

2005 No. 112

LEGAL AID AND ADVICE

**The Legal Aid for Crown Court Proceedings
(Costs) Rules (Northern Ireland) 2005**

Made - - - - - 9th March 2005

Coming into operation 4th April 2005

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), and now vested in him^(b), and of all other powers enabling him in that behalf, after consultation with the Lord Chief Justice, the Attorney General and the Crown Court Rules Committee and with the approval of the Treasury, and having had regard to the matters specified in Article 37, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Legal Aid for Crown Court Proceedings (Costs) Rules (Northern Ireland) 2005 and shall come into operation on 4th April 2005.

Interpretation

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

“advocate” means –

- (a) counsel, or
- (b) a solicitor who is exercising his right of audience under section 50 of the Judicature (Northern Ireland) Act 1978^(c), and who has been certified by the Law Society as an Advanced Advocate, or
- (c) a solicitor who is exercising his right of audience under section 50 of the Judicature (Northern Ireland) Act 1978, and who has not been certified by the Law Society as an Advanced Advocate;

“Application Fee” has the meaning given by paragraphs 12(2), 13(3), 14(2) and 16 of Schedule 1;

“Basic Trial Fee” has the meaning given by paragraph 3 of Schedule 1;

“case” means proceedings in the Crown Court against one assisted person –

- (a) on one or more counts of a single indictment; or
- (b) arising out of a single alleged breach of an order of the Crown Court,

and a case falling within paragraph (b) shall be treated as a separate case from the proceedings in which the order was made;

“Certificate of Exceptionality” in respect of a solicitor has the meaning given by rule 8(4) to (14), and in respect of an advocate has the meaning given by rule 11(4) to (8);

“Class of Offence” has the meaning given by paragraphs 4 and 5 of Schedule 1;

“the Commission” means the Northern Ireland Legal Services Commission established under Article 3 of the Access to Justice (Northern Ireland) Order 2003^(d);

“costs” means, in the case of a solicitor, the fees and disbursements payable under Article 36 of the Order and, in the case of an advocate, the fees payable under that Article;

“counsel” means counsel assigned under a criminal aid certificate granted under Article 29 of the Order, or counsel who undertook the defence of a person at the request of the judge under Article 36(2) of the Order;

“the Court Service” means the Northern Ireland Court Service established under section 69 of the Judicature (Northern Ireland) Act 1978;

“disbursements” means travelling and witness expenses and other out of pocket expenses incurred by a solicitor 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;

“Guilty Plea 1 Fee” has the meaning given by paragraph 3 of Schedule 1;

(a) S.I. 1981/228 (N.I. 8)
(b) S.I. 1982/159
(c) 1978 c. 23
(d) S.I. 2003/435 (N.I. 10)

“Guilty Plea 2 Fee” has the meaning given by paragraph 3 of Schedule 1;

“legal aid” means legal aid given under a criminal aid certificate granted under Article 29, or deemed to have been granted under Article 36(2), of the Order;

“main hearing” means –

- (a) in relation to a case which goes to trial, the trial,
- (b) in relation to a Guilty Plea 2 case, the hearing at which pleas are taken or, where there is more than one such hearing, the last such hearing, and
- (c) in relation to any proceedings specified in paragraph 2 of Schedule 1, the final hearing;

“Newton hearing” means a hearing at which evidence is heard for the purpose of determining the sentence of a convicted person in accordance with the principles of *R v Newton* (1982) 77 Cr App R 13;

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

“Refresher Fee” in respect of a solicitor has the meaning given by rule 8(3), and in respect of an advocate has the meaning given by rule 11(3);

“representative” means a solicitor or an advocate;

“the 1992 Rules” means the Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992(b);

“solicitor” means a solicitor assigned under a criminal aid certificate granted under Article 29 of the Order, or a solicitor who undertook the defence of a person at the request of the judge under Article 36(2) of the Order;

“Table of Offences” has the meaning given by paragraphs 4 and 5 of Schedule 1;

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

“a Very High Cost Case” is a case in respect of which a Very High Cost Case Certificate has been granted under rule 16 or which went to trial where the trial exceeded 25 days;

“a Very High Cost Case Certificate” has the meaning given by rule 16.

Application and transitional arrangements

3.—(1) Subject to paragraph (2), these Rules shall apply for the determination of costs which are payable in respect of work done under a criminal aid certificate granted under Article 29, or deemed to have been granted under Article 36(2), of the Order on or after 4th April 2005.

(2) A representative whose fees under a criminal aid certificate granted under Article 29, or deemed to have been granted under Article 36(2), of the Order before 4th April 2005 would otherwise be determined in accordance with the 1992 Rules may apply to the Commission to have his fees determined and paid in accordance with these Rules.

(3) Where the Commission grants an application made under paragraph (2), the representative shall submit his claim in accordance with rule 7 or rule 10 as applicable and, in so doing, he shall forfeit any entitlement to have his fees determined and paid in accordance with the 1992 Rules.

General

4.—(1) Subject to rules 16 and 17, costs in respect of work done under a criminal aid certificate to which these Rules apply shall be determined by the Commission in accordance with these Rules and having regard to such directions and guidance as may be issued by the Lord Chancellor.

(2) In determining costs, the Commission shall, subject to and in accordance with these Rules –

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

(b) S.R. 1992 No. 314; to which the most recent relevant amendment was made by S.R. 2004 No. 510

- (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 a reasonable amount in respect of all work reasonably undertaken and properly done.

Interim payment of disbursements

5.—(1) A solicitor may submit a claim to the Commission for payment of a disbursement for which he has incurred liability in criminal proceedings in the Crown Court in accordance with the provisions of this rule.

(2) A claim for payment may be made where –

- (a) the disbursement falls within any guidance issued by the Commission in respect of criminal proceedings in the Crown Court, or the solicitor has obtained prior authority from the Commission to incur the expenditure;
- (b) the total liability for such disbursement exceeds £500; and
- (c) the solicitor has discharged such liability.

(3) Without prejudice to rule 9(4), a claim under paragraph (1) shall not exceed £2,500 or the maximum fee authorised under the prior authority, whichever is the greater.

(4) A claim for payment under paragraph (1) may be made at any time before the solicitor submits a claim for costs under rule 7(2).

(5) A claim under paragraph (1) shall be submitted to the Commission in such form and manner as it may direct and shall be accompanied by the authority to incur the expenditure (if applicable) and any invoices or other documents in support of the claim.

(6) The Commission shall allow the disbursement, subject to the limit in paragraph (3), if it appears to have been reasonably incurred and discharged in accordance with the guidance or prior authority.

(7) Where the Commission allows the disbursement, it shall notify the solicitor and authorise payment to him accordingly.

(8) Rules 13 to 15 (redetermination etc.) shall not apply to a payment under this rule.

Interim disbursements and final determination of costs

6.—(1) On a final determination of costs, rules 7(2) and (3)(e) and 9 shall apply notwithstanding that a payment has been made under rule 5.

(2) Where the amount found to be due under rule 9 in respect of a disbursement is less than the amount paid under rule 5 (“the interim disbursement”), the Commission shall deduct the difference from the sum otherwise payable to the solicitor on the determination of costs, and where the amount due under rule 9 exceeds the interim disbursement, the Commission shall add the difference to the amount otherwise payable to the solicitor.

Claims for costs by solicitors

7.—(1) Subject to rule 19, no claim by a solicitor for costs in respect of work done under a criminal aid certificate shall be entertained unless he submits it within three months of the conclusion of the proceedings to which the criminal aid certificate relates or within three months of his receipt of a copy of the certificate, whichever is the later.

(2) Subject to paragraph (3), a claim for costs shall be submitted to the Commission in such form and manner as it may direct and shall be accompanied by any receipts or other documents in support of any disbursement claimed.

(3) A claim shall –

- (a) summarise, where appropriate, the items of work done by a fee-earner in respect of which fees are claimed according to the classes of fee specified in rule 8(3);
- (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) 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; and
 - (e) specify any disbursements claimed, the circumstances in which they were incurred and the amounts claimed in respect of them.
- (4) Where a solicitor claims that rule 8(4) 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 Commission, the solicitor shall specify them.
- (6) The solicitor shall supply such further particulars, information and documents as the Commission may require.

Determination of solicitors' fees

8.—(1) The Commission shall consider the claim, any further particulars, information or documents submitted by the solicitor under rule 7 and any other relevant information and shall allow such work as appears to it to have been reasonably undertaken and properly done.

(2) Subject to the provisions of this rule, the Commission shall allow fees for work allowed by it under this rule in accordance with Schedule 1.

(3) The Commission may, except in relation to work for which a Guilty Plea 1 Fee is payable or a fixed fee is allowed under paragraph (15), allow any of the following classes of fee to the solicitor in respect of work allowed by it under this rule –

- (a) a Basic Trial Fee or Guilty Plea 2 Fee, as applicable, for preparation and, where appropriate, the first day's hearing including, where they took place on that day, short 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 consultations, applications and appearances (including bail applications), views and any other preparation;
- (c) subsidiary fees for attendance at applications and appearances (including bail applications and adjournments for sentence) not covered by sub-paragraph (a) or (b).

(4) Where a solicitor considers that, owing to the exceptional circumstances of the case (or part of the case which is the subject-matter of the application), the amount payable by way of fees in accordance with paragraphs (2) and (3) would not provide reasonable remuneration for some or all of the work involved, he may apply to the Commission for a Certificate of Exceptionality and the Commission may, in its discretion, grant such application in accordance with paragraph (7).

(5) An application under paragraph (4) shall be made by the solicitor prior to the commencement of the trial; provided that, if satisfied that it was not reasonably practicable for the solicitor to do so, the Commission may accept such application after the conclusion of the proceedings.

(6) When applying for a Certificate of Exceptionality under paragraph (4), the solicitor shall specify –

- (a) the basis upon which the application is made;
- (b) the nature of the work which is the subject-matter of the application; and
- (c) the number of additional hours sought for each piece of work which is the subject-matter of the application.

(7) When considering an application for a Certificate of Exceptionality, the Commission shall have regard, among the matters which are relevant, to –

- (a) whether the issues involved are significantly more complex than other cases involving the same offence or Class of Offence;

- (b) whether the volume of evidence (including any un-used evidentiary material) is significantly greater than that in other cases involving the same offence or Class of Offence;
- (c) any novel issues of law which are involved in the case; and
- (d) any new precedents established in the case,

and if it decides that there are no such exceptional circumstances, the standard fee provided for in Schedule 1 shall apply and no additional funding or other uplift shall be payable.

(8) Where the Commission grants a Certificate of Exceptionality, it shall authorise additional hours, at the rate specified in paragraph (14), up to a specified maximum to cover such additional work as it will approve under the Certificate.

(9) Subject to paragraph (10), the total additional funding approved by the Commission under this rule shall not exceed one hundred and seventy-five per cent of the standard fee provided for in Schedule 1 in respect of the work which is the subject-matter of the application.

(10) If the Commission is satisfied that the circumstances of the case are wholly exceptional, it may approve additional funding up to the maximum amount specified in paragraph (9) and refer the application under paragraph (4) to the taxing master who may approve such further funding as he considers to be reasonable.

