



Neutral Citation Number: [2016] EWCA Crim 98

IN THE COURT OF APPEAL (CRIMINAL DIVISION)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 23/03/2016

Before :

LORD CHIEF JUSTICE OF ENGLAND AND WALES

Practice Direction (Costs in Criminal Proceedings) 2015
Amendment No. 1

AMENDMENT NO. 1 TO THE PRACTICE DIRECTION (COSTS IN CRIMINAL PROCEEDINGS) 2015

This is the first amendment to the Practice Direction (Costs in Criminal Proceedings) 2015 [2015] EWCA Crim 1568. It is handed down by the Lord Chief Justice on 23 March 2016 and comes into force on 4 April 2016, at the same time as the Criminal Procedure (Amendment) Rules 2016 (SI 2016/120).

In summary, the Practice Direction (Costs in Criminal Proceedings) 2015 is subject to the following amendments:

1.2 The Power to Award Costs

Paragraph 1.2.4 is replaced

4.1 Costs Incurred as a Result of Unnecessary or Improper Act or Omission

Paragraph 4.1.6 is added

4.2 Costs Against Legal Representatives - Wasted Costs

Paragraph 4.2.6 is replaced

4.7 Award of Costs Against Third Parties

Paragraph 4.7.6 is replaced

The specifics are as follows:

1.2 The Power to Award Costs

Paragraph 1.2.4 is amended and replaced as follows:

1.2.4 Where the court orders a defendant to pay costs to the prosecutor; orders one party to pay costs to another party or a third party to pay costs; disallows or orders a legal or other representative to meet any wasted costs; or makes a defendant's costs order other than for the full amount; the order for costs must specify the sum to be paid or disallowed. Where the court is required to specify the amount of costs to be paid it cannot delegate the decision, but may require the assistance of the relevant assessing authority, in practice the National Taxing Team (for magistrates' courts and for the Crown Court) and the Registrar of Criminal Appeals (for the Court of Appeal): see CrimPR 45.8(8), 45.9(8) and 45.10(8). The rules provide also that a party who has incurred unnecessary or wasted costs should provide assistance to the court as to the amount involved, where the court considers making an order on its own initiative: CrimPR 45.8(5)(b)(iii), 45.9(5)(b)(iii) and 45.10(5)(b)(iii).

4.1 Costs Incurred as a Result of Unnecessary or Improper Act or Omission

Paragraph 1.2.4 is added as follows:

4.1.6 Though the court cannot delegate its decision to the appropriate authority, it may require the assistance of that authority, in practice the National Taxing Team (for magistrates' courts and for the Crown Court) and the Registrar of Criminal Appeals (for the Court of Appeal): see CrimPR 45.8(8). The rule lists the circumstances of which the court

must take account in deciding whether or not to seek such assistance. In most cases it will be neither necessary nor desirable to do so, bearing in mind the summary nature of the court's jurisdiction, the delay and expense that is otherwise liable to be incurred, and the rules that require claimants to specify in a written application the amount claimed and that require opponents to respond in writing, thus exposing the extent of any disagreement. However, in a few, exceptional, cases it may better meet the overriding objective to secure the assistance of an assessing authority than for the court to embark upon a complex assessment without such assistance. The rules provide also that a party who has incurred costs as a result of an unnecessary or improper act or omission by another party should provide assistance to the court as to the amount involved, where the court considers making an order on its own initiative: CrimPR 45.8(5)(b)(iii).

4.2 Costs Against Legal Representatives - Wasted Costs

Paragraph 4.2.6 is amended and replaced as follows:

4.2.6 Though the court cannot delegate its decision to the appropriate authority, it may require the assistance of that authority, in practice the National Taxing Team (for magistrates' courts and for the Crown Court) and the Registrar of Criminal Appeals (for the Court of Appeal): see CrimPR 45.9(8). The rule lists the circumstances of which the court must take account in deciding whether or not to seek such assistance. In most cases it will be neither necessary nor desirable to do so, bearing in mind the summary nature of the court's jurisdiction, the delay and expense that is otherwise liable to be incurred, and the rules that require claimants to specify in a written application the amount claimed and that require opponents to respond in writing, thus exposing the extent of any disagreement. However, in a few, exceptional, cases it may better meet the overriding objective to secure the assistance of an assessing authority than for the court to embark upon a complex assessment without such assistance. The rules provide also that a party who has incurred costs as a result of an improper, unreasonable or negligent act or omission by a legal or other representative should provide assistance to the court as to the amount involved, where the court considers making an order on its own initiative: CrimPR 45.9(5)(b)(iii).

4.7 Award of Costs Against Third Parties

Paragraph 4.7.6 is amended and replaced as follows:

4.7.6 The order must specify the amount of costs to be paid, and the court must notify the third party and any interested party of the order and the amount ordered to be paid. Though the court cannot delegate its decision about the amount to the appropriate authority, it may require the assistance of that authority, in practice the National Taxing Team (for magistrates' courts and for the Crown Court) and the Registrar of Criminal Appeals (for the Court of Appeal): see CrimPR 45.10(8). The rule lists the circumstances of which the court must take account in deciding whether or not to seek such assistance. In most cases it will be neither necessary nor desirable to do so, bearing in mind the summary nature of the court's jurisdiction, the delay and expense that is otherwise liable to be incurred, and the rules that require claimants to specify in a written application the amount claimed and that require opponents to respond in writing, thus exposing the extent of any disagreement. However, in a few, exceptional, cases it may better meet the overriding objective to secure the assistance of an assessing authority than for the court to embark upon a complex assessment without such assistance. The rules provide also that a party who has incurred costs as a result of serious

misconduct by a third party should provide assistance to the court as to the amount involved, where the court considers making an order on its own initiative: CrimPR 45.10(5)(b)(iii).

Lord Chief Justice
23 March 2016