
Changes to legislation: Legal Aid, Sentencing and Punishment of Offenders Act 2012, Part 2 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 8

COSTS IN CRIMINAL CASES: SERVICE COURTS

PART 2

APPEALS FROM COURT MARTIAL APPEAL COURT

Introduction

- 9 Part 3 of the Court Martial Appeals Act 1968 (appeals from Court Martial Appeal Court) is amended as follows.

Application to Appeal Court

- 10 Before section 47 insert—

Costs: application to Appeal Court by Director of Service Prosecutions

- “46A(1) Where the Appeal Court dismiss an application for leave to appeal to the Supreme Court made by the Director of Service Prosecutions, the Appeal Court may direct the payment by the Secretary of State of such sums as appear to them to be reasonably sufficient to compensate the accused for any expenses properly incurred by the accused in resisting the application, subject to—
- (a) subsection (2), and
 - (b) regulations under section 47A(1)(d).
- (2) The sums which the Appeal Court may direct the Secretary of State to pay do not include legal costs (as defined in section 31A), except where regulations made by the Lord Chancellor provide otherwise.
- (3) Regulations under subsection (2) may, in particular, include—
- (a) provision for an exception to arise where a determination has been made by a person specified in the regulations,
 - (b) provision requiring the Appeal Court, when they direct the payment of a sum that includes a sum in respect of legal costs, to include a statement to that effect in the direction, and
 - (c) provision that the Appeal Court may not direct the payment of a sum in respect of legal costs exceeding an amount specified in the regulations.

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Costs: application to Appeal Court by accused

- 46B Where the Appeal Court dismiss an application for leave to appeal to the Supreme Court made by the accused—
- (a) the Appeal Court may make the like order as may be made by the Court under section 32(1) of this Act where they dismiss an application for leave to appeal to the Court,
 - (b) an order made under this section may be enforced in the manner described in section 32(2) of this Act, and
 - (c) section 32(3) of this Act applies in relation to any sum recovered by virtue of section 32(2)(a) (as applied by this section)."

Application to Supreme Court

- 11 (1) Section 47 (costs) is amended as follows.
- (2) In subsections (1) and (2) omit “the Appeal Court or” (in each place).
- (3) After subsection (2) insert—
- “(2A) Section 32(3) of this Act applies in relation to any sum recovered by virtue of section 32(2)(a) (as applied by subsection (2)).”
- (4) In subsection (3), at the end insert “subject to—
- (a) subsection (3A), and
 - (b) regulations under section 47A(1)(d).”
- (5) After subsection (3) insert—
- “(3A) The costs which the Supreme Court may direct the Secretary of State to pay do not include legal costs (as defined in section 31A) incurred in proceedings in a court below, except where regulations made by the Lord Chancellor provide otherwise.
- (3B) Regulations under subsection (3A) may, in particular, include—
- (a) provision for an exception to arise where a determination has been made by a person specified in the regulations,
 - (b) provision requiring the Supreme Court, when they direct the payment of a sum that includes a sum in respect of legal costs, to include a statement to that effect in the direction, and
 - (c) provision that the Supreme Court may not direct the payment of a sum in respect of legal costs exceeding an amount specified in the regulations.”
- (6) In subsection (4) for “the foregoing provisions of” substitute “ sections 46A, 46B and ”.
- 12 Accordingly, in the heading of section 47, at the end insert “ : application to Supreme Court ”.

Further provision about costs

- 13 After section 47 insert—

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“47A Further provision about costs

- (1) The Lord Chancellor may by regulations—
 - (a) make provision as to the sums that may be directed to be paid under section 46A or 47(3), whether by specifying rates or scales or by making other provision as to the calculation of the sums,
 - (b) make provision as to the circumstances in which and conditions under which such sums may be paid or directed to be paid,
 - (c) make provision requiring such sums to be fixed having regard to regulations under paragraphs (a) and (b), and
 - (d) make provision requiring such sums to be calculated in accordance with such regulations (whether or not that results in the fixing of an amount that the court considers reasonably sufficient to compensate the person concerned).
- (2) The power under subsection (1)(d) may not be exercised in respect of sums ordered to be paid by the Supreme Court in respect of expenses incurred in proceedings before that court.
- (3) Regulations under this section may provide that provision as to the calculation of sums (whether in the form of rates or scales or other provision) may be determined by the Lord Chancellor with the consent of the Treasury.”