(11) Where a Certificate of Exceptionality has been granted by the Commission, the solicitor may carry out additional work up to the specified sum approved under the Certificate.

(12) For the purpose of determining the solicitor's fees in a case in which a Certificate of Exceptionality has been granted, the solicitor shall account to the Commission for the manner in which any additional approved hours were expended.

(13) When determining the solicitor's fees in a case in which a Certificate of Exceptionality has been granted, the Commission shall not allow payment for any additional hours claimed under the Certificate unless satisfied by the solicitor that the additional work was reasonably undertaken and properly done.

(14) The additional hours of work allowed under paragraphs (12) and (13) shall be paid at the rate of £90 per hour, and such payment shall be made to the solicitor together with the fees allowed under paragraph (2).

(15) In any proceedings specified in paragraph 2 of Schedule 1, the Commission shall allow a fixed fee calculated in accordance with paragraphs 19, 20(2) and 21(2) and (3), together with any travelling allowance payable under paragraph 29(1), of that Schedule.

Determination of solicitors' disbursements

9.—(1) Subject to the provisions of this rule, the Commission shall allow such disbursements claimed under rule 7 as appear to it to have been actually and reasonably incurred.

(2) No question as to the propriety of any step or act in relation to which prior authority has been obtained under these Rules shall be raised on any determination of costs, unless the solicitor knew or ought reasonably to have known that the purpose for which the authority was given had failed or had become irrelevant or unnecessary before the costs were incurred.

(3) Where costs are reasonably incurred in accordance with and subject to the limit imposed by a prior authority given under these Rules, no question shall be raised on any determination of costs as to the amount of the payment to be allowed for the step or act in relation to which the authority was given.

(4) Where costs are incurred in taking any steps or doing any act for which authority may be given under these Rules, without such authority having been given or in excess of any fee so authorised, payment in respect of those costs may nevertheless be allowed on a determination of costs.

Claims for fees by advocates

10.—(1) Subject to rule 19, no claim by an advocate for fees for work done under a criminal aid certificate shall be entertained unless he submits it within three months of the conclusion

of the proceedings to which the criminal aid certificate relates or within three months of his receipt of a copy of the certificate, whichever is the later.

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

(3) A claim shall –

- (a) summarise, where appropriate, the items of work in respect of which fees are claimed according to the classes of fee specified in rule 11(3);
- (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; and
- (c) give particulars of any work done in relation to more than one indictment or a retrial.

(4) Where an advocate claims that rule 11(4) 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 Commission, the advocate shall specify them.

(6) The advocate shall supply such further particulars, information and documents as the Commission may require.

Determination of advocates' fees

11.—(1) The Commission shall consider the claim, any further particulars, information or documents submitted by the advocate under rule 10 and any other relevant information and shall allow such work as appears to it to have been reasonably undertaken and properly done.

(2) Subject to the provisions of this rule, the Commission shall allow fees for work allowed by it under this rule in accordance with Schedule 1.

(3) The Commission may, except in relation to work for which a Guilty Plea 1 Fee is payable or a fixed fee is allowed under paragraph (9), allow any of the following classes of fee to the advocate in respect of work allowed by it under this rule –

- (a) a Basic Trial Fee or Guilty Plea 2 Fee, as applicable, for preparation and, where appropriate, the first day's hearing including, where they took place on that day, short 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 consultations, applications and appearances (including bail applications), views and any other preparation;
- (c) subsidiary fees for –
 - (i) attendance at consultations and views not covered by sub-paragraph (a) or (b);
 - (ii) attendance at applications and appearances (including bail applications and adjournments for sentence) not covered by sub-paragraph (a) or (b).

(4) Where an advocate considers that, owing to the exceptional circumstances of the case (or part of the case which is the subject-matter of the application), the amount payable by way of fees in accordance with paragraphs (2) and (3) would not provide reasonable remuneration for some or all of the work involved, he may apply to the Commission for a Certificate of Exceptionality and the Commission may, in its discretion, grant such application in accordance with paragraph (5).

(5) When considering an application for a Certificate of Exceptionality, the Commission shall have regard, among the matters which are relevant, to –

- (a) whether the issues involved were significantly more complex than other cases involving the same offence or Class of Offence;
- (b) whether the volume of evidence (including any un-used evidentiary material) was significantly greater than that in other cases involving the same offence or Class of Offence;
- (c) any novel issues of law which were involved in the case; and

(d) any new precedents established in the case,
and if it decides that there were no such exceptional circumstances, the standard fee provided for in Schedule 1 shall apply and no other uplift shall be payable.

(6) Where a Certificate of Exceptionality has been granted by the Commission, it may allow an uplift on one or more of the classes of fee specified in paragraph (3), as it considers to be reasonable, as appropriate to the Class of Offence for which the assisted person was tried.

(7) An uplift allowed under paragraph (6) shall not exceed the following amounts –

- (a) fifty per cent in respect of a Class A offence,
- (b) forty per cent in respect of a Class D or Class G offence,
- (c) twenty-five per cent in respect of a Class B offence, and
- (d) twenty per cent in respect of any other offence.

(8) If the Commission is satisfied that the circumstances of the case were wholly exceptional, it may allow an uplift up to the maximum amount specified in paragraph (7) and refer the application under paragraph (4) to the taxing master who may allow such further uplift as he considers to be reasonable.

(9) In any proceedings specified in paragraph 2 of Schedule 1, the Commission shall allow a fixed fee calculated in accordance with paragraphs 19, 20(2) and 21(2) and (3), together with any travelling allowance payable under paragraph 30(1), of that Schedule.

Payment of costs

12.—(1) Having determined the costs payable to a representative in accordance with these Rules, the Commission shall notify the representative of the costs payable 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 Commission shall authorise payment of the increase;
- (b) where the costs are decreased, the representative shall repay the amount of such decrease; and
- (c) where the payment of any costs to the representative is ordered under rule 14(14) or 15(8), the Commission shall authorise such payment.

Redetermination of costs by Commission

13.—(1) Where a representative is dissatisfied with –

- (a) the classification, under paragraph 5 of Schedule 1, of an offence not specifically listed in the Table of Offences set out in Schedule 3 but deemed to fall within Class H;
- (b) the decision not to grant a Certificate of Exceptionality, or the decision as to the amount of additional funding approved under rule 8(8) and (9) or allowed under rule 8(12) and (13), or the amount of uplift allowed under rule 11(6) and (7), as applicable; or
- (c) the calculation of the costs payable under Schedule 1,

he may apply to the Commission to reclassify the offence, to review the decision or to redetermine those costs as the case may be.

(2) Subject to rule 19, the application shall be made within 21 days of receiving notification of the decision or the costs payable under rule 12, as the case may be, by giving notice in writing to the Commission 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 Commission may direct.

(3) The notice of application shall be accompanied by the particulars, information and documents supplied under rule 7 or 10, as appropriate.

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

(5) The applicant shall supply such further particulars, information and documents as the Commission may require.

(6) The Commission shall –

- (a) review the classification referred to in paragraph (1)(a) or the decision referred to in paragraph (1)(b), as the case may be, and confirm or vary it; or
- (b) redetermine the costs, whether by way of confirmation, or increase or decrease in the amount previously determined,

in the light of the objections made by the applicant or on his behalf and shall notify the applicant of its decision.

(7) The applicant may request the Commission to give reasons in writing for its decision and the Commission shall comply with any such request.

(8) Subject to rule 19, any request under paragraph (7) shall be made within 21 days of receiving notification of the decision.

(9) The provisions of this rule shall also apply with the necessary modifications to the amount of –

- (a) any further funding approved by the taxing master under rule 8(10); and
- (b) any further uplift allowed by the taxing master under rule 11(8).

Appeals to the taxing master

14.—(1) Where the Commission has given its reasons for its decision under rule 13, a representative who is dissatisfied with that decision may appeal to the taxing master.

(2) Subject to rule 19, an appeal shall be instituted within 21 days of receiving the Commission'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 Commission.

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

- (a) a copy of the written representations given under rule 13(2);
- (b) the Commission's reasons for its decision given under rule 13(7); and
- (c) the particulars, information and documents supplied to the Commission under rule 13.

(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 the 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 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 Commission 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 13.

(12) The taxing master shall have the same powers as the Commission under these Rules and, in the exercise of such powers, may alter the redetermination of the Commission in respect of any sum allowed, whether by increase or decrease as he thinks fit.

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

(14) Except where he confirms or decreases the sums redetermined under rule 13 or confirms a decision to allow fixed 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.

(15) The provisions of this rule shall also apply with the necessary modifications to any decision of the taxing master given under rule 13(9).

Appeals to the High Court

15.—(1) A representative who is dissatisfied with the decision of the taxing master on an appeal under rule 14 may apply to the taxing master to certify a point of principle of general importance; provided that, if the taxing master refuses such application, the representative may renew the application before a judge of the High Court.

(2) Subject to rule 19, an application under paragraph (1) shall be made within 21 days of receiving notification of the taxing master's decision under rule 14(13).

(3) Where the taxing master or judge certifies a point of principle of general importance, the representative may appeal to the High Court against the decision of the taxing master on an appeal under rule 14, and the Lord Chancellor shall be a respondent to such an appeal.

(4) Subject to rule 19, an appeal under paragraph (3) shall be instituted within 21 days of receiving the certificate under paragraph (1).

(5) Where the Lord Chancellor is dissatisfied with the decision of the taxing master on an appeal under rule 14, he may, if no appeal has been made by the representative under paragraph (3), appeal to the High Court against that decision, and the representative shall be a respondent to the appeal.

(6) Subject to rule 19, an appeal under paragraph (5) shall be instituted within 21 days of receiving notification of the taxing master's decision under rule 14(13).

(7) The decision of the High Court on an appeal under paragraphs (1), (3) or (5) shall be final.

(8) The judge shall have the same powers as the Commission 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.

Very High Cost Cases – Certification

16.—(1) Where the representatives of an assisted person consider that, owing to the circumstances of the case, if it proceeds to trial that trial would be likely to exceed 25 days, the solicitor (on behalf of himself and the advocate) may apply to the Commission for a Very High Cost Case Certificate and the Commission may, in its discretion, grant such application in accordance with paragraph (3).

(2) An application under paragraph (1) shall be made as soon as is practicable after the assisted person has been committed for trial (and, in any event, as soon as the representatives

become aware that the trial is likely to exceed 25 days), and shall be submitted to the Commission in such form and manner as it may, in consultation with the taxing master, direct.

(3) When considering an application under paragraph (1) the Commission shall have regard, among the matters which are relevant, to such particulars, information and documents (including any Trial Status Report form) as the solicitor may have submitted.

(4) Where the Commission certifies a case as being a Very High Cost Case, it shall require the solicitor to provide periodic reports and projections as to the future costs of the case in such a form as the Commission shall direct.

(5) If a solicitor fails to comply with paragraph (4) without good reason, the Commission may revoke the Certificate, provided that the Certificate shall not be revoked unless the representatives have been permitted a reasonable opportunity to show cause orally or in writing why the Certificate should not be revoked.

