings; and
    - (ii) the Director of Legal Aid Casework has made a determination of financial ineligibility in relation to the accused and those proceedings,”.

Signed by the authority of the Lord Chancellor

*Shailesh Vara*  
Parliamentary Under Secretary of State  
Ministry of Justice

1st November 2013

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(5) 1933 c. 36. Section 2(2)(b) was amended by section 5 and Schedule 2 of the Criminal Appeal Act 1964 c. 43, section 152(1) and Schedule 5 of the Senior Court Act 1981 c. 54 and section 31(6) and Schedule 2 of the Prosecution of Offences Act 1985 (c. 23).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend Part III of the Costs in Criminal Cases (General) Regulations 1986 (S.I. 1986/1335) (“the 1986 Regulations”), which set out procedures relating to payments out of central funds pursuant to Part 2 of the Prosecution of Offences Act 1985 (c.23) (“the Act”) in respect of costs incurred in criminal proceedings.

The amendments in these Regulations are consequential on amendment to section 16A of the Act to enable, in certain Crown Court proceedings, payment of an acquitted defendant’s costs out of central funds. This new exception would enable an individual who is ineligible for legal aid in certain Crown Court proceedings to receive a payment out of central funds in respect of their legal costs if they are acquitted.

Regulation 2 amends Part III of the 1986 Regulations to provide that where legal costs are recoverable in such circumstances, the amounts payable out of central funds in respect of such costs will be calculated in accordance with the rates or scales or other provision made by the Lord Chancellor.

A full impact assessment of the effect of the policy implemented by this instrument on the costs of business and the voluntary sector was produced with the Government’s response to consultation, *Transforming Legal Aid: Next Steps* and is available at <https://consult.justice.gov.uk/>.