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STATUTORY INSTRUMENTS

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**1991 No. 2096 (L. 33)**

**MAGISTRATES' COURTS**

**The Magistrates' Courts (Costs Against Legal Representatives in Civil Proceedings) Rules 1991**

*Made* - - - - *16th September 1991*  
*23rd September*  
*Laid before Parliament* *1991*  
*Coming into force* - - *14th October 1991*

The Lord Chancellor, in exercise of the powers conferred upon him by section 144 of the Magistrates' Courts Act 1980(1), after consultation with the Rule Committee appointed under that section, hereby makes the following Rules:

**Citation, commencement and interpretation**

1.—(1) These Rules may be cited as the Magistrates' Courts (Costs Against Legal Representatives in Civil Proceedings) Rules 1991 and shall come into force on 14th October 1991.

(2) In these Rules:—

“interested party” means the party benefiting from the wasted costs order and, where he is a legally assisted person, within the meaning of section 2(11) of the 1988 Act, the Legal Aid Board;

“the 1988 Act” means the Legal Aid Act 1988(2);

“wasted costs order” means any action taken by a court under section 145A of the Magistrates' Courts Act 1980.

**General**

2.—(1) A wasted costs order may provide that the whole or any part of the wasted costs incurred by a party shall be disallowed or (as the case may be) met by the legal or other representative concerned and the court shall specify the amount of such costs.

(2) Subject to paragraph (7) below, a court may make a wasted costs order either on the application of a party to the proceedings or on its own motion and when doing so the justices' clerk shall make a record of the order in writing, and the reasons for the decision of the court.

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(1) 1980 c. 43, as extended by section 145A of that Act. Section 145A was inserted by section 112 of the Courts and Legal Services Act 1990 (c. 41).

(2) 1988 c. 34.

(3) Before making a wasted costs order, the court shall allow the legal or other representative a reasonable opportunity to appear before it and show cause why the order should not be made.

(4) Subject to paragraphs (5) and (6) below, any payments which are required to be made by a legal or other representative under a wasted costs order shall be made to the party who has incurred the wasted costs.

(5) Where the party who has incurred wasted costs is receiving assistance by way of representation under Part III of the 1988 Act and which has been approved under regulation 22 of the Legal Advice and Assistance Regulations 1989<sup>(3)</sup>, any payments which are required to be made by a legal or other representative under a wasted costs order shall be paid to the justices' clerk in accordance with regulation 31 of those Regulations.

(6) Where the party who has incurred wasted costs is being granted representation under Part IV of the 1988 Act, any payments which are required to be made by a legal or other representative under a wasted costs order shall be paid to the justices' clerk in accordance with regulation 89 (a) of the Civil Legal Aid (General) Regulations 1989<sup>(4)</sup>.

(7) A court shall not make a wasted costs order after the end of the period of six months beginning with the date on which the proceedings are disposed of by the court.

(8) Where a wasted costs order has been made, the justices' clerk shall, as soon as practicable, serve a copy of the order on any interested party and on the legal or other representative concerned.

### **Appeals**

**3.—**(1) A legal or other representative against whom a wasted costs order is made may appeal to the Crown Court.

(2) Subject to paragraph (4) below, an appeal shall be instituted within 21 days of the wasted costs order being made by the appellant giving notice in writing to the justices' clerk of the court which made the order, stating the grounds of appeal.

(3) The appellant shall, as soon as practicable after instituting the appeal, serve a copy of the notice and grounds of appeal, including any application for an extension of the time in which to appeal granted under paragraph (4) below, on any interested party.

(4) The time limit within which an appeal may be instituted may, for good reason, be extended before or after it expires by a judge of the Crown Court and, where it is so extended, the court to which the appeal is made shall give notice of the extension to the appellant, the justices' clerk of the court which made the wasted costs order and any interested party.

(5) The court to which the appeal is made shall give notice of the hearing date to the appellant, the justices' clerk of the court which made the wasted costs order and any interested party and shall allow the interested party to make representations either orally or in writing.

(6) The court hearing the appeal may affirm, vary or revoke the order as it thinks fit and shall notify its decision to the appellant, any interested party and the justices' clerk of the court which made the order.

Dated 16th September 1991

*Mackay of Clashfern, C.*

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(3) S.I.1989/340, amended by S.I. 1989/560.

(4) S.I. 1989/339.

## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules make provision for wasted costs orders in civil proceedings in magistrates' courts under section 145A of the Magistrates' Courts Act 1980. The Rules provide that the legal or other representative against whom a court is proposing to make an order for wasted costs is to be given a reasonable opportunity to make representations as to why the order should not be made.

The Rules also provide that a wasted costs order may be made either on the application of a party to the proceedings or on the motion of the court and that no such order shall be made after the end of the period of six months beginning with the date on which the proceedings are disposed of by the court.

In addition, provision is made for an appeal to the Crown Court against the making of a wasted costs order.