(6) Where a Very High Cost Case Certificate has been revoked under paragraph (5), the representatives' fees shall be determined under rule 8 and rule 11, as appropriate, as if the Certificate had never been granted unless the actual duration of the trial exceeded 25 days.

(7) A solicitor (on behalf of himself and the advocate) may appeal to the taxing master against a decision made under this rule by the Commission and, subject to rule 19, such an appeal shall be instituted within 21 days of receiving notification of the decision by giving notice in writing to the taxing master.

(8) The provisions of rule 14(3), (4), (5), (10) and (13) shall apply with the necessary modifications to an appeal brought under paragraph (7).

(9) The decision of the taxing master on an appeal under paragraph (7) shall be final.

Very High Cost Cases – Determination of representatives' fees

17.—(1) Costs in respect of work done in a Very High Cost Case shall be assessed and determined by the taxing master in accordance with this rule and having regard to such directions and guidance as may be issued by the Lord Chancellor.

(2) When assessing the costs payable under paragraph (1), the taxing master shall have regard, among the matters which are relevant, to –

- (a) the Basic Trial Fee, the Guilty Plea 1 Fee or the Guilty Plea 2 Fee which would otherwise be payable if the case in question were not a Very High Cost Case, as appropriate to the representative (including the category of advocate instructed, as applicable) and the offence for which the assisted person was tried, and
- (b) the rates of payment set out in Schedule 2.

(3) The provisions of rules 4, 7, 8(1) and (3), 9, 10, 11(1) and (3), 12, 13, 14 and 15 shall apply with the necessary modifications to the costs payable under this rule.

Restriction on payment

18. Where a criminal aid certificate has been granted in respect of any proceedings to which these Rules apply, a representative shall not receive or be a party to the making of any payment for work done in connection with those proceedings except such payments as may be made –

- (a) by the Commission; or
- (b) in respect of any expenses or fees incurred in preparing, obtaining or considering any report, opinion or further evidence, whether provided by an expert witness or otherwise, where an application for an authority to incur such expenses or fees has been refused by the Commission.

Time limits

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

- (a) in the case of acts required or authorised to be done under rule 14, 15, 16 or 17, by the taxing master or the High Court as the case may be; and

(b) in the case of acts required or authorised to be done by a representative under any other rule, by the Commission.

(2) Where a representative without good reason has failed (or, if an extension were not granted, would fail) to comply with a time limit, the Commission, 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 the costs shall not be reduced unless the representative has been permitted a reasonable opportunity to show cause orally or in writing why the costs should not be reduced.

(3) A representative may appeal to the taxing master against a decision made under this rule by the Commission and such an appeal shall be instituted within 21 days of receiving notification of the decision by giving notice in writing to the taxing master specifying the grounds of appeal.

Review

20.—(1) The Court Service shall keep the general operation of these Rules under review to ensure that they are consistent with the requirements of Article 37 of the Order.

(2) Without prejudice to paragraph (1), the Court Service shall conduct a formal review of the levels of the prescribed fees and the rates of payment under the Rules at least once in every review period.

(3) Where the Court Service has conducted a review under this rule, it shall publish the result of the review –

- (a) as soon as is reasonably practicable;
- (b) in such form as it considers appropriate; and
- (c) together with any proposals it may have with respect to the matters reviewed.

(4) When conducting a review under this rule, the Court Service shall have regard, among the matters which are relevant, to –

- (a) any representations made by the Lord Chief Justice, the Law Society of Northern Ireland, the General Council of the Bar of Northern Ireland, the Director of Public Prosecutions for Northern Ireland and the Commission; and
- (b) any other representations which it considers to be relevant.

(5) In paragraph (2) “review period” means the period of two years beginning with the commencement of these Rules and each subsequent period of two years.

Signed by authority of the Lord Chancellor

Baroness Ashton of Upholland

Parliamentary Under-Secretary of State, Department for Constitutional Affairs

Dated 9th March 2005

We approve

Jim Murphy

Joan Ryan

Two of the Lords Commissioners of Her Majesty’s Treasury

Dated 14th March 2005

SCHEDULE 1

Rules 8 and 11

STANDARD FEES

PART 1

DEFINITION AND SCOPE

- 1.—(1) Subject to sub-paragraph (2), this Schedule applies to every case on indictment.
- (2) This Schedule does not apply to a Very High Cost Case.
2. Paragraphs 19, 20(2), 21(2) and (3), 29(1) and 30(1) of this Schedule also apply to the following proceedings in the Crown Court –
 - (a) proceedings arising out of an alleged breach of an order of the Crown Court (whether or not this Schedule applies to the proceedings in which the order was made); and
 - (b) proceedings for contempt committed, or alleged to have been committed, by an individual in the face of the Court, and where a court grants legal aid to a person for the purposes of proceedings under this sub-paragraph it may assign to him, for the purposes of those proceedings, any representative who is within the precincts of the court.
- 3.—(1) A case on indictment is a guilty plea if it was disposed of without a trial because the assisted person pleaded guilty to one or more counts.
- (2) Subject to sub-paragraph (3), a Guilty Plea 1 Fee shall be payable in a case where the assisted person pleaded guilty to one or more counts at the first arraignment and the case did not proceed to trial.
- (3) A Guilty Plea 2 Fee shall be payable in a case where the assisted person pleaded guilty to one or more counts after the first arraignment but before the end of the first full day of trial and the trial did not proceed further.
- (4) A Basic Trial Fee shall only be payable in a case where the assisted person pleaded not guilty to one or more counts and the trial proceeded beyond the first full day of trial (or it was otherwise completed as a trial within one day).
- (5) For the purposes of sub-paragraphs (3) and (4), a day shall not be considered as the first full day of trial unless the prosecution had opened its case and the first prosecution witness had begun to give evidence.
4. A reference in this Schedule to the Table of Offences refers to the Table of Offences in Schedule 3 and a reference in this Schedule to a Class of Offence refers to the Class in which that offence is listed in the Table of Offences.
- 5.—(1) For the purposes of this Schedule –
 - (a) every indictable offence falls within the Class under which it is listed in the Table of Offences and, subject to sub-paragraph (2) below, indictable offences not specifically so listed shall be deemed to fall within Class H;
 - (b) conspiracy to commit an indictable offence contrary to Articles 9 and 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983(a), incitement to commit an indictable offence and attempts to commit an indictable offence contrary to Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983, fall within the same Class as the substantive offence to which they relate;
 - (c) where the Table of Offences specifies that the Class within which an offence falls depends on whether the value involved exceeds a stated limit, the value shall be presumed not to exceed that limit unless the representative proves otherwise to the satisfaction of the Commission;
 - (d) where more than one count of the indictment is for an offence in relation to which the Class depends on the value involved, that value shall be taken to be the total value involved in all those offences, so however that where two or more counts relate to the same property the value of that property shall be taken into account once only; and
 - (e) where an entry in the Table of Offences specifies an offence as being contrary to a statutory provision, then subject to any express limitation in the entry that entry shall include every offence contrary to that statutory provision whether or not the words of description in the entry are apt to cover all such offences.

(a) S.I. 1983/1120 (N.I. 13)

(2) If a representative is dissatisfied with the classification within Class H of an indictable offence not listed in the Table of Offences, he may apply to the Commission to reclassify the offence.

PART 2

STANDARD FEES FOR TRIALS

6.—(1) The amount of the standard fee for a representative representing one assisted person tried on one indictment in the Crown Court shall be calculated according to the following formula –

$$S_1 = B + (d \times R) + AF + T.$$

(2) In the formula in sub-paragraph (1) –

S_1 is the amount of the standard fee;

B is the Basic Trial Fee specified in paragraph 7 as appropriate to the representative (including the category of advocate instructed, as applicable), the offence for which the assisted person was tried and the actual duration of the trial;

d is the number of days or parts of a day (measured in units of half a day) by which the trial exceeded one day;

R is the Refresher Fee specified in paragraph 7 as appropriate to the representative (including the category of advocate instructed, as applicable) and the actual duration of the trial;

AF is the amount of any Additional Fees payable under Part 4 of this Schedule; and

T is the amount of any travelling allowance payable under paragraph 29 or 30, as applicable.

7. For the purposes of paragraph 6 the Basic Trial Fee and Refresher Fee appropriate to any offence shall be those specified in the Table below as appropriate to the representative (including the category of advocate instructed, as applicable), the Class within which that offence falls according to paragraph 5 and the actual duration of the trial.

TABLES OF BASIC TRIAL FEES AND REFRESHER FEES

(a) Basic Trial Fees

SOLICITOR

<i>Offence falling within</i>	<i>Actual Duration of Trial</i>		
	<i>Trial Fee 1 1 to 8 Days</i>	<i>Trial Fee 2 9 to 16 Days</i>	<i>Trial Fee 3 17 to 25 Days</i>
Class A	£8,620	£11,465	£17,157
Class B	£3,100	£4,464	£6,517
Class C	£1,900	£2,717	£3,940
Class D	£4,800	£7,200	£9,576
Class E	£1,900	£2,717	£3,940
Class F	£2,200	£3,146	£4,562
Class G	£3,600	£5,400	£7,182
Class H	£1,900	£2,717	£3,940
Class I	£1,900	£2,717	£3,940

COUNSEL

<i>Offence falling within</i>	<i>Queen's Counsel</i>			<i>Leading Junior Counsel</i>		
	<i>Actual Duration of Trial</i>			<i>Actual Duration of Trial</i>		
	<i>Trial Fee 1</i>	<i>Trial Fee 2</i>	<i>Trial Fee 3</i>	<i>Trial Fee 1</i>	<i>Trial Fee 2</i>	<i>Trial Fee 3</i>
	<i>1 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>	<i>1 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>
Class A	£7,500	£10,000	£15,000	£5,625	£7,500	£11,250
Class B	£4,000	£5,750	£8,375	£3,000	£4,313	£6,281
Class C	£3,500	£5,000	£7,250	£2,625	£3,750	£5,438
Class D	£5,000	£7,500	£10,000	£3,750	£5,625	£7,500
Class E	£3,500	£5,000	£7,250	£2,625	£3,750	£5,438
Class F	£3,500	£5,000	£7,250	£2,625	£3,750	£5,438
Class G	£5,000	£7,500	£10,000	£3,750	£5,625	£7,500
Class H	£3,500	£5,000	£7,250	£2,625	£3,750	£5,438
Class I	£3,500	£5,000	£7,250	£2,625	£3,750	£5,438

