

S.D.182/2000 Criminal Justice(Defence Costs)Rules

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**HIGH COURT ACT 1991
CRIMINAL JURISDICTION ACT 1993**

CRIMINAL JUSTICE (DEFENCE COSTS) RULES 2000

*Approved by Tynwald : 17th May 2000
Coming into operation with rule 1*

In exercise of the powers conferred on the Deemsters by section 25 of the High Court Act 1991(a) and sections 50(1A) and (1B) and 57 of the Criminal Jurisdiction Act 1993(b), and of all other enabling powers, the following Rules are hereby made :-

Citation and Commencement

1. These Rules may be cited as the Criminal Justice (Defence Costs) Rules 2000 and shall come into operation on the day on which they are approved by Tynwald.

Interpretation

2. In these Rules -

“costs order” means an order made under section 50(1A) of the Criminal Jurisdiction Act 1993 for the payment of defence costs;

“the Court” means the Court of General Gaol Delivery;

“defence costs” means the expenses incurred by a defendant in carrying on his defence;

“disbursements” do not include any payment made by the Treasury or out of the General Revenue of the Island to a witness, interpreter or medical practitioner.

Criteria for costs order

3. (1) The Court may make a costs order where it is satisfied that it is appropriate in the circumstances of any particular proceedings.

(a) 1991 c.12. (b) 1993 c.9.

- (2) A costs order -
- (a) may be made subject to such conditions; and
 - (b) may include such directions to the Chief Registrar,
- as appear to the Court to be appropriate.
- (3) Without prejudice to the generality of paragraph (1), the Court shall take into account -
- (a) the manner in which the prosecution and the defence conducted their respective cases, including conduct which unnecessarily extended proceedings or resulted in unnecessary expense;
 - (b) the personal conduct of the defendant before and during the proceedings;
 - (c) the complexity of the case;
 - (d) the number of offences of which the defendant is accused; and
 - (e) if accused of more than one offence and acquitted of one or more, the fact that he is convicted of others.

Claims for defence costs

4. (1) Where the Court has made a costs order in favour of any person, he may submit an application for the determination of defence costs in accordance with these Rules.

(2) A claim for the determination of defence costs shall be submitted to the Chief Registrar in writing within 3 months of the date of the relevant acquittal.

(3) A claim for the determination of defence costs shall -

- (a) summarise the items of work done by an advocate or other legal representative;
- (b) state, where appropriate, the dates on which items of work were done, the time taken and the sums claimed;
- (c) specify any disbursements claimed, including advocate's or other legal representative's fees, the circumstances in which they were incurred and the amounts claimed in respect of them;
- (d) be accompanied by any receipts or other documents in support of any disbursements claimed; and
- (e) specify any special circumstances which should be drawn to the attention of the Chief Registrar.

(4) The applicant shall supply such further particulars, information and documents as the Chief Registrar may require.

Determination of defence costs

5. (1) Defence costs shall be determined by the Chief Registrar in accordance with these Rules and the terms of the costs order.

(2) The Chief Registrar shall consider the claim, any further particulars, information or documents submitted by the applicant and shall allow such defence 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 reasonably sufficient to compensate the applicant for any expenses properly incurred by the applicant in the proceedings.

(3) In determining defence costs under paragraph (1) the Chief Registrar 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.

(4) When determining defence costs there shall be allowed a reasonable amount in respect of all costs reasonably incurred and any doubts which the Chief Registrar may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved against the applicant.

(5) When determining defence costs for the purposes of these Rules, if the Chief Registrar is of the opinion that there are circumstances which make it inappropriate that the applicant should recover the full amount of expenses referred to in paragraph (2), the Chief Registrar shall -

- (a) assess what amount would, in his opinion, be just and reasonable; and
- (b) specify that amount in his determination under these Rules.

Notification of determination and re-determination

6. (1) Having determined the defence costs payable to an applicant in accordance with these Rules, the Chief Registrar shall notify the applicant of the determination.

(2) An applicant who is dissatisfied with the defence costs determined by the Chief Registrar may within 21 days of receipt of notification of the determination apply to the Chief Registrar to re-determine the costs.

(3) An application for re-determination shall be made in writing and shall specify the items in respect of which the application is made and the grounds of objection, and shall be made in such form and manner as the Chief Registrar may direct.

(4) The notice of application shall state whether the applicant wishes to appear or to be represented and, if the applicant so wishes, the Chief Registrar shall notify the applicant of the time at which he is prepared to hear him or his representative.

(5) The notice of application shall be accompanied by any particulars, information and documents supplied for the purposes of the original determination and the applicant shall supply such further particulars, information and documents as the Chief Registrar may require.

(6) In re-determining defence costs the Chief Registrar shall take into account -

- (a) the written application under paragraph (3);
- (b) any submissions made under paragraph (4); and
- (c) any particulars, information and documents supplied under paragraph (5).

(7) The Chief Registrar shall re-determine the defence costs, whether by way of increase, decrease or at the level previously determined and shall notify the applicant of the decision.

(8) Where the applicant is dissatisfied with the defence costs as so re-determined by the Chief Registrar, the applicant may, within 28 days of notification under paragraph (7), appeal to the Court in the same manner as in the case of an appeal against decisions of a taxing master.

Payment

7. (1) Where defence costs have been determined, re-determined or settled on appeal to the Court, the Chief Registrar shall, subject to paragraph (2), notify the Treasury in writing of the amount determined.

(2) The Chief Registrar shall not notify the Treasury of a determination under these Rules until (disregarding any power of the court to enlarge time limits under Rules of Court) the time for an application for re-determination or for an appeal against re-determination has expired.

(3) The amount to be paid by the Treasury under a cost order shall be the amount specified in the notification under paragraph (1).

Determination by Court with consent

8. Notwithstanding these Rules, the Court may, with the agreement of the person in whose favour the costs order is made, specify the amount of defence costs to be paid without a determination by the Chief Registrar.

Made this 29th MARCH

2000

W. H. ...

First Deemster and Clerk of the Rolls

[Signature]

Second Deemster

EXPLANATORY NOTE

(This Note is not part of the Rules)

The Rules set out the circumstances and procedures governing the payment by the Isle of Man Government of an acquitted person's costs.