Regulations

14 After section 47A insert—

“47B Regulations

- (1) Regulations under sections 46A, 47 and 47A may, in particular, make different provision in relation to different cases and different classes of case, including different provision in relation to different expenses, trouble and loss, different directions and orders and different areas.
- (2) A power to make regulations under those sections is exercisable by statutory instrument.
- (3) A statutory instrument containing regulations under those sections is subject to annulment in pursuance of a resolution of either House of Parliament, subject to subsection (4).
- (4) A statutory instrument containing (whether alone or with other provision) regulations under section 46A or 47 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2016/286, art. 4(1) by [S.I. 2017/225 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 9(3)(4) inserted by [2022 c. 36 s. 25\(2\)](#)
- s. 9A inserted by [2023 c. 32 s. 89\(3\)](#)
- s. 9B inserted by [2023 c. 32 s. 90](#)
- s. 10(3A)-(3E) inserted by [2022 c. 36 s. 67](#)
- Sch. 1 Pt. 1 para. 31ZA and cross-heading inserted by [2022 c. 36 s. 25\(1\)](#)
- Sch. 1 Pt. 1 para. 31B and cross-heading inserted by [2022 c. 36 s. 57\(2\)](#)
- Sch. 1 Pt. 1 para. 19(1A)(1B) and heading inserted by [2022 c. 36 s. 66\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 19(2A) inserted by [2022 c. 36 s. 66\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 19(8A) and heading inserted by [2022 c. 36 s. 66\(2\)\(c\)](#)
- Sch. 1 Pt. 1 para. 25(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 26(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 27(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 27A(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 25(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 26(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 27(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 27A(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 30(1A) and heading inserted by [2022 c. 36 s. 66\(4\)\(a\)](#)
- Sch. 1 Pt. 1 para. 30(2A) inserted by [2022 c. 36 s. 66\(4\)\(b\)](#)
- Sch. 1 Pt. 1 para. 30(3A) and heading inserted by [2022 c. 36 s. 66\(4\)\(c\)](#)
- Sch. 1 Pt. 1 para. 31A(2A) and heading inserted by [2022 c. 36 s. 66\(5\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31A(3A)(3B) and heading inserted by [2022 c. 36 s. 66\(5\)\(b\)](#)
- Sch. 1 Pt. 1 para. 19(6A) inserted by [2023 c. 37 s. 56\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31C inserted by [2023 c. 37 s. 56\(3\)](#)
- Sch. 1 Pt. 1 para. 27A(1) inserted by [S.I. 2017/617 reg. 3\(4\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 11(1A) inserted by [S.I. 2023/150 art. 4\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 11(3A) inserted by [S.I. 2023/150 art. 4\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 2(1)(b) omitted by [2018 anaw 2 Sch. 1 para. 21\(2\)\(a\)\(ii\)](#)
- Sch. 1 Pt. 1 para. 45(2) omitted by [2023 c. 32 s. 91\(2\)](#)
- Sch. 1 Pt. 1 para. 45(3) substituted by [2023 c. 32 s. 91\(3\)](#)
- Sch. 1 Pt. 1 para. 26(1) substituted by [S.I. 2017/617 reg. 3\(2\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))

- Sch. 1 Pt. 1 para. 27(1) substituted by [S.I. 2017/617 reg. 3\(3\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 19(10) words inserted by [2023 c. 37 s. 56\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words inserted by [S.I. 2023/147 art. 2\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words inserted by [S.I. 2023/147 art. 2\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words omitted by [2016 c. 19 Sch. 11 para. 2\(1\)](#)
- Sch. 1 Pt. 1 para. 45(4) words omitted by [2023 c. 32 s. 91\(4\)](#)
- Sch. 1 Pt. 1 para. 26 heading words substituted by [S.I. 2017/617 reg. 3\(2\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 27 heading words substituted by [S.I. 2017/617 reg. 3\(3\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 16A inserted by [2023 c. 37 s. 56\(4\)](#)
- Sch. 1 Pt. 3 para. 11(b) and word inserted by [S.I. 2017/617 reg. 3\(6\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 8(b) omitted by [S.I. 2017/617 reg. 3\(5\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 11(a) and word omitted by [S.I. 2017/617 reg. 3\(6\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 4 para. 8 inserted by [2022 c. 36 s. 66\(6\)](#)