

1992 No. 314

LEGAL AID, ADVICE AND ASSISTANCE

**The Legal Aid in Criminal Proceedings (Costs)
Rules (Northern Ireland) 1992**

Made 10th July 1992

Coming into operation 1st January 1993

To be laid before Parliament

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The Lord Chancellor, in exercise of the powers conferred by Article 36(3) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(a)

(a) S.I. 1981/228 (N.I. 8)

and now vested in him(a) and of all other powers enabling him in that behalf, after consultation with the Lord Chief Justice, the Attorney-General, the Crown Court Rules Committee, the County Court Rules Committee and the Magistrates' Courts Rules Committee and with the approval of the Treasury, and having had regard to the principle of allowing fair remuneration according to the work reasonably undertaken and properly done, hereby makes the following Rules:—

Citation, commencement, revocations and transitional provisions

1.—(1) These Rules may be cited as the Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992 and shall come into operation on 1st January 1993.

(2) Subject to paragraph (3), the instruments listed in Schedule 4 shall be revoked to the extent shown in that Schedule.

(3) These Rules shall apply for the determination of costs which are payable in respect of work done on or after 1st January 1993 and costs payable in respect of work done before that date shall be determined by the appropriate authority as if these Rules had not been made.

Interpretation

2. In these Rules, unless the context otherwise requires—

“appropriate authority” has the meaning assigned by rule 3;

“costs” means, in the case of a solicitor, the fees and disbursements payable under Article 36(1) or (2) of the Order and, in the case of counsel, the fees payable under that Article;

“counsel” means counsel assigned under a criminal aid certificate;

“disbursements” means travelling and witness expenses and other out of pocket expenses incurred by a fee-earner in giving legal aid;

“fee-earner” means a solicitor or any clerk who regularly does work for which it is appropriate to make a direct charge to the client;

“High Court bail application” means a bail application made to a judge of the High Court or the Court of Appeal pursuant to section 3(2)(a) of the Northern Ireland (Emergency Provisions) Act 1991(b);

“legal aid” means legal aid given under a criminal aid certificate;

“the Order” means the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981;

“scheduled offence” means an offence specified in Schedule 1 to the Northern Ireland (Emergency Provisions) Act 1991;

“solicitor” means a solicitor assigned under a criminal aid certificate;

“trial judge” means the judge, resident magistrate or other justice of the peace who presided at the hearing at which the defendant was substantively dealt with and in respect of which the costs are payable;

“taxing master” means the Master (Taxing Office).

(a) S.I. 1982/159

(b) 1991 c. 24

The appropriate authority

3.—(1) Subject to paragraph (3), the appropriate authority shall be a committee of three persons selected from a panel appointed by the Lord Chancellor.

(2) The panel shall comprise—

- (a) such number of barristers,
- (b) such number of solicitors, and
- (c) such number of other persons,

as the Lord Chancellor may from time to time determine.

(3) A committee shall consist of one barrister, one solicitor and one other person selected by the Secretary of the Law Society from each of the categories mentioned in paragraph (2).

Provided that where one of the persons selected for a committee in accordance with this paragraph is not available the committee may consist of the two other persons selected and those other persons may discharge the business before the committee where they are in agreement, but in the absence of agreement the matter in question shall be referred to a committee of three persons.

(4) The members of the panel shall serve for such period and subject to such conditions as the Lord Chancellor may determine.

(5) There may be paid to the members of a committee such fees or other allowances as the Lord Chancellor may, with the approval of the Treasury, determine.

General

4.—(1) Costs in respect of work done under a criminal aid certificate shall be determined by the appropriate authority in accordance with these Rules and having regard to such directions as may be issued by the Lord Chancellor.

(2) Representation or advice given in proceedings in a magistrates' court before the granting of a criminal aid certificate may be deemed to be work done under that certificate for the purposes of these Rules, if the appropriate authority is satisfied that—

- (a) there was no undue delay in making the application for a criminal aid certificate; and
- (b) the representation or advice was given by the solicitor who was subsequently assigned under the criminal aid certificate.

(3) In determining costs the appropriate authority shall, subject to and in accordance with these Rules—

- (a) take into account all the relevant circumstances of the case including the nature, importance, complexity or difficulty of the work and the time involved, and
- (b) allow fair remuneration according to the work reasonably undertaken and properly done.

Claims for costs by solicitors

5.—(1) Subject to rule 16, no claim by a solicitor for costs in respect of work done under a criminal aid certificate shall be entertained unless the solicitor submits it within three months of the conclusion of the proceedings to which the criminal aid certificate relates.

(2) Subject to paragraph (3), a claim for costs shall be submitted to the appropriate authority in such form and manner as the Lord Chancellor may direct and shall be accompanied by the criminal aid certificate and any receipts or other documents in support of any disbursements claimed.

(3) A claim shall—

- (a) summarise the items of work done by a fee-earner in respect of which fees are claimed according to the classes specified in rule 6(1) or in paragraph 4(2) of Schedule 1 Part II;
- (b) state, where appropriate, the dates on which the items of work were done, the time taken, the sums claimed and whether the work was done for more than one assisted person;
- (c) in the case of Crown Court proceedings, High Court bail applications and appeals to the county court, specify, where appropriate, the fee-earner who undertook each of the items of work claimed;
- (d) give particulars of any work done in relation to more than one indictment or a retrial;
- (e) specify any disbursements claimed, the circumstances in which they were incurred and the amounts claimed in respect of them.

(4) Where the solicitor claims that—

- (a) representation or advice given before the granting of the criminal aid certificate should be deemed to be work done under that certificate, or
- (b) paragraph 3 of Schedule 1 Part I should be applied in relation to an item of work,

he shall give full particulars in support of his claim.

(5) Where there are any special circumstances which should be drawn to the attention of the appropriate authority, the solicitor shall specify them.

