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STATUTORY INSTRUMENTS

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**2014 No. 1610**

**The Criminal Procedure Rules 2014**

**PART 76**

**COSTS**

*SECTION 4: OTHER COSTS ORDERS*

**Costs against a legal representative**

**76.9.**—(1) This rule applies where—

- (a) a party has incurred costs—
  - (i) as a result of an improper, unreasonable or negligent act or omission by a legal or other representative or representative’s employee, or
  - (ii) which it has become unreasonable for that party to have to pay because of such an act or omission occurring after those costs were incurred; and
- (b) the court can—
  - (i) order the representative responsible to pay such costs, or
  - (ii) prohibit the payment of costs to that representative.
- (2) In this rule, costs include costs met by legal aid.
- (3) The court may make an order—
  - (a) on application by the party who incurred such costs; or
  - (b) on its own initiative.
- (4) A party who wants the court to make an order must—
  - (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
  - (b) serve the application on—
    - (i) the court officer (or, in the Court of Appeal, the Registrar),
    - (ii) the representative responsible,
    - (iii) each other party, and
    - (iv) any other person directly affected;
  - (c) in that application specify—
    - (i) the representative responsible,
    - (ii) the relevant act or omission,
    - (iii) the reasons why that act or omission meets the criteria for making an order,
    - (iv) the amount claimed, and
    - (v) those on whom the application has been served.

- (5) Where the court considers making an order on its own initiative, it must—
  - (a) identify the representative against whom it proposes making that order; and
  - (b) specify—
    - (i) the relevant act or omission,
    - (ii) the reasons why that act or omission meets the criteria for making an order, and
    - (iii) with the assistance of the party who incurred the costs, the amount involved.
- (6) A representative who wants to oppose an order must—
  - (a) make representations as soon as practicable; and
  - (b) in reply to an application, serve written representations on the applicant and on the court officer (or Registrar) not more than 7 days after it was served.
- (7) If the court makes an order—
  - (a) the general rule is that it must do so without waiting until the end of the case, but it may postpone making the order; and
  - (b) it must assess the amount itself.
- (8) Instead of making an order, the court may make adverse observations about the representative’s conduct for use in an assessment where—
  - (a) a party’s costs are—
    - (i) to be met by legal aid, or
    - (ii) to be paid out of central funds; or
  - (b) there is to be an assessment under rule 76.11.

[Note. See—

- (a) rule 76.2;
- (b) section 19A of the Prosecution of Offences Act 1985(1);
- (c) article 17 of the Serious Crime Act 2007 (Appeals under Section 24) Order 2008(2).

*The Criminal Costs Practice Direction sets out a form of application for use in connection with this rule.*

*Part 63 (Appeal to the Crown Court) and Part 68 (Appeal to the Court of Appeal about conviction or sentence) contain rules about appeals against a costs order to which this rule applies.]*

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(1) 1985 c. 23; section 19A was inserted by section 111 of the Courts and Legal Services Act 1990 (c. 41).  
(2) S.I. 2008/1863.