<i>Offence falling within</i>	<i>Led Junior Counsel</i>			<i>Sole Junior Counsel</i>		
	<i>Actual Duration of Trial</i>			<i>Actual Duration of Trial</i>		
	<i>Trial Fee 1</i>	<i>Trial Fee 2</i>	<i>Trial Fee 3</i>	<i>Trial Fee 1</i>	<i>Trial Fee 2</i>	<i>Trial Fee 3</i>
	<i>1 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>	<i>1 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>
Class A	£4,500	£6,000	£9,000	£4,875	£6,500	£9,750
Class B	£2,400	£3,450	£5,025	£2,600	£3,738	£5,444
Class C	£1,750	£2,500	£3,625	£2,275	£3,250	£4,713
Class D	£2,500	£3,750	£5,000	£3,250	£4,875	£6,500
Class E	£1,750	£2,500	£3,625	£2,275	£3,250	£4,713
Class F	£1,750	£2,500	£3,625	£2,275	£3,250	£4,713
Class G	£2,500	£3,750	£5,000	£3,250	£4,875	£6,500
Class H	£1,750	£2,500	£3,625	£2,275	£3,250	£4,713
Class I	£1,750	£2,500	£3,625	£2,275	£3,250	£4,713

SOLICITOR ADVOCATE

<i>Offence falling within</i>	<i>Certified Solicitor Advocate</i>			<i>Uncertified Solicitor Advocate</i>		
	<i>Actual Duration of Trial</i>			<i>Actual Duration of Trial</i>		
	<i>Trial Fee 1</i>	<i>Trial Fee 2</i>	<i>Trial Fee 3</i>	<i>Trial Fee 1</i>	<i>Trial Fee 2</i>	<i>Trial Fee 3</i>
	<i>1 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>	<i>1 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>
Class A	£4,875	£6,500	£9,750	£2,438	£3,250	£4,875
Class B	£2,600	£3,738	£5,444	£1,300	£1,869	£2,722
Class C	£2,275	£3,250	£4,713	£1,138	£1,625	£2,357
Class D	£3,250	£4,875	£6,500	£1,625	£2,438	£3,250
Class E	£2,275	£3,250	£4,713	£1,138	£1,625	£2,357
Class F	£2,275	£3,250	£4,713	£1,138	£1,625	£2,357
Class G	£3,250	£4,875	£6,500	£1,625	£2,438	£3,250
Class H	£2,275	£3,250	£4,713	£1,138	£1,625	£2,357
Class I	£2,275	£3,250	£4,713	£1,138	£1,625	£2,357

(b) Refresher Fees**SOLICITOR**

<i>Offence falling within Classes A to I</i>	<i>Actual Duration of Trial</i>		
	<i>Refresher Fee 1</i>	<i>Refresher Fee 2</i>	<i>Refresher Fee 3</i>
	<i>2 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>
Full Day	£500	£600	£700
Half Day	£250	£300	£350

COUNSEL

<i>Offence falling within Classes A to I</i>	<i>Queen's Counsel</i>			<i>Leading Junior Counsel</i>		
	<i>Actual Duration of Trial</i>			<i>Actual Duration of Trial</i>		
	<i>Refresher Fee 1</i>	<i>Refresher Fee 2</i>	<i>Refresher Fee 3</i>	<i>Refresher Fee 1</i>	<i>Refresher Fee 2</i>	<i>Refresher Fee 3</i>
	<i>2 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>	<i>2 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>
Full Day	£500	£600	£700	£375	£450	£525
Half Day	£250	£300	£350	£188	£225	£263

<i>Offence falling within Classes A to I</i>	<i>Led Junior Counsel</i>			<i>Sole Junior Counsel</i>		
	<i>Actual Duration of Trial</i>			<i>Actual Duration of Trial</i>		
	<i>Refresher Fee 1</i>	<i>Refresher Fee 2</i>	<i>Refresher Fee 3</i>	<i>Refresher Fee 1</i>	<i>Refresher Fee 2</i>	<i>Refresher Fee 3</i>
	<i>2 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>	<i>2 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>
Full Day	£250	£300	£350	£325	£390	£455
Half Day	£125	£150	£175	£163	£195	£228

SOLICITOR ADVOCATE

<i>Offence falling within Classes A to I</i>	<i>Certified Solicitor Advocate</i>			<i>Uncertified Solicitor Advocate</i>		
	<i>Actual Duration of Trial</i>			<i>Actual Duration of Trial</i>		
	<i>Refresher Fee 1</i>	<i>Refresher Fee 2</i>	<i>Refresher Fee 3</i>	<i>Refresher Fee 1</i>	<i>Refresher Fee 2</i>	<i>Refresher Fee 3</i>
	<i>2 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>	<i>2 to 8 Days</i>	<i>9 to 16 Days</i>	<i>17 to 25 Days</i>
Full Day	£325	£390	£455	£163	£195	£228
Half Day	£163	£195	£228	£82	£98	£114

PART 3**STANDARD FEES FOR GUILTY PLEAS**

8.—(1) The amount of the standard fee for a representative representing one assisted person in a guilty plea shall be the fee specified in paragraph 9 as appropriate to whether the case was a Guilty Plea 1 or a Guilty Plea 2, the representative (including the category of advocate instructed, as applicable) and the offence with which the assisted person was charged.

(2) In a case where a Guilty Plea 1 Fee is payable, subject to paragraphs 29 and 30 (and also to paragraph 10 in respect of an advocate), the amount so payable shall be an all-inclusive fee.

(3) In a case where a Guilty Plea 2 Fee is payable, the amount so payable for a representative representing one assisted person tried on one indictment in the Crown Court shall be calculated according to the following formula –

$$S_2 = G2 + AF + T.$$

(4) In the formula in sub-paragraph (3) –

S_2 is the amount of the standard fee;

G2 is the Guilty Plea 2 Fee specified in paragraph 9 as appropriate to the representative (including the category of advocate instructed, as applicable) and the offence for which the assisted person was charged;

AF is the amount of any Additional Fees payable under Part 4 of this Schedule; and

T is the amount of any travelling allowance payable under paragraph 29 or 30, as applicable.

9. For the purposes of paragraph 8 the fee appropriate to any offence shall be that specified in the Table below as appropriate to whether the case was a Guilty Plea 1 or a Guilty Plea 2, the representative (including the category of advocate instructed, as applicable) and the Class within which that offence falls according to paragraph 5.

TABLES OF GUILTY PLEA FEES

(a) Guilty Plea 1 Fees

SOLICITOR

<i>Offence falling within</i>	<i>Fee</i>
Class A	£7,750
Class B	£1,860
Class C	£1,235
Class D	£3,840
Class E	£1,235
Class F	£1,320
Class G	£2,160
Class H	£1,235
Class I	£1,235

COUNSEL

<i>Offence falling within</i>	<i>Queen's Counsel Fee</i>	<i>Leading Junior Counsel Fee</i>	<i>Led Junior Counsel Fee</i>	<i>Sole Junior Counsel Fee</i>
Class A	£3,575	£2,681	£1,788	£2,324
Class B	£2,275	£1,706	£1,138	£1,479
Class C	£1,950	£1,463	£975	£1,268
Class D	£2,470	£1,853	£1,235	£1,606
Class E	£1,950	£1,463	£975	£1,268
Class F	£1,950	£1,463	£975	£1,268
Class G	£2,470	£1,853	£1,235	£1,606
Class H	£1,950	£1,463	£975	£1,268
Class I	£1,950	£1,463	£975	£1,268

SOLICITOR ADVOCATE

<i>Offence falling within</i>	<i>Certified Solicitor Advocate Fee</i>	<i>Uncertified Solicitor Advocate Fee</i>
Class A	£2,324	£1,162
Class B	£1,479	£740
Class C	£1,268	£634
Class D	£1,606	£803
Class E	£1,268	£634
Class F	£1,268	£634
Class G	£1,606	£803
Class H	£1,268	£634
Class I	£1,268	£634

(b) Guilty Plea 2 Fees

SOLICITOR

<i>Offence falling within</i>	<i>Fee</i>
Class A	£8,620
Class B	£2,170
Class C	£1,425
Class D	£4,320
Class E	£1,425
Class F	£1,540
Class G	£2,520
Class H	£1,425
Class I	£1,425

COUNSEL

<i>Offence falling within</i>	<i>Queen's Counsel Fee</i>	<i>Leading Junior Counsel Fee</i>	<i>Led Junior Counsel Fee</i>	<i>Sole Junior Counsel Fee</i>
Class A	£5,625	£4,219	£2,813	£3,656
Class B	£3,000	£2,250	£1,500	£1,950
Class C	£2,625	£1,969	£1,313	£1,706
Class D	£3,750	£2,813	£1,875	£2,438
Class E	£2,625	£1,969	£1,313	£1,706
Class F	£2,625	£1,969	£1,313	£1,706
Class G	£3,750	£2,813	£1,875	£2,438
Class H	£2,625	£1,969	£1,313	£1,706
Class I	£2,625	£1,969	£1,313	£1,706

SOLICITOR ADVOCATE

<i>Offence falling within</i>	<i>Certified Solicitor Advocate Fee</i>	<i>Uncertified Solicitor Advocate Fee</i>
Class A	£3,656	£1,828
Class B	£1,950	£975
Class C	£1,706	£853
Class D	£2,438	£1,219
Class E	£1,706	£853
Class F	£1,706	£853
Class G	£2,438	£1,219
Class H	£1,706	£853
Class I	£1,706	£853

PART 4

FIXED AND TIME-BASED FEES

10.—(1) The fixed fee set out in the Table following paragraph 19 as appropriate to the category of advocate instructed shall be payable to the advocate who completed a Trial Status Report form.

(2) Where the advocate acted for more than one assisted person, the Commission shall increase the fixed fee payable under sub-paragraph (1) by twenty per cent for each additional Trial Status Report form completed by the advocate.

11. The fixed fee set out in the Table following paragraph 19 as appropriate to the representative (including the category of advocate instructed, as applicable) shall be payable where the assisted person pleaded not guilty to one or more counts at arraignment and the case was adjourned for trial.

12.—(1) Subject to sub-paragraphs (2) and (3), the fixed fee set out in the Table following paragraph 19 as appropriate to the representative (including the category of advocate instructed, as applicable) shall be payable in respect of each occasion on which the case was listed for trial but did not proceed on the day for which it was listed (other than by reason of an application for an adjournment by the prosecution or the defence).

(2) Subject to paragraph 22, where the representative was advised prior to the day on which the case had been listed for trial that it was no longer on standby and that it was listed only for mention on that day, the time-based fee set out in the Table following paragraph 19 as appropriate to the representative (including the category of advocate instructed, as applicable) and the duration of the hearing on that day shall be payable.

(3) No standby fee shall be payable under sub-paragraph (1) where the assisted person pleaded guilty to one or more counts when the case was subsequently listed and it did not proceed to trial.

13.—(1) This paragraph applies to –

- (a) the hearing of a No Bill application;
- (b) the hearing of an application to stay the indictment on the ground that the assisted person is unfit to plead;
- (c) the hearing of an application to stay the indictment or any count on the ground that the proceedings constitute an abuse of the process of the court;
- (d) any hearing relating to the question of whether any material should be disclosed by the prosecution to the defence or the defence to the prosecution (whether or not any claim to public interest immunity is made);
- (e) the hearing of an application under section 51A of the Judicature (Northern Ireland) Act 1978(a) for disclosure of material held by third parties; and
- (f) any hearing relating to the question of the admissibility as evidence of any material.