(6) The solicitor shall supply such further particulars, information and documents as the appropriate authority may require.

Determination of solicitors' fees

6.—(1) Subject to paragraph (5), the appropriate authority may allow work done by fee-earners in the following classes—

- (a) preparation, including taking instructions, interviewing witnesses, ascertaining the prosecution case, advising on plea and mode of trial, preparing and perusing documents, dealing with letters and telephone calls which are not routine, preparing for advocacy, instructing counsel and expert witnesses, conferences, consultations, views and work done in connection with advice on appeal or case stated;
- (b) advocacy, including applications for bail and other applications to the court;

- (c) attendance at court where counsel is assigned, including conferences with counsel at court;
- (d) travelling and waiting;
- (e) dealing with routine letters written and routine telephone calls.

(2) The appropriate authority shall consider the claim, any further particulars, information or documents submitted by the solicitor under rule 5 and any other relevant information and shall allow—

- (a) such work as appears to it to have been reasonably undertaken and properly done under the criminal aid certificate (including any representation or advice which is deemed to be work done under that certificate) by a fee-earner, classifying such work according to the classes specified in paragraph (1) as it considers appropriate; and
- (b) such time in respect of each class of work allowed by it (other than dealing with routine letters written and routine telephone calls) as it considers reasonable;

and, in any proceedings which are specified in paragraph 1(2) of Schedule 1 Part II, the appropriate authority shall proceed in accordance with the provisions of paragraph 3 of that Part of that Schedule.

(3) Subject to paragraphs (2) and (4), the appropriate authority shall allow fees for work allowed by it under this rule in accordance with Schedule 1 Part I; provided that, where any work allowed was done after 30th June 1993, it may allow such fees as appear to it to be fair remuneration for such work having regard to the rates specified in that Part of Schedule 1.

(4) In the case of Crown Court proceedings, High Court bail applications and appeals to the county court, the fees allowed in accordance with Part I of Schedule 1 shall be those appropriate to such of the following grades of fee-earner as the appropriate authority considers reasonable—

- (a) senior solicitor,
- (b) solicitor or fee-earner of equivalent experience,
- (c) an apprentice, or a pupil to a solicitor, or fee-earner of equivalent experience.

(5) This rule applies to work in respect of which standard fees are payable under Part II of Schedule 1 only to the extent that that Part specifically so provides.

Provided that the standard fees payable for the classes of work specified in sub-paragraph 4(2)(b)-(d) of Schedule 1 Part II shall be those appropriate to such of the grades of fee-earner specified in paragraph (4) of this rule as the appropriate authority considers reasonable.

Determination of solicitors' disbursements

7.—(1) Subject to the provisions of this rule, the appropriate authority shall allow such disbursements claimed under rule 5 as appear to it to have been actually and reasonably incurred; provided that if they are abnormally large by reason of the distance of the court or the assisted person's residence or both from the solicitor's place of business, reimbursement of the expenses may be limited to what would otherwise, having regard to all the circumstances, be a reasonable amount.

(2) Subject to paragraph (3), a solicitor may claim a disbursement in respect of fees of counsel instructed by him in proceedings in a magistrates' court where counsel has not been assigned.

(3) The appropriate authority shall determine the amount of any disbursement payable under paragraph (2) by estimating the sum which it would have allowed the solicitor under these Rules by way of costs had he undertaken the case without counsel and shall allow counsel and the solicitor such reasonable costs as do not together exceed that sum.

Claims for fees by counsel

8.—(1) Subject to rule 16, no claim by counsel for fees for work done under a criminal aid certificate shall be entertained unless counsel submits it within three months of the conclusion of the proceedings to which the criminal aid certificate relates.

(2) Subject to paragraph (3), a claim for fees shall be submitted to the appropriate authority in such form and manner as the Lord Chancellor may direct.

(3) A claim shall—

- (a) summarise the items of work in respect of which fees are claimed according to the classes specified in rule 9(4);
- (b) state the dates on which the items of work were done, the time taken where appropriate, the sums claimed and whether the work was done for more than one assisted person;
- (c) give particulars of any work done in relation to more than one indictment or a retrial.

(4) Where counsel claims that—

- (a) it would be inappropriate to allow a standard fee under rule 9(2); or
- (b) rule 9(5)(b) should be applied in relation to an item of work,

he shall give full particulars in support of his claim.

(5) Where there are any special circumstances which should be drawn to the attention of the appropriate authority, counsel shall specify them.

(6) Counsel shall supply such further particulars, information and documents as the appropriate authority may require.

Determination of counsel's fees

9.—(1) The appropriate authority shall consider the claim, any further particulars, information or documents submitted by counsel under rule 8 and any other relevant information and shall allow such work as appears to it to have been reasonably undertaken and properly done.

(2) Where the work allowed has been done by junior counsel in the Crown Court or on appeal to the county court, the appropriate authority shall, subject to paragraph (3), allow such of the standard fees specified in Part I of Schedule 2 as may be applicable to that work, unless it appears to the appropriate authority that the standard fee would be inappropriate taking into account all the relevant circumstances of the case, in which case it shall allow fees in accordance with paragraphs (4) and (5).

(3) The appropriate authority shall not allow a standard fee in respect of—

- (a) cases committed for trial in which the indictment includes counts in respect of an offence which is:—
 - (i) classified as a class 1, 2 or 3 offence in accordance with directions given by the Lord Chancellor under section 47(2) of the Judicature (Northern Ireland) Act 1978(a), or
 - (ii) listed in Schedule 3, or
 - (iii) an offence, not being an offence included in head (i) or (ii) above, which is a scheduled offence;
- (b) a High Court bail application;
- (c) proceedings in any other case—
 - (i) which lasted more than three days or which at the time of listing were reasonably expected to last more than three days;
 - (ii) in which the indictment is disposed of by a plea of guilty but which if contested would reasonably have been expected to last more than three days,

unless counsel requests that a standard fee be allowed.

