

2001 No. 1296

**JUSTICES OF THE PEACE, ENGLAND AND WALES
SUPREME COURT OF ENGLAND AND WALES**

The Justices and Justices' Clerks (Costs) Regulations 2001

Made - - - - - *30th March 2001*

Coming into force *1st April 2001*

The Lord Chancellor, in exercise of the powers conferred upon him by section 53A(4) of the Justices of the Peace Act 1997^(a), makes the following Regulations, a draft of which has, in accordance with section 53A(5) of that Act, been laid before and approved by resolution of each House of Parliament:

Citation and commencement

1. These Regulations may be cited as the Justices and Justices' Clerks (Costs) Regulations 2001 and shall come into force on the second day after the day on which the Regulations are made.

Interpretation

2. In these Regulations—

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

“costs judge” means a taxing master of the Supreme Court;

“order” means an order of the court made under section 53A(3) of the Justices of the Peace Act 1997 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 justice of the peace or a justices' clerk in the execution (or purported execution) of his duty—

(i) as a single justice; or

(ii) as a justices' clerk exercising, by virtue of any statutory provision, any of the functions of a single justice;

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

The payment of costs by the Lord Chancellor

3. No order shall be made under section 53A(3) of the Justices of the Peace Act 1997 in favour of—

^(a) 1997 c. 25. Section 53A is inserted by section 98(1) of the Access to Justice Act 1999 (c. 22).

- (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.

Court order and 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 a costs judge in accordance with regulations 6 and 7 where—

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

Determination of costs by a costs judge

6.—(1) Where the amount of costs is to be determined by a costs judge, the receiving party shall, no later than three months from (but excluding) the date on which the order was made, file his claim and a copy of the order in the Supreme Court Costs Office and serve a copy of the claim on the Lord Chancellor.

(2) On the application of the receiving party to the Supreme Court Costs Office, the costs judge may, in exceptional circumstances, extend the period of three months.

(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 costs judge, 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, no later than one month from (but excluding) the date on which the Lord Chancellor received the claim from the receiving party, file any written representations at the Supreme Court Costs Office and serve a copy of them on the receiving party.

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(6) The costs judge 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 costs judge considers it appropriate, the claim shall be listed for a hearing before him, and the Supreme Court Costs 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 costs judge shall consider the claim and shall 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 costs judge 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 costs judge 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 costs judge has determined the amount of costs payable to the receiving party, the Supreme Court Costs Office shall notify the receiving party and the Lord Chancellor of the amount of costs payable.

Signed by authority of the Lord Chancellor

Dated 30th March 2001

Willy Bach
Parliamentary Secretary
Lord Chancellor's Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply where a court makes an order under section 53A(3) of the Justices of the Peace Act 1997 (c. 25) (“the Act”) that the Lord Chancellor make a payment in respect of the costs of a person in the proceedings. The Regulations provide for when such an order cannot be made, and when such an order is made, how the costs shall be determined.

Section 53A(3) of the Act applies where a court is prevented by section 53A(1) of the Act from ordering a justice of the peace or justices’ clerk to pay costs in any proceedings in respect of any act or omission in the execution (or purported execution) of his duty as—

- (a) a single justice; or
- (b) as a justices’ clerk exercising, by virtue of any statutory provision, any of the functions of a single justice.

£1.75

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E 0705 04/01 ON (MFK)