
STATUTORY INSTRUMENTS

1986 No. 1335

The Costs in Criminal Cases (General) Regulations 1986

PART III

COSTS OUT OF CENTRAL FUNDS

Application and definitions

4. This Part of these Regulations applies to costs payable out of central funds in pursuance of an order made under or by virtue of Part II of the Act and in this Part of these Regulations—

“applicant” means the person in whose favour a costs order has been made;

“appropriate authority” has the meaning assigned to it by regulation 5;

“costs order” means an order made under or by virtue of Part II of the Act for the payment of costs out of central funds;

“disbursements” do not include any payment made out of central funds to a witness, interpreter or medical practitioner in accordance with Part V of these Regulations;

“presiding judge” means the judge who presided at the hearing in respect of which the costs are payable; and

“taxing master” means a taxing master of the Supreme Court.

The appropriate authority

5.—(1) Costs shall be determined by the appropriate authority in accordance with these Regulations.

(2) Subject to paragraph (3), the appropriate authority shall be—

- (a) the registrar of criminal appeals in the case of proceedings in the Court of Appeal,
- (b) the master of the Crown Office in the case of proceedings in a Divisional Court of the Queen's Bench Division,
- (c) an officer appointed by the Lord Chancellor in the case of proceedings in the Crown Court,
- (d) the justices' clerk in the case of proceedings in a magistrates' court.

(3) The appropriate authority may appoint or authorise the appointment of determining officers to act on its behalf under these Regulations in accordance with directions given by it or on its behalf.

Claims for costs

6.—(1) Subject to regulation 12, no claim for costs shall be entertained unless it is submitted within three months of the date on which the costs order was made.

(2) Subject to paragraph (3), a claim for costs shall be submitted to the appropriate authority in such form and manner as it may direct and shall be accompanied by any receipts or other documents in support of any disbursements claimed.

- (3) A claim shall—
- (a) summarise the items of work done by a solicitor;
 - (b) state, where appropriate, the dates on which items of work were done, the time taken and the sums claimed, and
 - (c) specify any disbursements claimed, including counsel's fees, the circumstances in which they were incurred and the amounts claimed in respect of them.
- (4) Where there are any special circumstances which should be drawn to the attention of the appropriate authority, the applicant shall specify them.
- (5) The applicant shall supply such further particulars, information and documents as the appropriate authority may require.

Determination of costs

- 7.—(1) The appropriate authority shall consider the claim, any further particulars, information or documents submitted by the applicant under regulation 6 and shall allow such costs in respect of—
- (a) such work as appears to it to have been actually and reasonably done; and
 - (b) such disbursements as appear to it to have been actually and reasonably incurred,
- as it considers reasonably sufficient to compensate the applicant for any expenses properly incurred by him in the proceedings.
- (2) In determining costs under paragraph (1) the appropriate authority shall taken into account all the relevant circumstances of the case including the nature, importance, complexity or difficulty of the work and the time involved.
- (3) When determining costs for the purposes of this regulation, there shall be allowed a reasonable amount in respect of all costs reasonably incurred and any doubts which the appropriate authority may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved against the applicant.

Payment of costs

- 8.—(1) Having determined the costs payable to an applicant in accordance with these Regulations, the appropriate authority shall notify the applicant of the costs payable and authorise payment accordingly.
- (2) Where the costs payable under paragraph (1) are varied as a result of a redetermination under regulation 9, an appeal to a taxing master under regulation 10, or an appeal to the High Court under regulation 11, then—
- (a) where the costs are increased, the appropriate authority shall authorise payment of the increase;
 - (b) where the costs are decreased, the applicant shall repay the amount of such decrease; and
 - (c) where the payment of the costs of an appeal is ordered under regulation 10(14) or 11(8), the appropriate authority shall authorise such payment to the applicant.

Redetermination of costs by an appropriate authority

- 9.—(1) An applicant who is dissatisfied with the costs determined under these Regulations by an appropriate authority in respect of proceedings other than proceedings before a magistrates' court may apply to the appropriate authority to redetermine them.
- (2) Subject to regulation 12, the application shall be made, within 21 days of the receipt of notification of the costs payable under regulation 8(1), by giving notice in writing to the appropriate

authority specifying the items in respect of which the application is made and the grounds of objection and shall be made in such form and manner as the appropriate authority may direct.

(3) The notice of application shall state whether the applicant wishes to appear or to be represented and, if the applicant so wishes, the appropriate authority shall notify the applicant of the time at which it is prepared to hear him or his representative.

(4) The notice of application shall be accompanied by any particulars, information and documents supplied under regulation 6 and the applicant shall supply such further particulars, information and documents as the appropriate authority may require.

(5) The appropriate authority shall redetermine the costs, whether by way of increase, decrease or at the level previously determined, in the light of the objections made by the applicant or on his behalf and shall notify the applicant of its decision.

(6) The applicant may request the appropriate authority to give reasons in writing for its decision and, if so requested, the appropriate authority shall comply with the request.

(7) Subject to regulation 12, any request under paragraph (6) shall be made within 21 days of receiving notification of the decision.

Appeals to a taxing master

10.—(1) Where the appropriate authority has given its reasons for its decision on a redetermination under regulation 9, an applicant who is dissatisfied with that decision may appeal to a taxing master.