(4) The appropriate authority may, except in relation to work for which a standard fee is allowed under paragraph (2), allow any of the following classes of fee to counsel in respect of work allowed by it under this rule—

- (a) a basic fee for preparation and, where appropriate, the first day's hearing including, where they took place on that day, short conferences, consultations, applications and appearances (including bail applications), views and any other preparation;
- (b) a refresher fee for any day or part of a day during which a hearing continued, including, where they took place on that day, short conferences, consultations, applications and appearances (including bail applications) and views;
- (c) subsidiary fees for—
 - (i) attendance at conferences, consultations and views not covered by sub-paragraph (a) or (b);
 - (ii) written advice on evidence, plea, appeal, case stated or other written work;
 - (iii) attendance at applications and appearances (including bail applications and adjournments for sentence) not covered by sub-paragraph (a) or (b).

Provided that the appropriate authority may allow subsidiary fees for attendance at conferences and consultations on a day for which a basic fee or a refresher fee is also allowed, up to a maximum of one such subsidiary fee for any one day, where the work allowed has been done in the Crown Court in a case in which the indictment includes a count in respect of a scheduled offence.

(5) The appropriate authority shall, except in relation to work for which a standard fee is allowed under paragraph (2), allow such fees in respect of such work as it considers reasonable in such amounts as it may determine in accordance with Part II of Schedule 2; provided that:

- (a) where any work allowed was done after 30th June 1993, the appropriate authority may allow such fees in such amounts as appear to it to be fair remuneration for such work having regard to the amounts specified in Part II of Schedule 2; or
- (b) where it appears to the appropriate authority, taking into account all the relevant circumstances of the case, that owing to the exceptional circumstances of the case the amount payable by way of fees in accordance with Part II of Schedule 2 would not provide fair remuneration for some or all of the work it has allowed, it may allow such amount as appears to it to be fair remuneration for the relevant work.

Payment of costs

10.—(1) Having determined the costs payable to a solicitor or counsel in accordance with these Rules, the appropriate authority shall, subject to rule 11, notify the solicitor or counsel of the costs so determined and authorise payment accordingly.

(2) Where the costs payable under paragraph (1) are varied as a result of any review, redetermination or appeal made or brought pursuant to these Rules, then—

- (a) where the costs are increased, the appropriate authority shall, subject to rule 11, authorise payment of the increase;
- (b) where the costs are decreased, the solicitor or counsel shall repay the amount of such decrease; and
- (c) where the payment of any costs of the solicitor or counsel is ordered under rule 13(14) or 14(7) or under paragraph 8(4) of Schedule 1 Part II, the appropriate authority shall authorise such payment.

(3) Any payment in respect of counsel which is determined under rule 7(3) shall be paid to counsel direct.

Certificate of certain costs by taxing master

11.—(1) Where the costs payable to a solicitor or counsel—

- (a) are determined by the appropriate authority under any of the provisions of these Rules to which this rule applies; or
- (b) are increased on a redetermination under rule 12 in exercise of any of those provisions or by virtue of paragraph (6)(b) of rule 12;

the appropriate authority shall not notify the solicitor or counsel of the costs so determined or authorise payment until the amount of the costs has been certified by the taxing master.

(2) The taxing master may certify the costs in the amount allowed by the appropriate authority or may vary that amount and certify the costs in any greater or lesser amount as he thinks fit having regard to the principle of allowing fair remuneration according to the work reasonably undertaken and properly done.

(3) Where the taxing master certifies costs in a lesser amount than that determined by the appropriate authority notice of that fact, and of the right to request a review of the taxing master's decision under rule 15, shall be given to the solicitor or counsel concerned by the appropriate authority.

(4) This rule applies to the following provisions of these Rules—

- (a) rule 9(2) where the appropriate authority does not allow the standard fee;
- (b) rule 9(5)(b);
- (c) paragraph 3 of Schedule 1 Part I;
- (d) paragraph 3(2)(c) of Schedule 1 Part II;
- (e) paragraph 6(2)(c) of Schedule 1 Part II.

Redetermination of costs by appropriate authority

12.—(1) Except in a case to which rule 15 applies, where—

- (a) a solicitor or counsel is dissatisfied with the costs (other than standard fees allowed under Schedule 1 Part II or under rule 9(2)) determined under these Rules by the appropriate authority for proceedings other than proceedings before a magistrates' court; or
- (b) counsel is dissatisfied with the decision to allow standard fees,

he may apply to the appropriate authority to redetermine those costs or to review that decision as the case may be.

(2) Subject to rule 16, the application shall be made, within 21 days of the receipt of notification of the costs payable under rule 10(1), by giving notice in writing to the appropriate authority specifying the matters in respect of which the application is made and the grounds of objection and shall be made in such form and manner as the appropriate authority may direct.

(3) The notice of application shall be accompanied by—

- (a) in the case of a solicitor, the particulars, information and documents supplied under rule 5; and
- (b) in the case of counsel, the particulars, information and documents supplied under rule 8.

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

(5) The solicitor or counsel shall supply such further particulars, information and documents as the appropriate authority may require.

(6) The appropriate authority shall—

- (a) redetermine the costs, whether by way of increase, decrease or in the amounts previously determined; or
- (b) review the decision to allow standard fees under rule 9(2) and confirm it or allow fees in accordance with rule 9(4) and (5),

in the light of the objections made by the applicant or on his behalf and shall, other than in a case to which rule 11(3) applies, notify the applicant of its decision.

(7) Except in a case to which rule 11(3) applies, the applicant may request the appropriate authority to give reasons in writing for its decision and, if so requested, the appropriate authority shall comply with the request.

(8) Subject to rule 16, any request under paragraph (7) shall be made within 21 days of receiving notification of the decision.

