
STATUTORY INSTRUMENTS

2015 No. 796

CRIMINAL LAW, ENGLAND AND WALES

**The Prosecution of Offences Act 1985
(Criminal Courts Charge) Regulations 2015**

<i>Made</i>	- - - -	<i>19th March 2015</i>
<i>Laid before Parliament</i>		<i>23rd March 2015</i>
<i>Coming into force</i>	- -	<i>13th April 2015</i>

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 21A(3), 21C(1), 21E(4) and (7) and 29 of the Prosecution of Offences Act 1985⁽¹⁾:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Prosecution of Offences Act 1985 (Criminal Courts Charge) Regulations 2015 and come into force on 13th April 2015.

(2) In these Regulations—

“the CAA 1968” means the Criminal Appeal Act 1968⁽²⁾;

“the MHA 1983” means the Mental Health Act 1983⁽³⁾;

“the POA 1985” means the Prosecution of Offences Act 1985;

“the CAA 1995” means the Criminal Appeal Act 1995⁽⁴⁾.

Cases in which the duty to order payment of the criminal courts charge does not apply

2.—(1) An order under section 21A(1) of the POA 1985 (criminal courts charge) must not be made against a person (“P”) convicted of an offence in the following cases—

(a) where a court deals with P for the offence by making an order discharging P absolutely under section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (absolute discharge)⁽⁵⁾;

(1) 1985 c. 23; section 54 of the Criminal Justice and Courts Act 2015 (c. 2) inserted sections 21A to 21F of the Prosecution of Offences Act 1985.

(2) 1968 c. 19.

(3) 1983 c. 20.

(4) 1995 c. 35.

(5) 2000 c. 6.

- (b) where a court deals with P for the offence by making in respect of P an order under section 37(1) of the MHA 1983 (power of courts to order hospital admission or guardianship)(6) or a direction under section 45A(3) of the MHA 1983 (power of higher courts to order hospital admission)(7);
 - (c) where the Crown Court dismisses an appeal against conviction or sentence for the offence following a reference by the Criminal Cases Review Commission under section 11(1) of the CAA 1995 (cases dealt with summarily in England and Wales);
 - (d) where the Court of Appeal dismisses an appeal for the offence under Part 1 of the CAA 1968 following a reference by the Criminal Cases Review Commission under section 9(1) of the CAA 1995 (cases dealt with on indictment in England and Wales).
- (2) Paragraph (3) applies where a court deals with a person in the same proceedings—
- (a) for an offence; and
 - (b) for a failure to comply with a requirement mentioned in section 21B of the POA 1985 (criminal courts charge: courts and times).
- (3) An order under section 21A(1) of the POA 1985 must not be made in respect of a failure to comply with a requirement mentioned in section 21B of the POA 1985.
- (4) Paragraph (5) applies where a court deals with a person in the same proceedings for a failure to comply with more than one of the requirements mentioned in section 21B of the POA 1985 and paragraph (3) does not apply.
- (5) An order under section 21A(1) of the POA 1985 must not be made—
- (a) where the court deals with the person for a failure to comply with requirements mentioned in section 21B(1)(b), (c) and (d) of the POA 1985, in respect of the failure to comply with requirements mentioned in section 21B(1)(c) or (d);
 - (b) where the court deals with the person for a failure to comply with requirements mentioned in section 21B(1)(b) and (c) of the POA 1985, in respect of the failure to comply with requirements mentioned in section 21B(1)(c);
 - (c) where the court deals with the person for a failure to comply with requirements mentioned in section 21B(1)(b) and (d) of the POA 1985, in respect of the failure to comply with requirements mentioned in section 21B(1)(d);
 - (d) where the court deals with the person for a failure to comply with requirements mentioned in section 21B(1)(c) and (d) of the POA 1985, in respect of the failure to comply with requirements mentioned in section 21B(1)(d);
 - (e) where the court deals with the person for a failure to comply with requirements mentioned in section 21B(2)(b) and (c) of the POA 1985, in respect of the failure to comply with requirements mentioned in section 21B(2)(c).

Amount of the criminal courts charge

3.—(1) The table in the Schedule, read with the provisions of this regulation, sets out the charge that must be ordered to be paid under section 21A(1) of the POA 1985 by class of case.

(2) Paragraph (3) applies where, following the summary conviction of a person (“P”) for an offence, a magistrates’ court commits P to the Crown Court for sentence and the Crown Court accordingly deals with P for the offence.

(6) Section 37(1) was amended by section 55 of, and paragraph 12(1) of Schedule 4 to, the Crime Sentences Act 1997 (c. 43), section 165(1) of, and paragraph 90(1) and (2) of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and section 304 of, and paragraphs 37 and 38(b) of Part 1 of Schedule 32 to, the Criminal Justice Act 2003 (c. 44).

(7) Section 45A was inserted by section 46 of the Crime Sentences Act 1997.

(3) The charge the Crown Court must order to be paid is the amount in column 2 of the table which corresponds to the amount the magistrates' court would have had to order had P not been committed to the Crown Court for sentence.

