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STATUTORY INSTRUMENTS

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**2010 No. 60**

**The Criminal Procedure Rules 2010**

**PART 76**

**COSTS**

*SECTION 5: ASSESSMENT OF COSTS*

**Assessment and re-assessment**

- 76.11.**—(1) This rule applies where the court directs an assessment under—
- (a) rule 61.20 (Proceeds of Crime Act 2002 – rules applicable to restraint and receivership proceedings, assessment of costs);
  - (b) rule 76.6 (costs on appeal); or
  - (c) rule 76.7 (costs on an application).
- (2) The assessment must be carried out by the relevant assessing authority, namely—
- (a) the court officer, where the direction was given by a magistrates’ court or by the Crown Court; or
  - (b) the Registrar of Criminal Appeals, where the direction was given by the Court of Appeal.
- (3) The party in whose favour the court made the costs order (‘the applicant’) must—
- (a) apply for an assessment—
    - (i) in writing, in any form required by the assessing authority, and
    - (ii) not more than 3 months after the costs order; and
  - (b) serve the application on—
    - (i) the assessing authority, and
    - (ii) the party against whom the court made the costs order (‘the respondent’).
- (4) The applicant must—
- (a) summarise the work done;
  - (b) specify—
    - (i) each item of work done, giving the date, time taken and amount claimed,
    - (ii) any disbursements or expenses, including the fees of any advocate, and
    - (iii) any circumstances of which the applicant wants the assessing authority to take particular account; and
  - (c) supply—
    - (i) receipts or other evidence of the amount claimed, and
    - (ii) any other information or document for which the assessing authority asks, within such period as that authority may require.

- (5) A respondent who wants to make representations about the amount claimed must—
  - (a) do so in writing; and
  - (b) serve the representations on the assessing authority, and on the applicant, not more than 21 days after service of the application.
- (6) The assessing authority must—
  - (a) if it seems likely to help with the assessment, obtain any other information or document;
  - (b) resolve in favour of the respondent any doubt about what should be allowed; and
  - (c) serve the assessment on the parties.
- (7) Where either party wants the amount allowed re-assessed—
  - (a) that party must—
    - (i) apply to the assessing authority, in writing and in any form required by that authority,
    - (ii) serve the application on the assessing authority, and on the other party, not more than 21 days after service of the assessment,
    - (iii) explain the objections to the assessment,
    - (iv) supply any additional supporting information or document, and
    - (v) ask for a hearing, if that party wants one; and
  - (b) a party who wants to make representations about an application for re-assessment must—
    - (i) do so in writing,
    - (ii) serve the representations on the assessing authority, and on the other party, not more than 21 days after service of the application, and
    - (iii) ask for a hearing, if that party wants one;
  - (c) the assessing authority—
    - (i) must arrange a hearing, in public or in private, if either party asks for one,
    - (ii) subject to that, may re-assess the amount allowed with or without a hearing,
    - (iii) must re-assess the amount allowed on the initial assessment, taking into account the reasons for disagreement with that amount and any other representations,
    - (iv) may maintain, increase or decrease the amount allowed on the assessment,
    - (v) must serve the re-assessment on the parties, and
    - (vi) must serve written reasons on the parties, if not more than 21 days later either party asks for such reasons.
- (8) A time limit under this rule may be extended even after it has expired—
  - (a) by the assessing authority, or
  - (b) by the Senior Costs Judge, if the assessing authority declines to do so.

### **Appeal to a costs judge**

- 76.12.**—(1) This rule applies where—
  - (a) the assessing authority has re-assessed the amount allowed under rule 76.11; and
  - (b) either party wants to appeal against that amount.
- (2) That party must—
  - (a) serve an appeal notice on—
    - (i) the Senior Costs Judge,

- (ii) the other party, and
  - (iii) the assessing authoritynot more than 21 days after service of the written reasons for the re-assessment;
- (b) explain the objections to the re-assessment;
- (c) serve on the Senior Costs Judge with the appeal notice—
  - (i) the applications for assessment and re-assessment,
  - (ii) any other information or document considered by the assessing authority,
  - (iii) the assessing authority’s written reasons for the re-assessment, and
  - (iv) any other information or document for which a costs judge asks, within such period as the judge may require; and
- (d) ask for a hearing, if that party wants one.
- (3) A party who wants to make representations about an appeal must—
  - (a) serve representations in writing on—
    - (i) the Senior Costs Judge, and
    - (ii) the applicantnot more than 21 days after service of the appeal notice; and
  - (b) ask for a hearing, if that party wants one.
- (4) Unless a costs judge otherwise directs, the parties may rely only on—
  - (a) the objections to the amount allowed on the initial assessment; and
  - (b) any other representations and material considered by the assessing authority.
- (5) A costs judge—
  - (a) must arrange a hearing, in public or in private, if either party asks for one;
  - (b) subject to that, may determine an appeal with or without a hearing;
  - (c) may—
    - (i) consult the assessing authority,
    - (ii) consult the court which made the costs order, and
    - (iii) obtain any other information or document;
  - (d) must reconsider the amount allowed by the assessing authority, taking into account the objections to the re-assessment and any other representations;
  - (e) may maintain, increase or decrease the amount allowed on the re-assessment;
  - (f) may provide for the costs incurred by either party to the appeal; and
  - (g) must serve reasons for the decision on—
    - (i) the parties, and
    - (ii) the assessing authority.
- (6) A costs judge may extend a time limit under this rule, even after it has expired.

*[Note. The Criminal Costs Practice Direction sets out a form for use in connection with this rule.]*

### **Appeal to a High Court judge**

- 76.13.**—(1) This rule applies where—
- (a) a costs judge has determined an appeal under rule 76.12; and

- (b) either party wants to appeal against the amount allowed.
- (2) A party who wants to appeal—
  - (a) may do so only if a costs judge certifies that a point of principle of general importance was involved in the decision on the review; and
  - (b) must apply in writing for such a certificate and serve the application on—
    - (i) the costs judge,
    - (ii) the other partynot more than 21 days after service of the decision on the review.
- (3) That party must—
  - (a) appeal to a judge of the High Court attached to the Queen’s Bench Division as if it were an appeal from the decision of a master under Part 52 of the Civil Procedure Rules 1998<sup>(1)</sup>; and
  - (b) serve the appeal not more than 21 days after service of the costs judge’s certificate under paragraph (2).
- (4) A High Court judge—
  - (a) may extend a time limit under this rule even after it has expired;
  - (b) has the same powers and duties as a costs judge under rule 76.12; and
  - (c) may hear the appeal with one or more assessors.

*[Note. See also section 70 of the Senior Courts Act 1981<sup>(2)</sup>.]*

#### **Application for an extension of time under Section 5**

- 76.14.** A party who wants an extension of time under rule 76.11, 76.12 or 76.13 must—
- (a) apply in writing;
  - (b) explain the delay; and
  - (c) attach the application, representations or appeal for which the extension of time is needed.

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<sup>(1)</sup> S.I. 1998/3132.

<sup>(2)</sup> 1981 c. 54. The Act’s title was amended by section 59(5) of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).