

2008 No. 2448

CRIMINAL LAW, ENGLAND AND WALES

**The Costs in Criminal Cases (General) (Amendment)
Regulations 2008**

<i>Made</i>	- - - -	<i>15th September 2008</i>
<i>Laid before Parliament</i>		<i>18th September 2008</i>
<i>Coming into force</i>	- -	<i>13th October 2008</i>

The Lord Chancellor makes the following Regulations in exercise of the powers conferred on him by sections 19(1), (3) and (5), 19B and 20(1) of the Prosecution of Offences Act 1985(a).

Citation and commencement

1. These Regulations may be cited as the Costs in Criminal Cases (General) (Amendment) Regulations 2008 and come into force on 13th October 2008.

Amendments to the Costs in Criminal Cases (General) Regulations 1986

2. The Costs in Criminal Cases (General) Regulations 1986(b) are amended as follows.
3. For regulation 3(2) substitute—

“(2) When making an order under paragraph (1), the court may take into account any other order as to costs which has been made in respect of the proceedings.”
4. In regulation 3E(2), in the definition of “interested party”, after “Service” insert “or an order for the payment of costs out of central funds was made in his favour”.
5. In regulation 3F(5) omit “vary or”.
6. In regulation 4—
 - (a) in the definition of “disbursements”, after “interpreter” insert “, intermediary”;
 - (b) after the definition of “disbursements” insert—

““expenses” means out of pocket expenses, travelling expenses and subsistence allowance;”
7. In regulation 5(2)—
 - (a) in sub-paragraph (c), after “Crown Court” insert “or, subject to sub-paragraph (d), a magistrates’ court”;

(a) 1985 c. 23. Relevant amendments were made to section 19(3) by section 166 of the Criminal Justice Act 1988 (c. 33). Section 19B was inserted by section 93 of the Courts Act 2003 (c. 39).
(b) S.I. 1986/1335. Relevant amending instruments are S.I. 1992/2956, 1999/2096, 2001/611, 2004/2408 and 2005/617.

- (b) in sub-paragraph (d), after “court” insert “, where the costs consist solely of expenses claimed by the applicant”.

8. In regulation 6(2)—

- (a) for “the designated officer for the court, in the case of proceedings in a magistrates’ court, or to the appropriate authority, in the case of proceedings in any other court specified in regulation 5(2),” substitute “the appropriate authority”;
- (b) omit “he or”.

9. In regulation 6(3), in sub-paragraph (d), for “that regulation 44(7) of the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989 should be applied in respect of any work comprised in the claim under these Regulations” substitute “for payment in respect of services funded for the applicant as part of the Criminal Defence Service”.

10. In regulation 8(1), for “the designated officer for the court, in the case of proceedings in a magistrates’ court, or the appropriate authority, in the case of proceedings in any other court specified in regulation 5(2),” substitute “the appropriate authority”.

11. For regulation 14(3) substitute—

“(3) Section 18 of the Act shall apply to proceedings in a magistrates’ court or the Crown Court for dealing with an offender—

- (a) under any of the following provisions of the Powers of Criminal Courts (Sentencing) Act 2000(a)—
 - (i) section 13 (commission of further offence by person conditionally discharged);
 - (ii) section 119(1) or 123 (power of court on conviction of further offence to deal with suspended sentence and breach of requirement of suspended sentence supervision order);
 - (iii) paragraph 5 of Schedule 1 (power of court on referral back from panel);
 - (iv) Part II of Schedule 3 (breach of requirement of certain community orders);
 - (v) paragraphs 1 to 3 of Schedule 5 (breach etc of attendance centre order);
 - (vi) paragraphs 2 to 4 of Schedule 7 (breach of requirement of supervision order);
 - (vii) paragraphs 2 to 4 of Schedule 8 (breach of requirement of action plan order or reparation order); and
- (b) under either of the following provisions of the Criminal Justice Act 2003(b)—
 - (i) Part 2 of Schedule 8 (breach of requirement of community order);
 - (ii) Part 2 of Schedule 12 (breach of community requirement of suspended sentence order or conviction of further offence)

as if the offender had been tried in those proceedings for the offence for which the order was made or the sentence passed.”.

12. In regulation 16—

- (a) after paragraph (1)(b) insert—

“(ba) a witness called by the defendant is examined through an intermediary under section 29 of the Youth Justice and Criminal Evidence Act 1999(c); or”

(a) 2000 c. 6. Sections 119(1) and 123 were repealed, with savings, by sections 303 and 332 of, and Schedule 37 to, the Criminal Justice Act 2003 (c. 44). Schedule 3 (as substituted by section 304 of and Schedule 32 to, the 2003 Act) and Schedules 5 and 7 are prospectively repealed, with savings, by section 149 of, and Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4). Schedule 8 is prospectively repealed, with savings, by section 6 of, and Schedule 4 to, the 2008 Act.

(b) 2003 c. 44.

(c) 1999 c. 23.

(b) in paragraph (1), for “that witness, interpreter” substitute “a witness referred to in subparagraph (a) or by that interpreter, intermediary”;

(c) in paragraph (2), after “interpreter” insert “, intermediary”.

13. In regulation 17, after “interpreters” insert “, intermediaries”.

14. In regulation 20(2)(a), after “interpreter” insert “or intermediary”.

15. In regulation 21(2), after “interpreter” insert “, intermediary”.

16. In regulation 24(7), after “interpreter” insert “, intermediary”.

Signed by the authority of the Lord Chancellor

15th September 2008

Hunt
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Costs in Criminal Cases (General) Regulations 1986 (S.I. 1986/1335), which deal with the procedure for making certain costs orders in criminal and related proceedings, the determination of costs payable out of central funds and allowances to people such as witnesses. These Regulations—

make minor amendments in order to achieve consistency in the regulations on costs unnecessarily incurred, wasted costs orders and third party costs orders and update references to legal aid (regulations 3 to 5 and 9);

transfer responsibility for determining most costs payable out of central funds in criminal proceedings in magistrates' courts from justices' clerks to officers appointed by the Lord Chancellor (in practice the National Taxing Team of Her Majesty's Courts Service) (regulations 6, 7, 8 and 10);

update legislative references to proceedings for breaches of requirements of sentences or orders (regulation 11);

provide for the payment of allowances to intermediaries (regulations 6 and 12 to 16).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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