Appeals to the taxing master

13.—(1) Where the appropriate authority has given its reasons for its decision in accordance with rule 12(7), a solicitor or counsel who is dissatisfied with that decision may appeal to the taxing master.

(2) Subject to rule 16, an appeal shall be instituted, within 21 days of the receipt of the appropriate authority's reasons, by giving notice in writing to the taxing master.

(3) The appellant shall send a copy of any notice given under paragraph (2) to the appropriate authority.

(4) The notice of appeal shall be accompanied by—

(a) a copy of the written representations given under rule 12(2);

(b) the appropriate authority's reasons for its decision given in accordance with rule 12(7); and

(c) the particulars, information and documents supplied to the appropriate authority under rule 12.

(5) The notice of appeal shall—

(a) be in such form as the taxing master may direct,

(b) specify separately each item appealed against, showing (where appropriate) the amount claimed for the item, the amount determined and the grounds of objection to the determination, and

(c) state whether the appellant wishes to appear or to be represented or whether he will accept a decision given in his absence.

(6) The taxing master may, and if so directed by the Lord Chancellor either generally or in a particular case shall, send to the Lord Chancellor a copy of the notice of appeal together with copies of such other documents as the Lord Chancellor may require.

(7) With a view to ensuring that the public interest is taken into account, the Lord Chancellor may arrange for written or oral representations to be made on his behalf and, if he intends to do so, he shall inform the taxing master and the appellant.

(8) Any written representations made on behalf of the Lord Chancellor under paragraph (7) shall be sent to the taxing master and to the appellant and, in the case of oral representations, the taxing master and the appellant shall be informed of the grounds on which such representations will be made.

(9) The appellant shall be permitted a reasonable opportunity to make representations in reply.

(10) The taxing master shall inform the appellant (or his representative) and the Lord Chancellor, where representations have been or are to be made on his behalf, of the date of any hearing and, subject to the provisions of this rule, may give directions as to the conduct of the appeal.

(11) The taxing master may consult the trial judge or the appropriate authority and may require the appellant to provide any further information which he requires for the purpose of the appeal and, unless the taxing master otherwise directs, no further evidence shall be received on the hearing of the appeal and no ground of objection shall be valid which was not raised under rule 12.

(12) The taxing master shall have the same powers as the appropriate authority under these Rules (except that he shall not be subject to the requirement imposed by rule 11(1)) and, in the exercise of such powers, may—

- (a) alter the redetermination of the appropriate authority in respect of any sum allowed, whether by increase or decrease as he thinks fit;
- (b) confirm the decision to allow standard fees under rule 9(2) or allow fees in accordance with rule 9(4) and (5).

(13) The taxing master shall communicate his decision and the reasons for it in writing to the appellant, the Lord Chancellor and the appropriate authority.

(14) Except where he confirms or decreases the sums redetermined under rule 12 or confirms a decision to allow standard fees, the taxing master may allow the appellant a sum in respect of part or all of any reasonable costs (including any fee payable in respect of an appeal) incurred by him in connection with the appeal.

Appeals to the High Court

14.—(1) A solicitor or counsel who is dissatisfied with the decision of the taxing master on an appeal under rule 13 may apply to the taxing master to certify a point of principle of general importance.

(2) Subject to rule 16, an application under paragraph (1) shall be made within 21 days of notification of the taxing master's decision under rule 13(13).

(3) Where the taxing master certifies a point of principle of general importance, the solicitor or counsel may appeal to the High Court against the decision of the taxing master on an appeal under rule 13, and the Lord Chancellor shall be a respondent to such an appeal.

(4) Subject to rule 16, an appeal under paragraph (3) shall be instituted within 21 days of receiving the taxing master's certificate under paragraph (1).

(5) Where the Lord Chancellor is dissatisfied with the decision of the taxing master on an appeal under rule 13, he may, if no appeal has been made by the solicitor or counsel under paragraph (3), appeal to the High Court against that decision, and the solicitor or counsel shall be a respondent to the appeal.

(6) The decision of the High Court on an appeal under paragraphs (3) or (5) shall be final.

(7) The judge shall have the same powers as the appropriate authority and the taxing master under these Rules and may reverse, affirm or amend the decision appealed against or make such other order as he thinks fit.

Review by the taxing master of certain decisions under rule 11

15.—(1) Where, under rule 11(2), the taxing master certifies costs in a lesser amount than that allowed by the appropriate authority, the solicitor or counsel concerned may, except where the costs relate to proceedings before a magistrates' court, apply to the taxing master to review his decision.

(2) The provisions of paragraphs (2) to (5) of rule 12 shall apply to a review by the taxing master under this rule as they apply to a redetermination of costs by the appropriate authority under that rule subject to any necessary modifications.

(3) The provisions of paragraphs (6) to (9) and paragraph (13) of rule 13 shall apply to a review by the taxing master under this rule as they apply to an appeal to the taxing master under that rule subject to any necessary modifications.

(4) The taxing master shall review his decision under rule 11(2) and may confirm it or may vary it and certify the costs in any greater or lesser amount as he thinks fit having regard to the principle of allowing fair remuneration according to the work reasonably undertaken and properly done.

(5) A solicitor or counsel who is dissatisfied with the decision of the taxing master on a review under this rule may, with the leave of the court, appeal to the High Court against that decision and the provisions of paragraphs (2) and (4)-(7) of rule 14 shall apply subject to any necessary modifications as if the decision of the taxing master had been on an appeal under rule 13 (and as if the references in rule 13 to certification of a point of principle of general importance were references to obtaining leave to appeal) and, except in a case to which paragraph (5) of rule 14 applies, the Lord Chancellor shall be a respondent to such an appeal.

