



Costs in Criminal Cases Act (Northern Ireland) 1968

1968 CHAPTER 10

An Act to provide for the payment of costs in certain criminal proceedings; to repeal certain obsolete or unnecessary enactments; and for matters connected therewith. [11th June 1968]

Modifications etc. (not altering text)

- C1** Act: functions transferred from Lord Chancellor to Department of Justice (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(1), [Sch. 17 para. 26](#) (with arts. 15(6), 28-31); S.I. 2010/977, [art. 1\(2\)](#)

1 Expenses of prosecution.

- [^{F1}(1) Where any criminal proceedings are instituted by or on behalf of, or taken over by, the Director of Public Prosecutions, the costs of the prosecution of such proceedings (including any costs incurred in connection with any matter preliminary or incidental to, and with any appeal from, those proceedings) shall, in accordance with arrangements approved by the Department of Finance and Personnel, be defrayed in the first instance by the Director.]
- (2) Except in the case of proceedings to which subsection (1) applies, the costs of the prosecution of any criminal proceedings (including any costs incurred in connection with any matter preliminary or incidental to, and with any appeal from, those proceedings) shall, subject to subsection (3), be defrayed in the first instance by the prosecutor.
- (3) ^{F2}. . . where the prosecutor is any . . . ^{F3} department of the Government of Northern Ireland, the costs to be defrayed by that department under subsection (2) shall be at such rates or of such amounts as may be generally or specially approved by the [^{F4}Department of Finance and Personnel].^{F5}

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

- F1** S. 1(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 3(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F2** 2003 NI 13
- F3** SI 1973/2163
- F4** Words in s. 1(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 3(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F5** SI 1973/2163

Modifications etc. (not altering text)

- C2** S. 1 applied (6.4.2008) by Serious Crime Act 2007 (c. 27), ss. 37, 94(1), **Sch. 2 para. 20**; S.I. 2008/755, **art. 15(1)(g)(h)**

2 Costs of prosecution in cases of conviction.

- (1) The court by or before which any person is convicted of any offence may, in addition to any other order which it may make on or in consequence of such conviction, order, subject to rules made pursuant to section 7, that person to pay—
- [^{F6}(a) in the case of proceedings to which section 1(1) applies, to the Director of Public Prosecutions; and]
- (b) in any other case, to the prosecutor;
- the whole or any part of the costs of the prosecution, including any costs incurred in connection with any matter preliminary or incidental to the trial.
- [^{F7}(1A) The amount of any costs ordered by a magistrates' court under this section to be paid by a person under the age of [^{F8} eighteen] shall not exceed the amount of any fine imposed on him.]
- (2) Any order under this section shall be enforceable—
- (a) if made by a magistrates' court, in the same manner as any other sum adjudged to be paid by a conviction of that court; or
- (b) if made by any other court—
- (i) in any case where the prosecutor is a private prosecutor, in the same manner as an order under section 3 for the payment by a private prosecutor of the costs of the defence; and
- (ii) in any other case, in the same manner as any fine which has been or might have been imposed, in respect of the offence for which the person has been convicted, by the court making the order.

- F6** S. 2(1)(a) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 4(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F7** 1998 NI 9
- F8** 2002 c.26

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

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investigation of an indictable offence)[^{F9} 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) [^{F10}in the case of proceedings to which section 1(1) applies, order the Director of Public Prosecutions; 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.

[^{F9}(2A) Where a notice of transfer is given under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988]^{F11} (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 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 [^{F12} 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 [^{F12} 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 [^{F13}Director of Public Prosecutions] 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.

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- (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).

F9 1988 NI 16

F10 S. 3(1)(i) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 5(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F11 1995 NI 3

F12 1980 c.47

F13 Words in s. 3(5) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 5(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

4 Costs awarded by Court of Appeal.

- [^{F14}(1) When the Court of Appeal dismisses an appeal or an application for leave to appeal, it may, subject to rules made pursuant to section 7, order the appellant—
- (a) to pay [^{F15}to the Director of Public Prosecutions or any other person the Court thinks appropriate] the whole or any part of the costs of the appeal or application, including any expenses payable [^{F16}by the Director of Public Prosecutions] by virtue of section 28(2) of the Criminal Appeal (Northern Ireland) Act 1980;
 - [^{F17}(b) to pay to the Department of Justice the whole or any part of the costs of criminal defence services funded by the Department of Justice in respect of the appeal or application under the Access to Justice (Northern Ireland) Order 2003; and]
 - (c) to pay the cost of any transcript of a record of proceedings made in accordance with rules of court under section 21 of that Act.]
- [^{F18}(1A) Where the Court of Appeal reverses or varies a ruling on an appeal under Part IV of the Criminal Justice (Northern Ireland) Order 2004 (prosecution appeals) it may, subject to rules made pursuant to section 7, make such order as to the costs to be paid by the accused, to such person as may be named in the order, as it considers just and reasonable.

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- (1B) Costs ordered to be paid under subsection (1A) may include the cost of any transcript of a record of proceedings made in accordance with rules of court under section 21 of the Criminal Appeal (Northern Ireland) Act 1980.]
- (2) Without prejudice to the said [^{F19} section 28(2)] but subject to section 6 of this Act, the [^{F20} Court of Appeal] may, when it allows an appeal against conviction, including an appeal against a finding of not guilty on the ground of insanity^{F21} or a finding of unfitness to be tried], order the [^{F22} Director of Public Prosecutions or any other person the Court thinks appropriate] to pay to the appellant the whole or any part of the costs of the appellant.
- [^{F23}(2A) The Court may also order the [^{F24} Director of Public Prosecutions or any other person the Court thinks appropriate] to pay the costs of the appellant on an appeal under Article 8(11) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988^{F18} or under Part IV of the Criminal Justice (Northern Ireland) Order 2004 (prosecution appeals)].]
- (3) The costs of the appellant mentioned in^{F23} subsections (2) and (2A)] shall, subject to rules made pursuant to section 7, be such sums as appear to the Court reasonably sufficient to compensate the appellant for any expenses properly incurred in the prosecution of his appeal (including any proceedings preliminary or incidental to such appeal) and in carrying on his defence at the court of trial, including any proceedings preliminary or incidental to such trial.
- (4) Where the [^{F20} Court of Appeal] orders the payment of costs under this section, the order shall be enforceable in the same manner as an order for the payment of costs made by the High Court in a civil case but [^{F25} subject to section 25 of the Crown Proceedings Act 1947 where that section is applicable].
- [^{F26}(5) Where section 47A of the Criminal Appeal (Northern Ireland) Act 1980 (death of convicted person) applies, any reference in this section to the appellant includes the person approved under that section.]

F14 SI 1982/159

F15 Words in s. 4(1)(a) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 6(2)(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F16 Words in s. 4(1)(a) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 6(2)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F17 S. 4(1)(b) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), **art. 1(2), Sch. 4, para. 1(2)** (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(a)(i)); S.R. 2015/194, **art.2, Sch.** (with art. 3)

F18 2004 NI 9

F19 1980 c.47

F20 1978 c.23

F21 1986 NI 4

F22 Words in s. 4(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 6(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F23 1988 NI 16

F24 Words in s. 4(2A) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 6(4)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**