(2) Where a hearing to which this paragraph applies was held on any day of the main hearing of a case on indictment, no separate fee shall be payable in respect of attendance at the hearing (other than a

(a) 1978 c. 23

hearing under sub-paragraph (1)(f)), but the hearing shall be included in the length of the main hearing for the purpose of calculating costs.

(3) Where a hearing to which this paragraph applies was held prior to the first or only day of the main hearing, it shall not be included in the length of the main hearing for the purpose of calculating costs, and, subject to sub-paragraph (5) and also to paragraph 22, the time-based fee set out in the Table following paragraph 19 as appropriate to the representative (including the category of advocate instructed, as applicable) and the duration of the hearing on that day shall be payable.

(4) In determining the duration of an application for the purpose of sub-paragraph (3), there shall be excluded the period of time during any luncheon adjournment.

(5) Where an application made under sub-paragraph (1)(a), (b) or (c) was successful and the case did not proceed, a Basic Trial Fee, together with Refresher Fees if applicable, shall be payable in accordance with paragraphs 6 and 7.

14.—(1) This paragraph applies to a hearing to which the court proceeded under Article 8 of the Proceeds of Crime (Northern Ireland) Order 1996(a) or section 156 of the Proceeds of Crime Act 2002(b).

(2) A hearing to which this paragraph applies shall not be included in the length of the main hearing or of any sentencing hearing for the purpose of calculating costs, and, subject to paragraph 22, the time-based fee set out in the Table following paragraph 19 as appropriate to the representative (including the category of advocate instructed, as applicable) and the duration of the hearing on that day shall be payable.

(3) In determining the duration of an application for the purpose of sub-paragraph (2), there shall be excluded the period of time during any luncheon adjournment.

15.—(1) This paragraph applies to –

- (a) a sentencing hearing following a case on indictment to which this Schedule applies, where sentence was deferred under Article 3 of the Criminal Justice (Northern Ireland) Order 1996(c); and
- (b) a sentencing hearing following a case on indictment to which this Schedule applies, other than a hearing within paragraph (a) or a sentencing hearing forming part of the main hearing.

(2) The fixed fee payable to a representative for attending at a hearing to which this paragraph applies shall be that set out in the Table following paragraph 19 as appropriate to the representative (including the category of advocate instructed, as applicable) and the circumstances of the hearing.

16.—(1) Subject to paragraph 22, the time-based fee set out in the Table following paragraph 19 as appropriate to the representative (including the category of advocate instructed, as applicable) and the duration of the hearing on that day shall be payable to a representative for attending at the following hearings in a case on indictment, when not forming part of the main hearing or a hearing for which a fee is provided elsewhere in this Schedule –

- (a) the hearing of a case listed for plea which is adjourned for trial;
- (b) any hearing (including a trial) which is listed but cannot proceed because of the failure of the assisted person or a witness to attend, an application for postponement by the prosecution or defence, the unavailability of a pre-sentence report or other good reason;
- (c) bail and other applications; and
- (d) the hearing of the case listed for mention only, including applications relating to the date of the trial.

(2) In determining the duration of an application for the purpose of sub-paragraph (1), there shall be excluded the period of time during any luncheon adjournment.

17. The fixed fee set out in the Table following paragraph 19 as appropriate to the representative (including the category of advocate instructed, as applicable) shall be payable to a representative in respect of any day forming part of the main hearing of the case when the court sat more than 45 minutes beyond 4.30 pm.

18.—(1) The hourly fee set out in the Table following paragraph 19 as appropriate to the category of advocate instructed shall be payable in respect of work of the following types, provided that the advocate satisfies the Commission that the work was reasonably undertaken and properly done, namely –

- (a) attendance by an advocate at pre-trial consultations with the assisted person not held at court; or

(a) S.I. 1996/1299 (N.I. 9)
(b) 2002 c. 29
(c) S.I. 1996/3160 (N.I. 24)

- (b) attendance by an advocate at consultations with prospective or actual expert witnesses; or
- (c) attendance by an advocate at views,

and where that fee is allowed the advocate shall also be paid a travelling allowance for such attendance in accordance with paragraph 30.

(2) An advocate shall be entitled to a fee in accordance with the Table following paragraph 19 as appropriate to the category of advocate instructed for the number of periods or parts of a period of 10 minutes of running time of any disc, tape or video cassette or part thereof which he listened to or viewed as part of the evidence in the case.

19.—(1) The costs payable to a representative instructed in any case mentioned in paragraph 2 shall be the fixed fee set out in the Table following this paragraph as appropriate to the representative (including the category of advocate instructed, as applicable), together with any travelling allowance payable under paragraph 29(1) or 30(1) as applicable.

(2) Where the same solicitor attended court as an attending solicitor and as a solicitor advocate (whether certified or not), the solicitor shall be allowed one travelling allowance only in respect of that attendance.

TABLES OF FIXED AND TIME-BASED FEES

SOLICITOR

<i>Type of work</i>	<i>Paragraph providing for fee</i>	<i>Fee</i>
Arraignment – Not Guilty	11	£90
Standby Fee	12(1)	£500
Appearing at deferred sentencing hearing	15(1)(a)	£250
Appearing at other sentencing hearing	15(1)(b)	£100
Late Sitting Fee	17	£250
Cases within paragraph 2	19	£750
Application Fee 1 (hearing not exceeding 1.5 hours)		£150
Application Fee 2 (hearing exceeding 1.5 hours but not exceeding 3 hours)	12(2), 13, 14 and 16	£250
Application Fee 3 (hearing exceeding 3 hours)		£500

COUNSEL AND SOLICITOR ADVOCATE

<i>Type of work</i>	<i>Paragraph providing for fee</i>	<i>Queen's Counsel Fee</i>	<i>Leading Junior Counsel Fee</i>	<i>Led Junior Counsel Fee</i>	<i>Sole Junior Counsel and Solicitor Advocate (Certified or uncertified) Fee</i>
Trial Status Report form	10	£250	£188	£125	£163
Arraignment – Not Guilty	11	£150	£113	£75	£98
Standby Fee	12(1)	£500	£375	£250	£325
Appearing at deferred sentencing hearing	15(1)(a)	£400	£300	£200	£260
Appearing at other sentencing hearing	15(1)(b)	£300	£225	£150	£195
Late Sitting Fee	17	£250	£188	£125	£163
Cases within paragraph 2	19	£750	£563	£375	£488
Application Fee 1 (hearing not exceeding 1.5 hours)		£125	£94	£63	£82
Application Fee 2 (hearing exceeding 1.5 hours but not exceeding 3 hours)	12(2), 13, 14 and 16	£250	£188	£125	£163
Application Fee 3 (hearing exceeding 3 hours)		£500	£375	£250	£325
Consultations/views	18(1)	£63 per hour	£47 per hour	£31 per hour	£41 per hour
Listening to or viewing tapes etc.	18(2)	£27 per 10 minutes	£20 per 10 minutes	£14 per 10 minutes	£18 per 10 minutes

PART 5

MISCELLANEOUS

20.—(1) Where an assisted person was charged with more than one offence on one indictment, the standard fee payable to the representative shall be based on whichever of those offences he shall select for the purposes.

(2) Where two or more cases to which this Schedule applies involving the same representative were heard concurrently (whether involving the same or different assisted persons) –

- (a) the representative shall select one case (“the principal case”), which shall be treated for the purposes of costs in accordance with the previous paragraphs of this Schedule;
- (b) in respect of the main hearing in each of the other cases the representative shall be paid a fixed fee of twenty per cent of –
 - (i) the Basic Trial Fee, Guilty Plea 1 Fee or Guilty Plea 2 Fee, as applicable, for the principal case, where that is a case falling within paragraph 1, or
 - (ii) the fixed fee for the principal case, where that is a case falling within paragraph 2.

(3) Where a representative attended a hearing specified in paragraph 13, 14, 15 or 16(1)(a) or (b), forming part of two or more cases involving different assisted persons, he shall be paid –

- (a) in respect of the first such case, the fee for that hearing specified in the Table following paragraph 19; and
- (b) in respect of each of the other cases, twenty per cent of that fee.

(4) Subject to sub-paragraphs (1) to (3), where a representative attended a hearing forming part of two or more cases, he shall be paid the fixed fee for that hearing specified in the Table following paragraph 19 in respect of one such case, without any increase in respect of the other cases.

21.—(1) Subject to sub-paragraphs (2), (4) and (5), the fee payable to a solicitor in accordance with paragraph 6 or 8 of this Schedule, as applicable, shall be in addition to any fee which may be payable to a solicitor advocate in accordance with that paragraph.

(2) Where the same solicitor prepared the case and appeared as a certified solicitor advocate at the hearing, the advocacy fee payable shall be reduced by ten per cent.

(3) If the solicitor satisfies the Commission that there was a clearly maintained division of responsibility in the conduct of the case, no reduction of the advocacy fee shall be made under sub-paragraph (2).

(4) Where the same solicitor attended court as an attending solicitor and as a solicitor advocate (whether certified or not) –

(a) on a day in respect of which a Refresher Fee would otherwise be payable under paragraph 6, or

(b) for a hearing in respect of which a fee would otherwise be payable under Part 4,

the solicitor shall be allowed one fee only in respect of that day or hearing, as applicable.

(5) Where the same solicitor attended court, a prison visit, other consultation or view as an attending solicitor and as a solicitor advocate (whether certified or not), the solicitor shall be allowed one travelling allowance only under paragraphs 29 and 30 in respect of each such attendance.

22.—(1) This paragraph applies to any hearing in respect of which an Application Fee is payable under paragraph 12(2), 13, 14 or 16.

(2) Subject to sub-paragraph (3), the fee payable for the hearing shall be determined by the Commission in accordance with the actual court hearing time taken in dealing with the application.

(3) Where the Commission is satisfied that the total waiting time in dealing with the applications in a case exceeded two hours, in determining the fee payable for one or more of the applications the Commission may, in its discretion, allow such Application Fee as set out in the Table following paragraph 19 as it considers to be reasonable.

(4) Where more than one application to which this paragraph applies was heard and disposed of on the same day, the fee payable to the representative shall be –

(a) in respect of the first application, the time-based fee set out in the Table following paragraph 19 as appropriate to the representative (including the category of advocate instructed, as applicable) and the combined duration of the hearings on that day; and

(b) in respect of each of the other applications, twenty per cent of that fee.

(5) Where an Application Fee is payable under paragraph 13 or 14 and the hearing in question lasted more than one day, a further fee shall be payable to the representative under that paragraph in respect of any additional day or part of a day.

23.—(1) Subject to sub-paragraph (5), this paragraph applies if a trial was ended by direction of the judge, or it ended with the jury being unable to agree a verdict, and an order was made for a new trial.

(2) Where the new trial began either on the same day or within fifteen working days, the case shall be considered as having comprised one trial for the purposes of determining the fees payable under these Rules.

(3) Where the period of time between the first trial ending and the new trial beginning exceeded fifteen working days, a second fee shall be payable in accordance with sub-paragraph (4).