Time limits

16.—(1) Subject to paragraph (2), the time limit within which any act is required or authorised to be done may, for good reason, be extended:—

- (a) in the case of acts required or authorised to be done under rule 13, 14, or 15, by the taxing master or the High Court as the case may be;
- (b) in the case of acts required or authorised to be done by a solicitor or counsel under any other regulation, by the appropriate authority.

(2) Where a solicitor or counsel without good reason has failed (or, if an extension were not granted, would fail) to comply with a time limit, the appropriate authority, the taxing master or the High Court, as the case may be, may, in exceptional circumstances, extend the time limit and shall consider whether it is reasonable in the circumstances to reduce the costs; provided that costs shall not be reduced unless the solicitor or counsel has been allowed reasonable opportunity to show cause orally or in writing why the costs should not be reduced.

(3) A solicitor or counsel may appeal to the taxing master against a decision made under this rule by an appropriate authority in respect of proceedings other than proceedings before a magistrates' court and such an appeal shall be instituted within 21 days of the decision being given by giving notice in writing to the taxing master specifying the grounds of appeal.

No. 314

Legal Aid

2071

Dated 10th July 1992

Mackay of Clashfern, C.

We approve

Tim Wood
Nicholas Baker

Two of the Lord Commissioners
of Her Majesty's Treasury

Dated 13th July 1992.

Solicitors' Fees

PART I

FEES DETERMINED UNDER RULE 6

1. Subject to paragraphs 2 and 3, the appropriate authority shall allow fees for work allowed by it under rule 6 at the following basic rates:

(a) Magistrates' court proceedings

<i>Class of work</i>	<i>Rate</i>
Preparation	£43.25 per hour
Advocacy	£54.50 per hour
Attendance at court where counsel assigned	£29.50 per hour
Travelling and waiting	£24.25 per hour
Routine letters written and routine telephone calls	£3.35 per item

(b) Crown Court proceedings, High Court bail applications and appeals to the county court

<i>Class of work</i>	<i>Grade of fee-earner</i>	<i>Rate</i>
Preparation	Senior solicitor	£51.50 per hour
	Solicitor or fee-earner of equivalent experience	£43.50 per hour
	An apprentice or a pupil to a solicitor or fee-earner of equivalent experience	£28.75 per hour
Advocacy	Senior solicitor	£62.50 per hour
	Solicitor	£54.50 per hour
Attendance at court where counsel assigned	Senior solicitor	£41.25 per hour
	Solicitor or fee-earner of equivalent experience	£33.00 per hour
	An apprentice or a pupil to a solicitor or fee-earner of equivalent experience	£20.00 per hour
Travelling and waiting	Senior solicitor	£24.25 per hour
	Solicitor or fee-earner of equivalent experience	£24.25 per hour
	An apprentice or a pupil to a solicitor or fee-earner of equivalent experience	£12.00 per hour
Routine letters written and routine telephone calls		£3.35 per item

2. In respect of any item of work, the appropriate authority may allow fees at less than the relevant basic rate specified in paragraph 1 where it appears to the appropriate authority reasonable to do so having regard to the competence and dispatch with which the work was done.

3. In respect of any item of work, the appropriate authority may allow fees at more than the relevant basic rate specified in paragraph 1 where it appears to the appropriate authority that, taking into account all the relevant circumstances of the case, the amount of fees payable at such specified rate would not reasonably reflect—

- (a) the exceptional competence and dispatch with which the work was done, or
- (b) the exceptional circumstances of the case.

PART II

STANDARD FEES

Application

1.—(1) Subject to sub-paragraphs (3) and (4), this Part of this Schedule applies to the fees for work done by a fee-earner in relation to the proceedings in the Crown Court and appeals to the county court specified in sub-paragraph (2)

(2) The following proceedings are specified for the purposes of sub-paragraph (1)—

(a) cases committed for trial in which the indictment consisted of counts in respect of an offence which is classified as a class 4 offence in accordance with directions given by the Lord Chancellor under section 47(2) of the Judicature (Northern Ireland) Act 1978, not being an offence listed in Schedule 3 of a scheduled offence, and

(i) where the trial (including any case prepared for trial which was otherwise disposed of) lasted 2 days or less and at the time of listing was reasonably expected to last 2 days or less; or

(ii) where the case was listed and disposed of as a plea of guilty;

(b) appeals to the county court against conviction;

(c) appeals to the county court against sentence; and

(d) proceedings which arose out of a breach of an order of the Crown Court, proceedings in which sentence was deferred and other similar matters.

(3) Where in any proceedings specified in sub-paragraph (2), the trial judge—

(a) is dissatisfied with the solicitor's conduct of the case; or

(b) considers that, for exceptional reasons, the fees should be determined under rule 6,

he may direct that the fees should be determined under rule 6 (which direction shall be notified in writing to the appropriate authority by the chief clerk) and in that event this Part of this Schedule shall not apply.

(4) If a solicitor so elects, he may claim standard fees under this Part of this Schedule in respect of work done by him notwithstanding that the proceedings in relation to which the work was done are not specified in sub-paragraph (2), and the provisions of this Part of this Schedule shall apply to such a claim with the necessary modifications, save that, where a solicitor elects to claim the principal standard fee for preparation in respect of a trial which lasted more than 2 days, he shall be paid that fee (together with the appropriate standard fees for the other classes of work specified in paragraph 4(2)) and paragraph 2 shall not apply.

(5) For the purposes of this Part of this Schedule, the standard fees which are payable and the classes of work for which such fees may be paid are specified in paragraph 4 and the “lower fee limit” and the “upper fee limit” have the meanings given by paragraph 4(3).

Allowance of standard fees

2.—(1) The appropriate authority shall allow the standard fee for preparation which has been claimed by a solicitor (together with the appropriate standard fees for the other classes of work specified in paragraph 4(2)) unless, where the principal standard fee for preparation has been claimed, such a fee is considered to be excessive in which case the lower standard fee shall be allowed.

