

2001 No. 185

MAGISTRATES' COURTS

SUPREME COURT

Resident Magistrate, Justice of the Peace and Clerk of Petty Sessions (Costs) Regulations (Northern Ireland) 2001

Made 30th April 2001

Coming into operation 1st June 2001

To be laid before Parliament

The Lord Chancellor, in exercise of the powers conferred upon him by Article 6A(4) of the Magistrates' Courts (Northern Ireland) Order 1981(a), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Resident Magistrate, Justice of the Peace and Clerk of Petty Sessions (Costs) Regulations (Northern Ireland) 2001 and shall come into operation on 1st June 2001.

Interpretation

2. In these Regulations—

“claim” means a claim for costs made by the receiving party;

“order” means an order of the court made under Article 6A(3) of the Magistrates' Courts (Northern Ireland) Order 1981 that the Lord Chancellor make a payment in respect of the costs of a person in the proceedings;

“proceedings” means proceedings in respect of any act or omission of a resident magistrate, a justice of the peace or a clerk of petty sessions in the execution (or purported execution) of his duty—

(a) as such a magistrate or justice; or

(b) as such a clerk exercising by virtue of any statutory provision, any of the functions of a magistrates' court;

“receiving party” means the person in whose favour the order is made;

“Taxing Master” means the Master (Taxing Office).

(a) S.I. 1981/1675 (N.I. 26). Article 6A is inserted by section 98(1) of the Access to Justice Act 1999 (c. 22)

The payment of costs by the Lord Chancellor

3. No order shall be made under Article 6A(3) of the Magistrates' Courts (Northern Ireland) Order 1981 in favour of—

- (a) a public authority; or
- (b) a person acting—
 - (i) on behalf of a public authority; or
 - (ii) in his capacity as an official appointed by a public authority.

Determination of costs

4. Where the court makes an order the amount of costs payable by the Lord Chancellor shall be determined in accordance with these Regulations.

Determination of costs by the court

5.—(1) Except as provided for in paragraph (2), when making the order the court shall—

- (a) determine such an amount as it considers sufficient reasonably to compensate the receiving party for any costs properly incurred by him in the proceedings; and
- (b) specify that amount in the order.

(2) The amount of costs shall be determined by the Taxing Master in accordance with Regulations 6 and 7 where—

- (a) the hearing has lasted more than one day or there is insufficient time to determine the costs on the day of the hearing; or
- (b) the court considers that there is other good reason for the Taxing Master to determine the amount of costs.

(3) The court shall serve the order on the receiving party and on the Lord Chancellor together with, where paragraph (2) applies, notification that costs will be determined by the Taxing Master.

Determination of costs by the Taxing Master

6.—(1) Where the amount of costs is to be determined by the Taxing Master, the receiving party shall, within three months from the date on which the order was made, file his claim and a copy of the order in the Supreme Court Taxing Office and serve a copy of the claim on the Lord Chancellor.

(2) On the application of the receiving party to the Supreme Court Taxing Office, the Taxing Master may, in exceptional circumstances, extend the period of three months referred to in paragraph (1).

- (3) A claim shall—
 - (a) summarise the items of work done by a legal representative or the receiving party as a litigant in person, as appropriate;
 - (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,

and shall be accompanied by receipts or other evidence of the receiving party's payment of the costs claimed, and any receipts or other documents in support of any disbursements claimed.

(4) If the receiving party wishes to draw any special circumstances to the attention of the Taxing Master, he shall specify those circumstances in his claim.

(5) If the Lord Chancellor wishes to make any written representations in respect of the claim he shall, within one month from the date on which the Lord Chancellor received the claim from the receiving party, file any written representations in the Supreme Court Taxing Office and serve a copy of them on the receiving party.

(6) The Taxing Master may make directions in respect of—

(a) the claim;

(b) any written representations;

(c) the filing and serving of any further particulars or documents; and

(d) ensuring that the determination of costs is dealt with justly.

(7) Where the Taxing Master considers it appropriate, the claim shall be listed for a hearing before him, and the Supreme Court Taxing Office shall serve on the receiving party and on the Lord Chancellor notification of the place, date and time of the hearing.

7.—(1) The Taxing Master shall consider the claim and allow such costs in respect of—

(a) such work as appears to him to have been actually and reasonably done; and

(b) such disbursements as appear to him to have been actually and reasonably incurred,

as he considers sufficient reasonably to compensate the receiving party for any expenses properly incurred by him in the proceedings.

(2) In determining costs under paragraph (1) the Taxing Master shall take 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 Taxing Master may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved against the receiving party.

(4) When the Taxing Master has determined the amount of costs payable to the receiving party the Supreme Court Taxing Office shall notify the receiving party and the Lord Chancellor of the amount of costs payable.

Dated 30th April 2001

Irvine of Lairg, C.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations apply in relation to orders under Article 6A(3) of the Magistrates' Courts (Northern Ireland) Order 1981 ("the Order") that the Lord Chancellor make a payment in respect of the costs of a person in the proceedings. The Regulations provide for—

- (a) when such an order cannot be made; [Regulation 3]
- (b) when such an order is made, how the costs shall be determined. [Regulations 4, 5, 6 and 7]

Article 6A(3) of the Order applies where a court is prevented by Article 6A(1) of the Order from ordering a resident magistrate, a justice of the peace, or a clerk of petty sessions to pay costs in any proceedings in respect of any act or omission in the execution (or purported execution) of his duty as—

- (a) such a magistrate or justice; or
- (b) as such a clerk exercising, by virtue of any statutory provision, any of the functions of a magistrates' court.