(2) Subject to regulation 12, an appeal shall be instituted within 21 days of the receipt of the appropriate authority's reasons by giving notice in writing to the Chief Taxing Master specifying the items in respect of which the appeal is brought and the grounds of objection.

(3) The appellant shall send a copy of any notice given under paragraph (2) to the appropriate authority.

(4) The notice of appeal shall be accompanied by—

- (a) a copy of the written notice given under regulation 9(2);
- (b) any particulars, information and documents supplied to the appropriate authority under regulation 9, and
- (c) the appropriate authority's reasons for its decision given under regulation 9(6).

(5) The notice of appeal shall state whether the appellant wishes to appear or to be represented or whether he will accept a decision given in his absence.

(6) The Chief Taxing Master may, and if so directed by the Lord Chancellor either generally or in a particular case shall, send to the Lord Chancellor a copy of the notice of appeal together with copies of such other documents as the Lord Chancellor may require.

(7) With a view to ensuring that the public interest is taken into account, the Lord Chancellor may arrange for written or oral representations to be made on his behalf and, if he intends to do so, he shall inform the Chief Taxing Master and the appellant.

(8) Any written representations made on behalf of the Lord Chancellor under paragraph (7) shall be sent to the Chief Taxing Master and to the appellant and, in the case of oral representations, the Chief Taxing Master and the appellant shall be informed of the grounds on which such representations will be made.

(9) The appellant shall be permitted a reasonable opportunity to make representations in reply.

(10) The taxing master shall inform the appellant (or his representative) and the Lord Chancellor, where representations have been or are to be made on his behalf, of the date of any hearing and, subject to the provisions of this regulation, may give directions as to the conduct of the appeal.

(11) The taxing master may consult the presiding judge, and the appropriate authority or the determining officer who redetermined the costs on its behalf as the case may be, and may require the appellant to provide any further information which he requires for the purpose of the appeal and, unless the taxing master otherwise directs, no further evidence shall be received on the hearing of the appeal and no ground of objection shall be valid which was not raised on the redetermination under regulation 9.

(12) The taxing master shall have the same powers as the appropriate authority under these Regulations and, in the exercise of such powers, may alter the redetermination of the appropriate authority in respect of any sum allowed, whether by increase or decrease, as he thinks fit.

(13) The taxing master shall communicate his decision and the reasons for it in writing to the appellant, the Lord Chancellor, and the appropriate authority or the determining officer who redetermined the costs on its behalf as the case may be.

(14) Save where he confirms or decreases the sums redetermined under regulation 9, the taxing master may allow the appellant a sum in respect of part or all of any reasonable costs (including any fee payable in respect of an appeal) incurred by him in connection with the appeal.

Appeals to the High Court

11.—(1) An applicant who is dissatisfied with the decision of a taxing master on an appeal under regulation 10 may apply to a taxing master to certify a point of principle of general importance.

(2) Subject to regulation 12, an application under paragraph (1) shall be made within 21 days of notification of a taxing master's decision under regulation 10(13).

(3) Where a taxing master certifies a point of principle of general importance, the applicant may appeal to the High Court against the decision of a taxing master on an appeal under regulation 10, and the Lord Chancellor shall be a respondent to the appeal.

(4) Subject to regulation 12, an appeal under paragraph (3) shall be instituted within 21 days of receiving a taxing master's certificate under paragraph (1).

(5) Where the Lord Chancellor is dissatisfied with the decision of a taxing master on an appeal under regulation 10 he may, if no appeal has been made by the applicant under paragraph (3), appeal to the High Court against that decision and the applicant shall be a respondent to the appeal.

(6) Subject to regulation 12, an appeal under paragraph (5) shall be instituted within 21 days of receiving notification of the taxing master's decision under regulation 10(13).

(7) An appeal under paragraphs (3) and (5) shall be instituted by an originating summons in the Queen's Bench Division and shall be heard and determined by a single judge whose decision shall be final.

(8) The judge shall have the same powers as the appropriate authority and a taxing master under these Regulations and may reverse, affirm or amend the decision appealed against or make such other order as he thinks fit.

Time limits

12.—(1) Subject to paragraph (2), the time limit within which there must be made or instituted—

- (a) a claim for costs by an applicant under regulation 6, an application for a redetermination under regulation 9, or a request for an appropriate authority to give reasons for its decision on a redetermination under regulation 9;
- (b) an appeal to a taxing master under regulation 10 or an application for a certificate under regulation 11; or
- (c) an appeal to the High Court under regulation 11;

may, for good reason, be extended by the appropriate authority, the Chief Taxing Master or the High Court, as the case may be.

(2) Where an applicant without good reason has failed (or, if an extension were not granted, would fail) to comply with a time limit, the appropriate authority, the Chief Taxing Master or the High Court, as the case may be, may, in exceptional circumstances, extend the time limit.

(3) An applicant may appeal to the Chief Taxing Master against a decision made under this regulation by an appropriate authority in respect of proceedings other than proceedings before a magistrates' court and such an appeal shall be instituted within 21 days of the decision being given by giving notice in writing to the Chief Taxing Master specifying the grounds of appeal.

House of Lords

13.—(1) In the case of proceedings in the House of Lords, the costs payable to any person under section 16(5) or 17(1) of the Act shall be determined by such officer as may be prescribed by order of the House of Lords.

(2) Subject to paragraph (1), this Part of these Regulations shall not apply to proceedings in the House of Lords.