

## SCHEDULES

### SCHEDULE 7

#### COSTS IN CRIMINAL CASES

##### PART 1

#### PROSECUTION OF OFFENCES ACT 1985

##### *Legal costs*

3 After section 16 insert—

##### **“16A Legal costs**

- (1) A defendant’s costs order may not require the payment out of central funds of an amount that includes an amount in respect of the accused’s legal costs, subject to the following provisions of this section.
- (2) Subsection (1) does not apply where condition A, B or C is met.
- (3) Condition A is that the accused is an individual and the order is made under—
  - (a) section 16(1),
  - (b) section 16(3), or
  - (c) section 16(4)(a)(ii) or (iii) or (d).
- (4) Condition B is that the accused is an individual and the legal costs were incurred in proceedings in a court below which were—
  - (a) proceedings in a magistrates’ court, or
  - (b) proceedings on an appeal to the Crown Court under section 108 of the Magistrates’ Courts Act 1980 (right of appeal against conviction or sentence).
- (5) Condition C is that the legal costs were incurred in proceedings in the Supreme Court.
- (6) The Lord Chancellor may by regulations make provision about exceptions from the prohibition in subsection (1), including—
  - (a) provision amending this section by adding, modifying or removing an exception, and
  - (b) provision for an exception to arise where a determination has been made by a person specified in the regulations.
- (7) Regulations under subsection (6) may not remove or limit the exception provided by condition C.

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*Status: This is the original version (as it was originally enacted).*

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- (8) Where a court makes a defendant’s costs order requiring the payment out of central funds of an amount that includes an amount in respect of legal costs, the order must include a statement to that effect.
- (9) Where, in a defendant’s costs order, a court fixes an amount to be paid out of central funds that includes an amount in respect of legal costs incurred in proceedings in a court other than the Supreme Court, the latter amount must not exceed an amount specified by regulations made by the Lord Chancellor.
- (10) In this section—
- “legal costs” means fees, charges, disbursements and other amounts payable in respect of advocacy services or litigation services including, in particular, expert witness costs;
- “advocacy services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right of audience in relation to any proceedings, or contemplated proceedings, to provide;
- “expert witness costs” means amounts payable in respect of the services of an expert witness, including amounts payable in connection with attendance by the witness at court or elsewhere;
- “litigation services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right to conduct litigation in relation to proceedings, or contemplated proceedings, to provide.”