



Costs in Criminal Cases Act (Northern Ireland) 1968

1968 CHAPTER 10

3 Costs of defence in cases of acquittal, dismissal or discharge.

- (1) Subject to the provisions of this section and of section 6, any court before which a person is prosecuted or tried (including a magistrates' court conducting the preliminary investigation of an indictable offence)^[F1] or a judge of the Crown Court conducting a preparatory hearing under the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988], if—
- (a) the accused is acquitted; or
 - (b) the charge is dismissed, withdrawn or struck out; or
 - (c) in the case of a magistrates' court conducting the preliminary investigation of an indictable offence, the accused is discharged;
- may—
- (i) where the proceedings have been instituted by or on behalf of, or taken over by, the Attorney General, or have been instituted by a constable, or by or on behalf of the Ministry, order the Ministry; and
 - (ii) in any other case, order the prosecutor;
- to pay to the accused the whole or any part of the costs of the defence.
- (2) Where a person committed for trial is not subsequently tried, the court to which he is committed shall have the same power to order payment of costs under this Act as if the accused had been tried and acquitted.

^[F1](2A) Where a notice of transfer is given under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988^[F2] (serious and complex fraud) or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995 (certain cases involving children)] but a person in relation to whose case it is given is not tried on a charge to which it relates, the Crown Court shall have the same power to order the payment of costs under this Act as if that person had been tried and acquitted.]

- (3) The costs of the defence mentioned in subsection (1) shall, subject to subsection (4) and to rules pursuant to section 7, be such sums as appear to the court reasonably

Status: Point in time view as at 01/01/2006. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Costs in Criminal Cases Act (Northern Ireland) 1968, Section 3. (See end of Document for details)

sufficient to compensate the accused for the expenses properly incurred by him in carrying on the defence (including, in the case of a trial, any proceedings preliminary or incidental to such trial) and to compensate any witness for the defence for the expense, trouble or loss of time properly incurred in, or incidental to, his attendance to give evidence.

- (4) Where an appellant is retried by virtue of an order under [^{F3} section 6 of the Criminal Appeal (Northern Ireland) Act 1980] and is acquitted on the retrial, the costs of the defence mentioned in subsection (1) shall include—
- (a) any costs which could have been ordered to be paid under this section by the court by which he was originally tried if he had been acquitted at the original trial; and
 - (b) if no order was made under section 4(2) of this Act or under [^{F3} section 41(2) of the Criminal Appeal (Northern Ireland) Act 1980] in respect of his expenses on appeal, any sums for the payment of which such an order could have been made.
- (5) Notwithstanding that the court makes no order under subsection (1) for the payment of the costs of the defence, it may, subject to section 6, order the payment by the Ministry or the prosecutor, as the case may require, of such sums as, subject to rules made pursuant to section 7, appear to the court reasonably sufficient to compensate any witness for the defence for the expense, trouble or loss of time properly incurred in, or incidental to, his attendance to give evidence.
- (6) Unless the court otherwise directs, no sum shall be payable in pursuance of an order under this section to, or in respect of, any witness for the defence who is a witness to character only.
- (7) Where a court orders, under this section, payment of the costs of the defence, the order shall be enforceable—
- (a) where the prosecutor is a private prosecutor—
 - (i) if the court is a magistrates' court, in the same manner as an order made by a magistrates' court in respect of a civil debt; or
 - Sub-para. (ii) rep. by 1978 c. 23*
 - (iii) in any other case, in the same manner as an order for the payment of costs made by the High Court in a civil case; or
 - (b) if the prosecutor is not a private prosecutor, in the same manner as is provided by section 25 of the Crown Proceedings Act 1947 for the payment of costs in civil proceedings.
- (8) In this section, “witness” means a person properly attending to give evidence, whether or not he gives evidence; and a person called to give evidence at the instance of the court may, whether or not he is a witness for the defence, be made the subject of an order under subsection (5).

F1	1988 NI 16
F2	1995 NI 3
F3	1980 c.47

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Changes to legislation:

There are currently no known outstanding effects for the Costs in Criminal Cases Act (Northern Ireland) 1968, Section 3.