(2) A solicitor who has been allowed the lower standard fee instead of the principal fee claimed may—

- (a) accept that lower fee;
- (b) request the appropriate authority in writing to review its decision, or
- (c) provide the appropriate authority with a detailed claim in the form directed by the appropriate authority requesting in writing that the fees for preparation be determined under rule 6.

(3) Where the appropriate authority is requested to review its decision under sub-paragraph (2)(b), the authority shall either—

- (a) allow the principal fee; or
- (b) request the solicitor to provide a detailed claim in the form directed by the appropriate authority.

(4) Where a solicitor fails to make a request under sub-paragraph (2)(b) or to supply a detailed claim for the purposes of sub-paragraph (2)(c) or (3)(b) within 6 weeks of the decision to allow the lower fee or the request to supply a detailed claim, whichever is the later, the decision to allow the lower standard fee shall be deemed to be confirmed.

3.—(1) Where a solicitor—

- (a) submits a claim for determination under rule 6 in a case to which paragraph 1(2) applies; or
- (b) disputes the allowance of the lower standard fee and provides a detailed claim under paragraph 2(2)(c) or (3)(b),

the appropriate authority shall first determine the fees for preparation work within the meaning of paragraph 4(2)(a) of this Part of this Schedule.

(2) If the fees so determined are—

- (a) less than the lower fee limit, the appropriate authority shall allow and pay the lower standard fee together with the standard fees for all other classes of work specified in paragraph 4(2);
- (b) not less than the lower fee limit and not more than the upper fee limit, the appropriate authority shall allow and pay the principal standard fee together with the standard fees for all other classes of work specified in paragraph 4(2);
- (c) more than the upper fee limit, no standard fees shall be payable and all fees shall be determined in accordance with rule 6.

Standard fees

4.—(1) The classes of work for which standard fees shall be payable are those specified in sub-paragraph (2) and the fees for classes of work which are not so specified shall be determined in accordance with rule 6.

(2) The classes of work specified for the purposes of sub-paragraph (1) are—

(a) preparation within the meaning of rule 6(1)(a) but including routine letters written and routine telephone calls, within the meaning of rule 6(1)(e);

(b) advocacy;

(c) attendance at court where counsel is assigned;

(d) travelling and waiting.

(3) The standard fees payable under this part of this Schedule are the fees specified in the Table below and in this Part of this Schedule the “lower fee limit” and the “upper fee limit” mean the lower and upper fee limits specified in the Table.

TABLE

Preparation

<i>Type of Proceedings</i>	<i>Lower standard fee</i>	<i>Lower fee limit</i>	<i>Principal standard fee</i>	<i>Upper fee limit</i>
Crown court trials (including any case prepared for trial which was otherwise disposed of)	£125.50	£173.00	£242.00	£302
Guilty pleas	£79.00	£106.00	£170.00	£218
Appeals to the county court against conviction	£49.50	£66.00	£148.50	£225
Appeals to the county court against sentence	£35.25	£50.50	£90.50	£127
Proceedings of the type described in paragraph 1(2)(d)	£41.00	£49.50	£94.75	£137
<i>Class of Work</i>	<i>Grade of fee-earner</i>		<i>Rate</i>	
ADVOCACY	Senior solicitor		£62.50 per hour	
	Solicitor		£54.50 per hour	
ATTENDANCE AT COURT WHERE COUNSEL ASSIGNED	Senior solicitor		£41.25 per hour	
	Solicitor or fee-earner of equivalent experience		£33.00 per hour	
	An apprentice or a pupil to a solicitor or fee-earner of equivalent experience		£20.00 per hour	
TRAVELLING AND WAITING	Senior solicitor		£24.25 per hour	
	Solicitor or fee-earner of equivalent experience		£24.25 per hour	
	An apprentice or a pupil to a solicitor or fee-earner of equivalent experience		£12.00 per hour	

(4) The hourly rate specified in the Table for attendance at court shall, subject to sub-paragraph (5), be paid in respect of the period of time beginning 30 minutes before the case was listed and ending—

(a) where the client was present at court, 15 minutes after the hearing ended on that day, or

(b) where the client was not present at court, when the hearing ended on that day, and, save in exceptional circumstances, shall not be payable during the luncheon adjournment.

(5) Where a fee-earner attends a court centre for the purposes of more than one case, the solicitor may claim the attendance fee in respect of the second or subsequent case only for the time actually spent in attendance in addition to the time for which payment is made under sub-paragraph (4).

(6) Where a solicitor acts for more than one defendant, the appropriate authority shall allow whichever of the appropriate standard preparation fees is the greater and increase that fee by 20% for each additional defendant, but no percentage increase shall be made to the standard fees for attendance at court or for travelling and waiting.

(7) Where a solicitor acts for a defendant in respect of more than one—

(a) indictment,

(b) appeal to the county court against conviction,

(c) appeal to the county court against sentence, or

(d) proceedings of the type described in paragraph 1(2)(d),

or in respect of any combination of (a) to (d) above, the appropriate authority shall allow whichever of the appropriate standard preparation fees is the greater and increase that fee by 20% for each additional indictment, appeal or proceeding as the case may be.

(8) Where the standard fee payable is increased by virtue of sub-paragraph (6) or (7), then for the purposes of paragraphs 3, 6 and 8—

(a) the upper fee limit shall be increased by the same amount by which the principal standard fee has been increased, and

(b) the lower fee limit shall be increased by the same amount by which the lower standard fee has been increased.

Disbursements

5. Nothing in this Part of this Schedule applies to disbursements which shall be determined in accordance with rule 7.

Re-determinations and appeals

6.—(1) Except in a case to which rule 15 applies, a solicitor who is dissatisfied with a decision on a determination under paragraph 3 may apply for the costs to be re-determined and, subject to sub-paragraph (2), the provisions of rule 12(2) to (8) shall apply with the necessary modifications to an application under this paragraph as they apply to an application under rule 12.

