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STATUTORY INSTRUMENTS

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**2011 No. 1709**

**The Criminal Procedure Rules 2011**

**PART 76**

**COSTS**

*SECTION 2: COSTS OUT OF CENTRAL FUNDS*

**Costs out of central funds**

**76.4.**—(1) This rule applies where the court can order the payment of costs out of central funds.

(2) In this rule, costs—

(a) include—

- (i) on an appeal, costs incurred in the court that made the decision under appeal, and
- (ii) at a retrial, costs incurred at the initial trial and on any appeal; but

(b) do not include 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) Where a person wants the court to make an order that person must—

- (a) apply as soon as practicable; and
- (b) outline the type of costs and the amount claimed, if that person wants the court to direct an assessment; or
- (c) specify the amount claimed, if that person wants the court to assess the amount itself.

(5) The general rule is that the court will make an order, but—

- (a) the court may decline to make a defendant's costs order if, for example—
  - (i) the defendant is convicted of at least one offence, or
  - (ii) the defendant's conduct led the prosecutor reasonably to think the prosecution case stronger than it was; and
- (b) the court may decline to make a prosecutor's costs order if, for example, the prosecution was started or continued unreasonably.

(6) If the court makes an order—

- (a) it may direct an assessment under, as applicable—
  - (i) regulations 4 to 12 of The Costs in Criminal Cases (General) Regulations 1986(1), or

- (ii) articles 21 to 28 of The Serious Crime Act 2007 (Appeals under Section 24) Order 2008(2);
- (b) it may assess the amount itself, if the recipient agrees;
- (c) it must assess the amount itself, in a case in which it decides not to allow an amount that is reasonably sufficient to compensate the recipient for expenses properly incurred in the proceedings.

*[Note. See also rule 76.2.*

*An order for the payment of costs out of central funds can be made—*

- (a) *for a defendant—*
  - (i) *on acquittal,*
  - (ii) *where a prosecution does not proceed,*
  - (iii) *where the Crown Court allows any part of a defendant's appeal from a magistrates' court,*
  - (iv) *where the Court of Appeal allows any part of a defendant's appeal from the Crown Court,*
  - (v) *where the Court of Appeal decides a prosecutor's appeal under Part 66 (appeal to the Court of Appeal against ruling at preparatory hearing) or Part 67 (appeal to the Court of Appeal against ruling adverse to prosecution),*
  - (vi) *where the Court of Appeal decides a reference by the Attorney General under Part 70 (reference to the Court of Appeal of point of law or unduly lenient sentence), or*
  - (vii) *where the Court of Appeal decides an appeal by someone other than the defendant about a serious crime prevention order;*

*(See section 16 of the Prosecution of Offences Act 1985 and regulation 14 of The Costs in Criminal Cases (General) Regulations 1986(3); section 36(5) of the Criminal Justice Act 1972 and paragraph 11 of Schedule 3 to the Criminal Justice Act 1988; and article 14 of The Serious Crime Act 2007 (Appeals under Section 24) Order 2008.)*

- (b) *for a private prosecutor, in proceedings in respect of an offence that must or may be tried in the Crown Court;*

*(See section 17 of the Prosecution of Offences Act 1985 and regulation 14 of The Costs in Criminal Cases (General) Regulations 1986.)*

- (c) *for a person adversely affected by a serious crime prevention order, where the Court of Appeal—*

- (i) *allows an appeal by that person about that order, or*
- (ii) *decides an appeal about that order by someone else.*

*(See article 14 of The Serious Crime Act 2007 (Appeals under Section 24) Order 2008.)]*

(2) [S.I. 2008/1863](#).

(3) [S.I. 1986/1335](#); regulation 14 was amended by regulations 2 and 11 of [S.I. 2008/2448](#).