
STATUTORY INSTRUMENTS

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](#).