(4) The second fee payable to a representative under sub-paragraph (3) shall be calculated in accordance with paragraph 6 (or paragraph 8, if applicable) except that each of the elements of the formula set out in paragraph 6 (or paragraph 8, if applicable) shall be reduced by –

(a) forty per cent, where the new trial started within two calendar months of the conclusion of the first trial; and

(b) twenty-five per cent, where the new trial did not start within two calendar months of the conclusion of the first trial,

except for the refresher and travelling allowance elements which shall not be so reduced.

(5) This paragraph shall not apply where a different representative acted for the assisted person at each trial.

24. Where following a case on indictment a Newton hearing took place –

- (a) the case shall for all the purposes of this Schedule be treated as having gone to trial;
- (b) the duration of the trial shall be taken to be the combined duration of the main hearing and of the Newton hearing;
- (c) the provisions of this Schedule relating to guilty pleas shall not apply; and
- (d) no fee shall be payable under paragraph 15 in respect of that hearing.

25. Where a fee is payable under Part 4 in respect of the holding of a voir dire, any day on which the voir dire was held shall count towards calculating the duration of the trial for the purposes of paragraphs 6 and 7.

26. Any case in which –

- (a) the prosecution offered no evidence (or no further evidence) and which was discontinued; or
- (b) the prosecution entered a nolle prosequi,

shall be treated as a substantive trial and a Basic Trial Fee, together with Refresher Fees if applicable, shall be payable in accordance with paragraphs 6 and 7.

27. Where a solicitor was dismissed by the assisted person, or the Commission is satisfied that he was obliged to withdraw from the case for compelling professional reasons, the Commission may, in its discretion, allow the following fees to the solicitor –

- (a) if the solicitor was dismissed or withdrew within one week of the date of the first arraignment, a Guilty Plea 1 Fee as appropriate to the offence with which the assisted person was charged;
- (b) if the solicitor was dismissed or withdrew after the first arraignment and before the trial (if any) commenced, a Guilty Plea 2 Fee as appropriate to the offence with which the assisted person was charged;
- (c) in any other circumstances, such amount as it considers to be reasonable in all the circumstances.

28.—(1) Where an advocate instructed in a case passed the brief to another advocate before arraignment, no costs shall be payable to the original advocate under these Rules.

(2) Subject to sub-paragraph (3), where an advocate instructed in a case passed the brief to another advocate after arraignment, no costs shall be payable to the original advocate under Parts 2 or 3 of this Schedule.

(3) Where an advocate was dismissed by the assisted person, or the Commission is satisfied that he was obliged to withdraw from the case for compelling professional reasons, the Commission may, in its discretion, allow the following fees to the advocate –

- (a) if the advocate was dismissed or withdrew within one week of the date of the first arraignment, fifty per cent of the Guilty Plea 1 Fee as appropriate to the category of advocate instructed and the offence with which the assisted person was charged;
- (b) if the advocate was dismissed or withdrew after the first arraignment and before the trial (if any) commenced, fifty per cent of the Guilty Plea 2 Fee as appropriate to the category of advocate instructed and the offence with which the assisted person was charged;
- (c) if the advocate was dismissed or withdrew after the trial (if any) commenced, the Basic Trial Fee as appropriate to the category of advocate instructed and the offence with which the assisted person was charged;
- (d) in any other circumstances, such amount as it considers to be reasonable in all the circumstances.

29.—(1) Where a solicitor attended court, the Commission shall allow travelling time at a rate in accordance with sub-paragraphs (2) and (3), and it may allow an amount to cover any travelling expenses actually and reasonably incurred and necessarily and exclusively attributable to the solicitor's attendance at that court.

(2) A solicitor shall be allowed travelling time at the rate of £24.75 per hour.

(3) An apprentice or fee-earner of equivalent experience shall be allowed travelling time at the rate of £12.50 per hour.

(4) Subject to the Commission being satisfied that the work involved was reasonably undertaken and properly done, a travelling allowance shall also be payable under sub-paragraph (1) in respect of attendance at prison visits, other consultations and views.

30.—(1) Where an advocate was instructed to appear in a court which is more than 20 miles from the Head Post Office, Belfast, the Commission shall allow travelling time at the rate of £12 per hour and

it may allow an amount to cover any travelling expenses actually and reasonably incurred and necessarily and exclusively attributable to the advocate's attendance at that court.

(2) Subject to the Commission being satisfied that the work involved was reasonably undertaken and properly done, a travelling allowance shall also be payable under sub-paragraph (1) in respect of attendance at prison visits, other consultations and views.

SCHEDULE 2

Rule 17

VERY HIGH COST CASES

Table 1 – Hourly rates for preparation

	<i>Range per hour</i>
<i>Solicitor or other fee earner</i>	
Senior Solicitor	£110 to £180
Solicitor	£90 to £140
An apprentice or fee-earner of equivalent experience	£70 to £100
<i>Counsel</i>	
Queen's Counsel	£110 to £180
Leading Junior	£90 to £140
Led Junior	£70 to £100
Sole Junior	£80 to £110
<i>Solicitor Advocate</i>	
Certified	£80 to £110
Uncertified	£40 to £55

Table 2 – Hourly rates for non-preparatory work

	<i>Range per hour</i>
<i>Attendance at Court</i>	
Senior Solicitor	
Solicitor	£45 to £90
An apprentice or fee-earner of equivalent experience	
	<i>Rate</i>
<i>Travel and waiting</i>	
Senior Solicitor	
Solicitor	£24.75
An apprentice or fee-earner of equivalent experience	

Table 3 – Daily rates for advocacy

	<i>Range per day</i>
<i>Counsel</i>	
Queen's Counsel	£500 to £700
Leading Junior	£375 to £525
Led Junior	£250 to £350
Sole Junior	£325 to £455
<i>Solicitor Advocate</i>	
Certified	£325 to £455
Uncertified	£163 to £228

3.1 A full daily rate from the range set out in Table 3 of this Schedule will be allowed if the advocate was in court for more than 3.5 hours; half that rate will be allowed if he was in court for 3.5 hours or less.

Table 4 – Preliminary hearings

	<i>Amount payable for hearing</i>
Queen's Counsel	£140
Leading Junior	£100
Led Junior	£70
Sole Junior	£80
<i>Solicitor Advocate</i>	
Certified	£80
Uncertified	£40

4.1 The rates in Table 4 of this Schedule will only apply where the hearing lasted 2 hours or less; otherwise the daily or half daily rate payable under Table 3 of this Schedule and paragraph 3.1 will apply.

SCHEDULE 3

TABLE OF OFFENCES

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Class A – Homicide and related grave offences		
Murder	Common law	
Manslaughter	Common law	
Soliciting to murder	Offences against the Person Act 1861 s. 4	1861 c. 100
Child destruction	Criminal Justice Act (Northern Ireland) 1945 s. 25(1)	1945 c. 15
Infanticide	Infanticide Act (Northern Ireland) 1939 s. 1(1)	1939 c. 5
Causing explosion likely to endanger life or property	Explosive Substances Act 1883 s. 2	1883 c. 3
Attempt to cause explosion, making or keeping explosive etc.	Explosive Substances Act 1883 s. 3	as above
Class B – Offences involving serious violence or damage, and serious drugs offences		
Kidnapping	Common law	
False imprisonment	Common law	
Aggravated criminal damage	Criminal Damage (Northern Ireland) Order 1977 Art. 3(2)	1977 N.I. 4
Aggravated arson	Criminal Damage (Northern Ireland) Order 1977 Art. 3(2) and (3)	as above
Arson (where value exceeds £30,000)	Criminal Damage (Northern Ireland) Order 1977 Art. 3(3)	as above
Possession of firearm with intent to endanger life	Firearms (Northern Ireland) Order 2004 Art. 58	2004 N.I. 3
Use of firearm to resist arrest	Firearms (Northern Ireland) Order 2004 Art. 59(1)	as above

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Possession of firearm with criminal intent	Firearms (Northern Ireland) Order 2004 Art. 60(1)	as above
Possession or acquisition of certain prohibited weapons etc.	Firearms (Northern Ireland) Order 2004 Art. 45(1) and (2)	as above
Aggravated burglary	Theft Act (Northern Ireland) 1969 s. 10	1969 c. 16
Armed robbery	Theft Act (Northern Ireland) 1969 s. 8(1)	as above
Assault with weapon with intent to rob	Theft Act (Northern Ireland) 1969 s. 8(2)	as above
Blackmail	Theft Act (Northern Ireland) 1969 s. 20	as above
Riot	Common law	
Contamination of goods with intent	Public Order Act 1986 s. 38	1986 c. 64
Causing death by dangerous driving	Road Traffic (Northern Ireland) Order 1995 Art. 9	1995 N.I. 18
Causing death by careless driving while under the influence of drink or drugs	Road Traffic (Northern Ireland) Order 1995 Art. 14	as above
Aggravated vehicle taking resulting in death	Road Traffic (Northern Ireland) Order 1981 Art. 172B	1981 N.I. 1
Causing danger to road users	Road Traffic (Northern Ireland) Order 1995 Art. 53	1995 N.I. 18
Attempting to choke, suffocate, strangle etc.	Offences against the Person Act 1861 s. 21	1861 c. 100
Causing miscarriage by poison, instrument	Offences against the Person Act 1861 s. 58	as above
Making threats to kill	Offences against the Person Act 1861 s. 16	as above
Wounding or grievous bodily harm with intent to cause grievous bodily harm etc.	Offences against the Person Act 1861 s. 18	as above
Endangering the safety of railway passengers	Offences against the Person Act 1861 ss. 32-34	as above
Impeding persons endeavouring to escape wrecks	Offences against the Person Act 1861 s. 17	as above
Administering chloroform, laudanum etc.	Offences against the Person Act 1861 s. 22	as above
Administering poison etc. so as to endanger life	Offences against the Person Act 1861 s. 23	as above
Cruelty to persons under 16	Children and Young Persons Act (Northern Ireland) 1968 s. 20	1968 c. 34
Aiding and abetting suicide	Criminal Justice Act (Northern Ireland) 1966 s. 13	1966 c. 20
Placing wood etc. on railway	Malicious Damage Act 1861 s. 35	1861 c. 97
Acquiring, possessing etc. the proceeds of criminal conduct	Proceeds of Crime Act 2002 s. 329	2002 c. 29
Producing or supplying a Class A or B drug	Misuse of Drugs Act 1971 s. 4	1971 c. 38
Possession of a Class A or B drug with intent to supply	Misuse of Drugs Act 1971 s. 5(3)	as above
Manufacture and supply of scheduled substances	Criminal Justice (International Co-operation) Act 1990 s. 12	1990 c. 5