(4) Paragraph (5) applies where more than one entry in column 1 of the table applies.

(5) The charge the court must order to be paid is the amount in column 2 which corresponds to the entry mentioned in paragraph (4) which results in the highest amount.

(6) Where a person ("P") changes P's plea from not guilty to guilty after the start of a summary or Crown Court trial the charge the court must order to be paid is the amount that would have applied if P had not changed the plea.

(7) For the purposes of paragraph (6)—

(a) the start of a summary trial is the time when the prosecution opens its case;

(b) the start of a Crown Court trial is—

(i) the time when a jury is sworn; or

(ii) where a trial takes place without a jury, the time when the prosecution opens its case.

Remittal of the criminal courts charge

4. The period specified for the purposes of section 21E(4) of the POA 1985 (power to remit criminal courts charge) is—

(a) where the person liable to pay the charge has made the application to a magistrates' court to remit the charge, two years;

(b) in any other case, 12 months.

19th March 2015

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 3

Table

<i>Column 1</i>	<i>Column 2</i>
Conviction by a magistrates' court in proceedings conducted in accordance with section 16A of the Magistrates' Courts Act 1980 (trial by single justice on the papers)(8)	£150
Conviction by a magistrates' court for a summary offence on a guilty plea	£150
Conviction by a magistrates' court at a trial of a summary offence where (a) the defendant did not enter a plea, (b) the trial proceeded in the absence of the defendant, and (c) the court dealt with the case on the papers without reliance on any oral evidence	£150
Conviction by a magistrates' court for an offence triable either-way on a guilty plea	£180
Conviction by a magistrates' court at a trial of a summary offence	£520
Conviction by a magistrates' court at a trial of an offence triable either way	£1000
Conviction by the Crown Court on a guilty plea	£900
Conviction by the Crown Court at a trial on indictment	£1200
Magistrates' court when dealing with a person under section 21B(1)(b), (c) or (d) of the POA 1985	£100
Crown Court when dealing with a person under section 21B(2)(b) or (c) of the POA 1985	£150
Crown Court dismissing an appeal by a person against conviction or sentence	£150
Court of Appeal dismissing an application for leave to bring an appeal under Part 1 of the CAA 1968 against a person's conviction or sentence	£150
Court of Appeal dismissing an appeal under Part 1 of the CAA 1968 against a person's conviction or sentence	£200

(8) 1980 c.43; section 48 of the Criminal Justice and Courts Act 2015 inserted section 16A of the Magistrates' Courts Act 1980.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 21A(1) of the Prosecution of Offences Act 1985 (c. 23) (“the POA 1985”) requires a court, at the times listed in section 21B of the POA 1985, to order a person convicted of an offence to pay a charge in respect of relevant court costs (the “criminal courts charge”). This duty does not apply in the cases or classes of case prescribed by the Lord Chancellor (section 21A(3)).

Regulation 2 prescribes the classes of case in which the criminal courts charge must not be ordered: where an offender is dealt with for the offence by being absolutely discharged, or where the offender is given a hospital or guardianship order for the offence, or a direction for hospital admission, under the Mental Health Act 1983 (c. 20); and those cases where the Criminal Cases Review Commission has referred the case for appeal. Regulation 2(2) and (3) provide that where a court deals with an offender in the same proceedings for both an offence and for any failure to comply with requirements imposed by a community order, a community requirement of a suspended sentence order or a supervision requirement, the court must not impose a criminal courts charge when dealing with the offender for the breach of a requirement. Regulation 2(4) deals with the unusual situation where a court is dealing with an offender in the same proceedings for multiple breaches of orders mentioned in section 21B of the 1985 Act. Where for example the court deals both with a breach of requirements imposed by a community order and a breach of the community requirements of a suspended sentence order, regulation 2(5) means that a charge must not be imposed in relation to the failure to comply with the community requirements of the suspended sentence order.

Regulation 3 and the associated table in the Schedule specify the amounts payable in respect of different classes of case. Regulation 3(4) and (5) for example, deal with the situation where a court is dealing with an offender for more than one offence in the same proceedings where more than one entry in column 1 of the table is potentially relevant. This may occur where a magistrates’ court at a trial is dealing with an offender for conviction of both a summary offence and an offence triable either way. Article 3(5) explains that the court must order the highest relevant amount corresponding to the class of case with which it is concerned.

Section 21E of the POA 1985 gives a magistrates’ court power to remit the criminal courts charge in certain circumstances. The magistrates’ court may not do so until “a specified period” has elapsed from certain events, such as the day on which a person was last convicted of an offence. Article 4 specifies the relevant periods and makes different provision depending on whether an application for remission is made by the offender (where the specified period is two years) or any other case – a magistrates’ court acting of its own motion or an application by a fines officer – (where the period is 12 months).

A full impact assessment of the effect of the policy implemented by this instrument on the costs of business and the voluntary sector is available at: https://www.gov.uk/government/uploads/attachment_data/file/336092/addendum-criminal-courts-charge-ia.pdf.