(2) On a re-determination under this paragraph, the appropriate authority shall determine the fees for preparation work within the meaning of paragraph 4(2)(a) and if the fees so determined are—

(a) less than the lower fee limit, the lower standard fee shall be allowed together with the standard fees for all other classes of work specified in paragraph 4(2);

(b) not less than the lower fee limit and not more than the upper fee limit, the principal standard fee shall be allowed together with the standard fees for all other classes of work specified in paragraph 4(2);

(c) more than the upper fee limit, the fees for all classes of work shall be determined in accordance with rule 6.

7. Irrespective of any dispute under paragraph 2 as to whether the principal standard fee should have been allowed instead of the lower standard fee, where a solicitor is satisfied with a decision to allow a standard fee but contends that—

- (a) a standard fee which is not apt for the type of work done has been allowed; or
- (b) the provisions of paragraph 4(6) to (8) have been incorrectly applied,

he may, within 6 weeks of receipt of notification of the decision, make a written request setting out his reasons why the decision should be reviewed and, if the appropriate authority confirms its decision, written reasons shall be given.

8.—(1) A solicitor may appeal to the taxing master where he is dissatisfied with—

- (a) a decision on a re-determination under paragraph 6, or
- (b) a decision on a review under paragraph 7.

(2) Where a solicitor appeals to the taxing master in respect of a decision under paragraph 6, the taxing master shall determine the fees for preparation within the meaning of paragraph 4(2)(a) and if the fees so determined are—

- (a) less than the lower fee limit, the lower standard fee shall be allowed by the taxing master together with the standard fees for all other classes of work specified in paragraph 4(2);
- (b) not less than the lower fee limit and not more than the upper fee limit, the principal standard fee shall be allowed by the taxing master together with the standard fees for all other classes of work specified in paragraph 4(2);
- (c) more than the upper fee limit, the fees for all classes of work shall be determined by the taxing master in accordance with rule 6.

(3) Where a solicitor appeals to the taxing master in respect of a decision made on a review under paragraph 7, the taxing master shall allow whichever standard fee he considers to be apt for the type of work done or, as the case may be, re-apply the provisions of paragraph 4(6) to (8).

(4) Where the taxing master allows an appeal in whole or in part, he may allow the solicitor a sum in respect of part or all of any reasonable costs (including any fee payable in respect of the appeal) incurred by him in connection with the appeal.

(5) This paragraph only applies to appeals in proceedings for which standard fees are payable and the provisions of rule 13 shall apply to appeals in proceedings for which standard fees are not payable.

(6) Subject to the foregoing provisions of this paragraph, the provisions of rules 13, 14 and 16 relating to appeals by solicitors shall apply with the necessary modifications to appeals in proceedings for which standard fees are payable under this Part of this Schedule as they apply to appeals in proceedings for which standard fees are not payable.

Counsel's Fees

PART I

STANDARD FEES

1. The appropriate authority shall allow the fees specified in the Table and
 - (a) a standard basic fee shall cover preparation and the first day's hearing including, where they took place on that day, short conferences, applications and appearances (including bail applications), views and any other preparation;
 - (b) a standard refresher fee shall cover any day during which a hearing continued, including, where they took place on that day, short conferences, applications and appearances (including bail applications), views and any other preparation;
 - (c) a standard written work fee shall cover written advice on evidence, plea, appeal, case stated and other written work;
 - (d) a standard appearance fee shall cover attendance at applications and appearances (including bail applications and adjournments for sentence) together with, where they took place on that day, short conferences where attendance is not covered by (a) or (b).
2. For the purpose of determining which of the standard refresher fees specified in the Table should be allowed—
 - (a) where a refresher fee is claimed in respect of less than a full day, the appropriate authority shall allow such fee as appears to it reasonable having regard to the fee which would be allowable for a full day;
 - (b) a more than full day refresher fee shall be allowed where a hearing begins before the luncheon adjournment and ends after 5.30 pm.
3. Where a case listed for trial does not proceed on the day for which it is listed the appropriate authority shall allow a sum equal to half of the standard basic fee for a trial.
4. Where counsel attends in respect of—
 - (a) a case listed for plea which is adjourned for trial; or
 - (b) a case to which neither paragraph 3 nor paragraph 5 applies, which is listed for hearing but not opened due to the failure of the defendant or a witness to attend or the non-availability of a social enquiry report or for some good reason,
 the appropriate authority shall allow the standard appearance fee.
5. Where counsel attends in respect of a case which is listed for plea and on which a guilty plea is taken, and which is adjourned part-heard, the appropriate authority shall allow—
 - (a) the standard basic fee for the first hearing; and
 - (b) the standard appearance fee for the hearing at which the case is disposed of.
6. Where counsel represents more than one defendant the appropriate authority shall—
 - (a) increase the standard basic fee by 20% for each additional defendant who is substantively dealt with at the hearing in respect of which that standard basic fee is to be paid; or

(b) where paragraph 3, 4 or 5 applies, increase the sum payable by 20% for each additional defendant.

7. Where counsel appears on behalf of the same defendant on the same day at the same court in respect of more than one:

- (a) indictment,
- (b) appeal to the county court against conviction,
- (c) appeal to the county court against sentence, or
- (d) proceeding which arose out of a breach of an order of the Crown Court, or proceeding in which sentence was deferred, or other similar matter,

or in respect of any combination of (a) to (d) above, the appropriate authority shall allow whichever of the standard basic fees is the greater and shall increase it by 20% for each additional indictment, appeal or proceeding, as the case may be.