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Fraudulent evasion of controls on Class A and B drugs	Customs and Excise Management Act 1979 s. 170(2)(b) and (c)	1979 c. 2
Illegal importation of Class A and B drugs	Customs and Excise Management Act 1979 s. 50	as above
Offences in relation to money laundering investigations	Proceeds of Crime Act 2002 ss. 327-333	2002 c. 29
Practitioner contravening drug supply regulations	Misuse of Drugs Act 1971 ss. 12 and 13	1971 c. 38
Cultivation of cannabis plant	Misuse of Drugs Act 1971 s. 6	as above
Occupier knowingly permitting drugs offences etc.	Misuse of Drugs Act 1971 s. 8	as above
Activities relating to opium	Misuse of Drugs Act 1971 s. 9	as above
Drug trafficking offences at sea	Criminal Justice (International Co-operation) Act 1990 s. 18	1990 c. 5
Firing on Revenue vessel	Customs and Excise Management Act 1979 s. 85(2)	1979 c. 2
Making or possession of explosive in suspicious circumstances	Explosive Substances Act 1883 s. 4(1)	1883 c. 3
Causing bodily injury by explosives	Offences against the Person Act 1861 s. 28	1861 c. 100
Using explosive or corrosives with intent to cause grievous bodily harm	Offences against the Person Act 1861 s. 29	as above
Hostage taking	Taking of Hostages Act 1982 s. 1	1982 c. 28
Money laundering in relation to terrorist activities	Terrorism Act 2000 s. 18	2000 c.11
Offences against international protection of nuclear material	Nuclear Material (Offences) Act 1983 s. 2	1983 c. 18
Placing explosives with intent to cause bodily injury	Offences against the Person Act 1861 s. 30	1861 c. 100
Membership of proscribed organisations	Terrorism Act 2000 s. 11	2000 c. 11
Support or meeting of proscribed organisations	Terrorism Act 2000 s. 12	as above
Uniform of proscribed organisations	Terrorism Act 2000 s. 13	as above
Fund-raising for terrorism	Terrorism Act 2000 s. 15	as above
Other offences involving money or property to be used for terrorism	Terrorism Act 2000 ss. 16-18	as above
Disclosure prejudicing, or interference of material relevant to, investigation of terrorism	Terrorism Act 2000 s. 39	as above
Weapons training	Terrorism Act 2000 s. 54	as above
Directing terrorist organisation	Terrorism Act 2000 s. 56	as above
Possession of articles for terrorist purposes	Terrorism Act 2000 s. 57	as above
Unlawful collection of information for terrorist purposes	Terrorism Act 2000 s. 58	as above
Incitement of terrorism overseas	Terrorism Act 2000 s. 60	as above
Endangering the safety of an aircraft	Aviation Security Act 1982 s. 2(1)(b)	1982 c. 36

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Racially-aggravated arson (not endangering life)	Criminal Damage (Northern Ireland) Order 1977 Art. 3(3), as amended by Criminal Justice (No. 2) (Northern Ireland) Order 2004	1977 N.I. 4 2004 N.I. 15
Class C – Lesser offences involving violence or damage, and less serious drugs offences		
Robbery (other than armed robbery)	Theft Act (Northern Ireland) 1969 s. 8	1969 c. 16
Unlawful wounding	Offences against the Person Act 1861 s. 20	1861 c. 100
Assault occasioning actual bodily harm	Offences against the Person Act 1861 s. 47	as above
Concealment of birth	Offences against the Person Act 1861 s. 60	as above
Abandonment of children under two	Offences against the Person Act 1861 s. 27	as above
Arson (other than aggravated arson) where value does not exceed £30,000	Criminal Damage (Northern Ireland) Order 1977 Art. 3(3)	1977 N.I. 4
Criminal damage (other than aggravated criminal damage)	Criminal Damage (Northern Ireland) Order 1977 Art. 3(1)	as above
Carrying firearm and ammunition in public place	Firearms (Northern Ireland) Order 2004 Art. 61	2004 N.I. 3
Trespassing with a firearm	Firearms (Northern Ireland) Order 2004 Art. 62	as above
Shortening of shotgun or converting imitation firearm into firearm	Firearms (Northern Ireland) Order 2004 Art. 67(1) and (3)	as above
Possession or acquisition of shotgun without certificate	Firearms (Northern Ireland) Order 2004 Art. 3	as above
Possession of firearms by person convicted of crime	Firearms (Northern Ireland) Order 2004 Art. 63(6)	as above
Prohibition of possession, etc. of firearm by certain persons	Firearms (Northern Ireland) Order 2004 Art. 63	as above
Manufacture, dealing in firearms	Firearms (Northern Ireland) Order 2004 Art. 45(1) and (2)	as above
Failure to comply with conditions of authority regarding prohibited weapons	Firearms (Northern Ireland) Order 2004 Art. 45(6)	as above
Permitting an escape (by person failing to perform any legal or official duty)	Common law Prison Act (Northern Ireland) 1953 s. 31	1953 c. 18
Rescue	Common law Prison Act (Northern Ireland) 1953 s. 29	as above
Escaping from lawful custody without force	Common law Prison Act (Northern Ireland) 1953 s. 26	as above
Breach of prison	Common law Prison Act (Northern Ireland) 1953 s. 28	as above
Assisting prisoners to escape	Prison Act (Northern Ireland) 1953 s. 30	as above
Fraudulent evasion of agricultural levy	Customs and Excise Management Act 1979 s. 68A	1979 c. 2
Offender armed or disguised	Customs and Excise Management Act 1979 s. 86	as above
Making threats to destroy or damage property	Criminal Damage (Northern Ireland) Order 1977 Art. 4	1977 N.I. 4
Possessing anything with intent to destroy or damage property	Criminal Damage (Northern Ireland) Order 1977 Art. 5	as above

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Child abduction by connected person	Child Abduction (Northern Ireland) Order 1985 Art. 3	1985 N.I. 17
Child abduction by other person	Child Abduction (Northern Ireland) Order 1985 Art. 4	as above
Bomb hoax	Criminal Law (Amendment) (Northern Ireland) Order 1977 Art. 3	1977 N.I. 16
Producing or supplying Class C drug	Misuse of Drugs Act 1971 s. 4	1971 c. 38
Possession of a Class C drug with intent to supply	Misuse of Drugs Act 1971 s. 5(3)	as above
Fraudulent evasion of controls on Class C drugs	Customs and Excise Management Act 1979 s. 170(2)(b) and (c)	1979 c. 2
Illegal importation of Class C drugs	Customs and Excise Management Act 1979 s. 50	as above
Possession of Class A drug	Misuse of Drugs Act 1971 s. 5(2)	1971 c. 38
Failure to disclose knowledge or suspicion of money laundering	Proceeds of Crime Act 2002 ss. 330-332	2002 c. 29
Tipping-off in relation to money laundering investigations	Proceeds of Crime Act 2002 s. 333	as above
Assaults on officers saving wrecks	Offences against the Person Act 1861 s. 37	1861 c. 100
Attempting to injure or alarm the Sovereign	Treason Act 1842 s. 2	1842 c. 51
Assisting illegal entry or harbouring persons	Immigration Act 1971 s. 25	1971 c. 77
Administering poison with intent to injure etc.	Offences against the Person Act 1861 s. 24	1861 c. 100
Neglecting to provide food for or assaulting servants etc.	Offences against the Person Act 1861 s. 26	as above
Setting spring guns with intent to inflict grievous bodily harm	Offences against the Person Act 1861 s. 31	as above
Supplying instrument etc. to cause miscarriage	Offences against the Person Act 1861 s. 59	as above
Failure to disclose information about terrorism	Terrorism Act 2000 s. 19	2000 c. 11
Circumcision of females	Female Genital Mutilation Act 2003 s. 1	2003 c. 38
Breaking or injuring submarine telegraph cables	Submarine Telegraph Act 1885 s. 3	1885 c. 49
Failing to keep dogs under proper control resulting in injury	Dogs (Northern Ireland) Order 1983 Art. 29(1A) and (1B)	1983 N.I. 8
Making gunpowder etc. to commit offences	Offences against the Person Act 1861 s. 64	1861 c. 100
Stirring up racial hatred	Public Order (Northern Ireland) Order 1987 Arts. 8-13	1987 N.I. 7
Racially-aggravated assault	Offences Against the Person Act 1861 s. 47, as amended by the Criminal Justice (No. 2) (Northern Ireland) Order 2004	1861 c. 100 2004 N.I. 15
Racially-aggravated criminal damage	Criminal Damage (Northern Ireland) Order 1977 Arts. 3 and 6(2), as amended by the Criminal Justice (No. 2) (Northern Ireland) Order 2004	1977 N.I. 4 2004 N.I. 15

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Class D – Serious sexual offences, offences against children		
Rape	Common law Criminal Justice (Northern Ireland) Order 2003 Art. 18	2003 N.I. 13
Administering drugs to obtain intercourse	Criminal Law Amendment Act 1885 s. 3	1885 c. 69
Unlawful carnal knowledge of a girl under 14 years	Criminal Law Amendment Act 1885 s. 4	as above
Unlawful carnal knowledge of a girl under 17 years	Criminal Law Amendment Act 1885 s. 5	as above
Sexual intercourse with defective	Mental Health (Northern Ireland) Order 1986 Art. 122(1)(a)	1986 N.I. 4
Procurement of a defective	Mental Health (Northern Ireland) Order 1986 Art. 122(1)(b)	as above
Incest	Punishment of Incest Act 1908 ss. 1 and 2	1908 c. 45
Intercourse with an animal	Sexual Offences Act 2003 s. 69	2003 c. 42
Buggery of person under 16	Criminal Justice (Northern Ireland) Order 2003 Art. 19	2003 N.I. 13
Indecent assault on a woman	Criminal Justice (Northern Ireland) Order 2003 Art. 20	as above
Indecent assault on a man	Offences against the Person Act 1861 s. 62	1861 c. 100
Abuse of position of trust – sexual activity with child	Sexual Offences Act 2003 s. 16	2003 c. 42
Abuse of position of trust – causing or inciting child to engage in sexual activity	Sexual Offences Act 2003 s. 17	as above
Abuse of position of trust – sexual activity in presence of child	Sexual Offences Act 2003 s. 18	as above
Abuse of position of trust – causing a child to watch a sexual act	Sexual Offences Act 2003 s. 19	as above
Indecency with children under 17	Children and Young Persons Act (Northern Ireland) 1968 s. 22	1968 c. 22
Taking, having etc. indecent photographs of children	Protection of Children (Northern Ireland) Order 1978 Art. 3	1978 N.I. 17
Abduction of woman by force	Offences against the Person Act 1861 s. 54	1861 c.100
Permitting young girl to use premises for sexual intercourse	Criminal Law Amendment Act 1885 s. 6	1885 c. 69
Controlling prostitution for gain	Sexual Offences Act 2003 s. 53	2003 c. 42
Inciting girl under 16 to have incestuous intercourse	Criminal Justice (Northern Ireland) Order 1980 Art. 9	1980 N.I. 6
Trafficking into the UK for sexual exploitation	Sexual Offences Act 2003 s. 57	2003 c. 42
Trafficking within the UK for sexual exploitation	Sexual Offences Act 2003 s. 58	as above
Trafficking out of the UK for sexual exploitation	Sexual Offences Act 2003 s. 59	as above
Sexual intercourse with patients	Mental Health (Northern Ireland) Order 1986 Art. 123	1986 N.I. 4
Ill-treatment of persons of unsound mind	Mental Health (Northern Ireland) Order 1986 Art. 121	as above

