

2001 No. 1304

**SUPREME COURT OF ENGLAND AND WALES
SUPREME COURT OF NORTHERN IRELAND**

GENERAL COMMISSIONERS OF INCOME TAX

**The General Commissioners of Income Tax (Costs)
Regulations 2001**

Made - - - - 30th March 2001

*Coming into force in accordance
with regulation 1 1st April 2001*

The Lord Chancellor, in exercise of the powers conferred upon him by section 2A(4) of the Taxes Management Act 1970(a), makes the following Regulations, a draft of which has, in accordance with section 2A(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 General Commissioners of Income Tax (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 in England and Wales a taxing master of the Supreme Court, and in Northern Ireland the Master (Taxing Office);

“order” means an order of the court made under section 2A(3) of the Taxes Management Act 1970 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 General Commissioner in the execution (or purported execution) of his duty as a General Commissioner;

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

(a) 1970 c. 9. Section 2A is inserted by section 102 of the Access to Justice Act 1999 (c. 22).

“Supreme Court Costs Office” shall be construed, in relation to Northern Ireland, as the Taxing Office of the Supreme Court of Northern Ireland.

The payment of costs by the Lord Chancellor

3. No order shall be made under section 2A(3) of the Taxes Management Act 1970 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.

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.

- (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 2A(3) of the Taxes Management Act 1970 (c. 9) (“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 2A(3) of the Act applies where a court is prevented by section 2A(1) of the Act from ordering a General Commissioner to pay costs in any proceedings in respect of any act or omission in the execution (or purported execution) of his duty as a General Commissioner.

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