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STATUTORY INSTRUMENTS

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**2005 No. 384**

**The Criminal Procedure Rules 2005**

**PART 78**

**COSTS ORDERS AGAINST THE PARTIES**

**Contents of this Part**

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Crown Court jurisdiction to award costs on appeal	rule 78.1
Crown Court award of costs in magistrates' court proceedings	rule 78.2
Taxation of Crown Court costs	rule 78.3
Review of Crown Court costs by taxing authority	rule 78.4
Further review of Crown Court costs by taxing master	rule 78.5
Appeal to High Court judge after review of Crown Court costs	rule 78.6
Supplementary provisions on Crown Court costs	rule 78.7

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**Crown Court's jurisdiction to award costs in appeal from magistrates' court**

**78.1.**—(1) Subject to the provisions of section 109(1) of the Magistrates' Courts Act 1980<sup>(1)</sup> (power of magistrates' courts to award costs on abandonment of appeals from magistrates' courts), no party shall be entitled to recover any costs of any proceedings in the Crown Court from any other party to the proceedings except under an order of the Court.

(2) Subject to the following provisions of this rule, the Crown Court may make such order for costs as it thinks just.

(3) No order for costs shall be made on the abandonment of an appeal from a magistrates' court by giving notice under rule 63.5.

(4) Without prejudice to the generality of paragraph (2), the Crown Court may make an order for costs on dismissing an appeal where the appellant has failed to proceed with the appeal or on the abandonment of an appeal not being an appeal to which paragraph (3) applies.

*[Note. Formerly rule 12 of the Crown Court Rules 1982<sup>(2)</sup>. See also the relevant provisions of the Prosecution of Offences Act 1985<sup>(3)</sup> and the Costs in Criminal Cases (General) Regulations*

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(1) 1980 c. 43; section 109 was amended by the Courts Act 2003 (c. 39), Schedule 8, paragraph 234.

(2) S.I. 1982/1109.

1986(4). As to costs in restraint or receivership proceedings under Part 2 of the Proceeds of Crime Act 2002 see rules 61.19 to 61.22.]

### **Crown Court's jurisdiction to award costs in magistrates' court proceedings from which appeal is brought**

**78.2.** Where an appeal is brought to the Crown Court from the decision of a magistrates' court and the appeal is successful, the Crown Court may make any order as to the costs of the proceedings in the magistrates' court which that court had power to make.

*[Note. Formerly rule 13 of the Crown Court Rules 1982. See also the relevant provisions of the Prosecution of Offences Act 1985 and the Costs in Criminal Cases (General) Regulations 1986.]*

### **Taxation of Crown Court costs**

**78.3.—(1)** Where under these Rules the Crown Court has made an order for the costs of any proceedings to be paid by a party and the Court has not fixed a sum, the amount of the costs to be paid shall be ascertained as soon as practicable by the Crown Court officer (hereinafter referred to as the taxing authority).

(2) On a taxation under the preceding paragraph there shall be allowed the costs reasonably incurred in or about the prosecution and conviction or the defence, as the case may be.

*[Note. Formerly rule 14 of the Crown Court Rules 1982. See also the relevant provisions of the Prosecution of Offences Act 1985 and the Costs in Criminal Cases (General) Regulations 1986.]*

### **Review of Crown Court costs by taxing authority**

**78.4.—(1)** Any party dissatisfied with the taxation of any costs by the taxing authority under rule 78.3 may apply to the taxing authority to review his decision.

(2) The application shall be made by giving notice to the taxing authority and to any other party to the taxation within 14 days of the taxation, specifying the items in respect of which the application is made and the grounds of objection.

(3) Any party to whom notice is given under the preceding paragraph may within 14 days of the service of the notice deliver to the taxing authority answers in writing to the objections specified in that notice to the taxing authority and, if he does, shall send copies to the applicant for the review and to any other party to the taxation.

(4) The taxing authority shall reconsider his taxation in the light of the objections and answers, if any, of the parties and any oral representations made by or on their behalf and shall notify them of the result of his review.

*[Note. Formerly rule 15 of the Crown Court Rules 1982. See also the relevant provisions of the Prosecution of Offences Act 1985 and the Costs in Criminal Cases (General) Regulations 1986.]*

### **Further review of Crown Court costs by Taxing Master**

**78.5.—(1)** Any party dissatisfied with the result of a review of taxation under rule 78.4 may, within 14 days of receiving notification thereof, request the taxing authority to supply him with reasons in writing for his decision and may within 14 days of the receipt of such reasons apply to the Chief Taxing Master for a further review and shall, in that case, give notice of the application to the taxing authority and to any other party to the taxation, to whom he shall also give a copy of the reasons given by the taxing authority.

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(3) 1985 c. 23.

(4) S.I. 1986/1335.

(2) Such application shall state whether the application wishes to appear or be represented, or whether he will accept a decision given in his absence and shall be accompanied by a copy of the notice given under rule 78.4, of any answer which may have been given under paragraph (3) thereof and of the reasons given by the taxing authority for his decision, together with the bill of costs and full supporting documents.

(3) A party to the taxation who receives notice of an application under this rule shall inform the Chief Taxing Master whether he wishes to appear or be represented at a further review, or whether he will accept a decision given in his absence.

(4) The further review shall be conducted by a Taxing Master and if the applicant or any other party to the taxation has given notice of his intention to appear or be represented, the Taxing Master shall inform the parties (or their agents) of the date on which the further review will take place.

(5) Before reaching his decision the Taxing Master may consult the judge who made the order for costs and the taxing authority and, unless the Taxing Master otherwise directs, no further evidence shall be received on the hearing of the further review; and no ground of objection shall be valid which was not raised on the review under rule 78.4.

(6) In making his review, the Taxing Master may alter the assessment of the taxing authority in respect of any sum allowed, whether by increase or decrease.

(7) The Taxing Master shall communicate the result of the further review to the parties and to the taxing authority.

*[Note. Formerly rule 16 of the Crown Court Rules 1982. See also the relevant provisions of the Prosecution of Offences Act 1985 and the Costs in Criminal Cases (General) Regulations 1986.]*

#### **Appeal to High Court judge after review of Crown Court costs**

**78.6.**—(1) Any party dissatisfied with the result of a further review under rule 78.5 may, within 14 days of receiving notification thereof, appeal by originating summons to a judge of the Queen's Bench Division of the High Court if, and only if, the Taxing Master certifies that the question to be decided involves a point of principle of general importance.

(2) On the hearing of the appeal the judge may reverse, affirm or amend the decision appealed against or make such other order as he thinks appropriate.

*[Note. Formerly rule 17 of the Crown Court Rules 1982. See also the relevant provisions of the Prosecution of Offences Act 1985 and the Costs in Criminal Cases (General) Regulations 1986.]*

#### **Supplementary provisions on Crown Court costs**

**78.7.**—(1) On a further review or an appeal to a judge of the High Court the Taxing Master or judge may make such order as he thinks just in respect of the costs of the hearing of the further review or the appeal, as the case may be.

(2) The time set out by rules 78.4, 78.5 and 78.6 may be extended by the taxing authority, Taxing Master or judge of the High Court on such terms as he thinks just.

*[Note. Formerly rule 18 of the Crown Court Rules 1982. See also the relevant provisions of the Prosecution of Offences Act 1985 and the Costs in Criminal Cases (General) Regulations 1986.]*