8. Where counsel is instructed to appear in a court which is more than 20 miles from the Head Post Office, Belfast, the appropriate authority may allow an amount in respect of counsel's attendance at that court to cover any travelling expenses actually and reasonably incurred and necessarily and exclusively attributable to counsel's attendance at that court.

TABLE

<i>Type of Proceedings</i>	<i>Standard basic fee</i>
Trials (including any case prepared for trial which is otherwise disposed of)	£240
Guilty pleas	£205
Appeals to the county court against conviction	£113
Appeals to the county court against sentence	£84
Proceedings of the type described in paragraph 7(d)	£71
Standard appearance fee	£44.75
Standard refresher fee	
(1) Half day	£86
(2) Full day	£166
(3) More than a full day	£251
Standard written work fee	£29

PART II

DETERMINATION OF OTHER FEES

1. The appropriate authority shall allow such fee in respect of an item of work allowed under rule 9(5), not exceeding the maximum amount specified in respect of that item of work, as appears to it to provide fair remuneration.

2. Where an hourly rate is specified in a Table in this Part of this Schedule in respect of an item of work allowed under rule 9(5), the appropriate authority shall

determine any fee for such work in accordance with that hourly rate, provided that the fee determined shall not be less than the minimum amount specified.

3. Where a refresher fee is claimed in respect of less than a full day, the appropriate authority shall allow such fee as appears to it reasonable having regard to the fee which would be allowable for a full day.

4. Paragraph 8 of Part I of this Schedule shall apply where counsel's fees are determined in accordance with this Part of the Schedule as it applies where standard fees are allowed in accordance with Part I of the Schedule.

TABLE 1: JUNIOR COUNSEL

<i>Court</i>	<i>Type of proceedings</i>	<i>Basic Fee</i>	<i>Full day refresher fee</i>	<i>Subsidiary fees</i>		
				<i>Attendance at consultations, conferences & views</i>	<i>Written work</i>	<i>Attendance at applications and other appearances</i>
Magistrates' Court	All cases	<i>Maximum amount: £461</i>	<i>Maximum amount: £159.50</i>	£28.75 per hour <i>Minimum amount: £14.35</i>	<i>Maximum amount: £50.50</i>	<i>Maximum amount: £92.50</i>
County Court	Appeals against conviction Appeals against sentence	<i>Maximum amount: £207</i> <i>Maximum amount: £106</i>	} <i>Maximum amount: £176</i>	£33 per hour <i>Minimum amount: £16.50</i>	<i>Maximum amount: £57.50</i>	<i>Maximum amount: £98</i>
Crown Court	Trials	<i>Maximum amount: £537.50</i>				
	Cases prepared for trial which are otherwise disposed of Guilty Pleas	<i>Maximum amount: £313</i> <i>Maximum amount: £256</i>	<i>Maximum amount: £233</i>	£33 per hour <i>Minimum amount: £16.50</i>	<i>Maximum amount: £57.50</i>	<i>Maximum amount: £98</i>
	Proceedings of the type described in paragraph 7(d)	<i>Maximum amount: £106</i>				
High Court	Bail applications	<i>Maximum amount: £70</i>				

TABLE 2: QUEEN'S COUNSEL

<i>Court</i>	<i>Type of proceedings</i>	<i>Basic Fee</i>	<i>Full day refresher fee</i>	<i>Subsidiary fees</i>		
				<i>Attendance at consultations, conferences & views</i>	<i>Written work</i>	<i>Attendance at applications and other appearances</i>
Magistrates' Court	All cases	<i>Maximum amount: £4,446</i>	<i>Maximum amount: £297</i>	£54.50 per hour <i>Minimum amount: £28</i>	<i>Maximum amount: £105</i>	<i>Maximum amount: £205</i>
Crown Court	All cases	<i>Maximum amount: £5,400</i>	<i>Maximum amount: £400</i>	£62.50 per hour <i>Minimum amount: £32</i>	<i>Maximum amount: £119.50</i>	<i>Maximum amount: £257.50</i>

ADDITIONAL OFFENCES NOT SUBJECT TO STANDARD FEES

1. Manslaughter.
2. Infanticide.
3. Child destruction.
4. Abortion (Offences Against the Person Act 1861, S. 58).
5. Unlawful carnal knowledge (where the girl is under 14).
6. Incest with a girl (where the girl is under 14).
7. Aiding, abetting, counselling or procuring the commission of any of the above offences.
8. Attempting, inciting or conspiring to commit any of the above offences.

INSTRUMENTS REVOKED

<i>Title</i>	<i>Registered Number</i>	<i>Rules Revoked</i>
The Legal Aid Certificates Rules (Northern Ireland) 1966	No. 52	rules 5 to 10
The Legal Aid (Defence Certificates) Rules (Northern Ireland) 1966	No. 53	rules 3 to 8
The Legal Aid (Appeal Aid Certificates) Rules (Northern Ireland) 1966	No. 54	rules 3 to 9
The Legal Aid Certificates (Amendment) Rules (Northern Ireland) 1969	No. 342	the whole instrument

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules prescribe the remuneration for solicitors and counsel assigned under Part III (Free Legal Aid in Criminal Proceedings) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981. They revoke and replace rules dating from 1966 insofar as these prescribe professional remuneration.

Rules 5 and 6 (and Schedule 1) provide for solicitors' fees. They prescribe hourly rates for certain work as well as a system of standard fees covering certain cases in the Crown Court and appeals to the county courts. Rules 8 and 9 (and Schedule 2) make similar provision for counsel's fees, including a system of standard fees for junior counsel.

The Rules also introduce new procedures for the assessment of fees (Rules 3, 4 and 10-15). Initial assessments will be undertaken by a committee drawn from a panel appointed by the Lord Chancellor. In certain cases the fees assessed by the committee will require to be certified by the Master (Taxing Office). A system of redeterminations and appeals is provided enabling solicitors and counsel to challenge the fees assessed in a particular case.