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Abduction of unmarried girl under 18 from parent	Common Law Criminal Law Amendment Act 1885 s. 7	1885 c. 69
Abduction of unmarried girl under 16 from parent	Offences against the Person Act 1861 s. 55	1861 c. 100
Abduction of defective from parent	Mental Health (Northern Ireland) Order 1986 Art. 122(1)(e)	1986 N.I. 4
Procurator of girl under 21	Criminal Law Amendment Act 1885 s. 2(1)	1885 c. 69
Permitting girl under 17 to use premises for intercourse	Criminal Law Amendment Act 1885 s. 6	as above
Permitting defective to use premises for intercourse	Mental Health (Northern Ireland) Order 1986 Art. 122(1)(d)	1986 N.I. 4
Causing or encouraging seduction of girl under 17	Children and Young Persons Act (Northern Ireland) 1968 s. 21	1968 c. 34
Causing or inciting child prostitution or pornography	Sexual Offences Act 2003 s. 48	2003 c. 42
Causing or encouraging prostitution of defective	Mental Health (Northern Ireland) Order 1986 Art. 122(1)(c)	1986 N.I. 4
Class E – Burglary etc.		
Burglary	Theft Act (Northern Ireland) 1969 s. 9	1969 c. 16
Going equipped to steal	Theft Act (Northern Ireland) 1969 s. 24	as above
Classes F and G – Other offences of dishonesty		
<i>The following offences are always in Class F</i>		
Destruction of registers of births etc.	Forgery Act 1861 s. 36	1861 c. 98
Making false entries in copies of registers sent to register	Forgery Act 1861 s. 37	as above
<i>The following offences are always in Class G</i>		
Counterfeiting notes and coins	Forgery and Counterfeiting Act 1981 s. 14	1981 c. 45
Passing counterfeit notes and coins	Forgery and Counterfeiting Act 1981 s. 15	as above
Offences involving custody or control of counterfeit notes and coins	Forgery and Counterfeiting Act 1981 s. 16	as above
Making, custody or control of counterfeiting materials etc.	Forgery and Counterfeiting Act 1981 s. 17	as above
Illegal importation – counterfeit notes or coins	Customs and Excise Management Act 1979 s. 50	1979 c. 2
Fraudulent evasion – counterfeit notes or coins	Customs and Excise Management Act 1979 s. 170(2)(b) and (c)	as above
Undischarged bankrupt being concerned in a company	Company Directors Disqualification (Northern Ireland) Order 2002 Art. 15	2002 N.I. 4
<i>The following offences are in Class G if the value involved exceeds £30,000 and in Class F otherwise</i>		
Theft	Theft Act (Northern Ireland) 1969 s. 1	1969 c. 16
Removal of articles from places open to the public	Theft Act (Northern Ireland) 1969 s. 11	as above
Abstraction of electricity	Theft Act (Northern Ireland) 1969 s. 13	as above
Obtaining property by deception	Theft Act (Northern Ireland) 1969 s. 15	as above
Obtaining money transfer by deception	Theft Act (Northern Ireland) 1969 s. 15A	as above

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Obtaining pecuniary advantage by deception	Theft Act (Northern Ireland) 1969 s. 16	as above
False accounting	Theft Act (Northern Ireland) 1969 s. 17	as above
Handling stolen goods	Theft Act (Northern Ireland) 1969 s. 21	as above
Obtaining services by deception	Theft (Northern Ireland) Order 1978 Art. 3	1978 N.I. 23
Evasion of liability by deception	Theft (Northern Ireland) Order 1978 Art. 4	as above
Illegal importation – not elsewhere specified	Customs and Excise Management Act 1979 s. 50	1979 c. 2
Counterfeiting Customs documents	Customs and Excise Management Act 1979 s. 168	as above
Fraudulent evasion – not elsewhere specified	Customs and Excise Management Act 1979 s. 170(2)(b) and (c)	as above
Forgery	Forgery and Counterfeiting Act 1981 s. 1	1981 c. 45
Copying false instrument with intent	Forgery and Counterfeiting Act 1981 s. 2	as above
Using a false instrument	Forgery and Counterfeiting Act 1981 s. 3	as above
Using a copy of a false instrument	Forgery and Counterfeiting Act 1981 s. 4	as above
Custody or control of false instruments etc.	Forgery and Counterfeiting Act 1981 s. 5	as above
Offences in relation to dies or stamps	Stamp Duties Management Act 1891 s. 13	1891 c. 38
Counterfeiting of dies or marks	Hallmarking Act 1973 s. 6	1973 c. 43
Unauthorised use of trade mark, &c. in relation to goods	Trade Marks Act 1994 s. 92(1)(c)	1994 c. 26
VAT offences	Value Added Tax Act 1994 s. 72(1)-(8)	1994 c. 23
Fraudulent evasion of duty	Customs and Excise Management Act 1979 s. 170(1)(b)	1979 c. 2
Class H – Miscellaneous lesser offences		
Possession of offensive weapon	Public Order (Northern Ireland) Order 1987 Art. 22(1)	1987 N.I. 7
Affray	Common law	
Assault with intent to resist arrest	Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 s. 7(1)(b)	1968 c. 28
Unlawful eviction and harassment of occupier	Rent (Northern Ireland) Order 1978 Art. 54	1978 N.I. 20
Publishing, exhibiting, selling an indecent or obscene thing	Common law	
Buggery of males of 17 or over otherwise than in private	Criminal Justice (Northern Ireland) Order 2003 Art. 20	2003 N.I. 13
Open and notorious lewdness	Common Law	
Publicly exposing the naked person	Common Law	
Offences of publication of obscene matter	Common law	
Keeping a disorderly house	Common law	
Procurement of intercourse by threats etc.	Criminal Law Amendment 1885 s. 3	1885 c. 69
Causing or inciting prostitution for gain	Sexual Offences Act 2003 s. 52	2003 c. 42
Detention of woman in brothel or other premises	Criminal Law Amendment Act 1885 s. 8	1885 c. 69

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Procurement of a woman by false pretences	Criminal Law Amendment Act 1885 s. 3(2)	as above
Trade description offences (9 offences)	Trade Descriptions Act 1968 ss. 1, 8, 9, 12, 13, 14 and 18	1968 c. 29
Misconduct endangering ship or persons on board ship	Merchant Shipping Act 1995 s. 58	1995 c. 21
Obstructing engine or carriage on railway	Malicious Damage Act 1861 s. 36	1861 c. 97
Offences relating to the safe custody of controlled drugs	Misuse of Drugs Act 1971 s. 11	1971 c. 38
Possession of Class B or C drug	Misuse of Drugs Act 1971 s. 5(2)	as above
Wanton or furious driving	Offences against the Person Act 1861 s. 35	1861 c. 100
Dangerous driving	Road Traffic (Northern Ireland) Order 1995 Art. 10	1995 N.I. 18
Forgery and misuse of driving documents	Road Traffic (Northern Ireland) Order 1981 Art. 174(2)	1981 N.I. 1
Mishandling or falsifying parking documents etc.	Road Traffic Regulation (Northern Ireland) Order 1997 Art. 23	1997 N.I. 2
Aggravated vehicle taking	Road Traffic (Northern Ireland) Order 1981 Art. 172A	1981 N.I. 1
Forgery, alteration, fraud of licences etc.	Vehicle Excise and Registration Act 1994 ss. 44 and 45	1994 c. 22
Making off without payment	Theft (Northern Ireland) Order 1978 Art. 5	1978 N.I. 23
Agreeing to indemnify sureties	Common Law	
Sending prohibited articles by post	Postal Services Act 2000 s. 85	2000 c. 26
Impersonating Customs officer	Customs and Excise Management Act 1979 s. 13	1979 c. 2
Obstructing Customs officer	Customs and Excise Management Act 1979 s. 16	as above
Breach of anti-social behaviour order	Anti-social Behaviour (Northern Ireland) Order 2004 Art. 7	2004 N.I. 12
Breach of sex offender order	Sexual Offences Act 2003 s. 113	2003 c. 42
Racially-aggravated harassment/putting another in fear of violence	Protection from Harassment (Northern Ireland) Order 1997 Arts. 3 and 6, as amended by Criminal Justice (No. 2) (Northern Ireland) Order 2004	1997 N.I. 9 2004 N.I. 15
Having an article with a blade or point in a public place	Criminal Justice Act 1988 s. 139	1988 c. 33
Breach of harassment injunction	Protection from Harassment (Northern Ireland) Order 1997 Art. 5(6)	1997 N.I. 9
Putting people in fear of violence	Protection from Harassment (Northern Ireland) Order 1997 Art. 6(1)	as above
Breach of restraining order	Protection from Harassment (Northern Ireland) Order 1997 Art. 7	as above
Being drunk when in aircraft	Air Navigation (No. 2) Order 1995 Art. 57	1995 No. 1970

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Class I – Offences against public justice and similar offences		
Perverting the course of public justice	Common law	
Perjuries (7 offences)	Perjury (Northern Ireland) Order 1979 Arts. 3-12	1979 N.I. 19
Corrupt transactions with agents	Prevention of Corruption Act 1906 s. 1	1906 c. 34
Corruption in public office	Public Bodies Corrupt Practices Act 1889 s. 1	1889 c. 69
Embracery	Common law	
Fabrication of evidence with intent to mislead a tribunal	Common law	
Personation of jurors	Common law	
Concealing an arrestable offence	Criminal Law Act (Northern Ireland) 1967 s. 5	1967 c. 18
Assisting offenders	Criminal Law Act (Northern Ireland) 1967 s. 4(1)	as above
False evidence before European Court	European Communities Act 1972 s. 11	1972 c. 68
Personating for purposes of bail etc.	Forgery Act 1861 s. 34	1861 c. 60
Intimidating a witness, juror etc.	Criminal Justice (Northern Ireland) Order 1996 Art. 47(1)	1996 N.I. 24
Harming, threatening to harm a witness, juror etc.	Criminal Justice (Northern Ireland) Order 1996 Art. 47(2)	as above
Offences of prejudicing investigation	Proceeds of Crime Act 2002 s. 342	2002 c. 29
False statement tendered under section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968	Perjury (Northern Ireland) Order 1979 Art. 4	1979 N.I. 19
Statement tendered under Article 33 of the Magistrates' Courts (Northern Ireland) Order 1981	Perjury (Northern Ireland) Order 1979 Art. 4(1)(b)	as above
Making false statement to authorised officer	Trade Descriptions Act 1968 s. 29(2)	1968 c. 29
Conspiring to commit offences outside the United Kingdom	Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 Art. 9A	1983 N.I. 13

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules prescribe the Crown Court remuneration for solicitors and counsel assigned under Articles 29 or 36(2) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.

The main body of the Rules deals with the manner in which costs are to be determined and paid. Those provisions draw to a large extent on the Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992, which relate to criminal representation provided under Part III of the 1981 Order, and which are being superseded by these Rules insofar as they prescribe the costs payable for proceedings in the Crown Court.

Schedule 1 deals with the standard fees which shall be payable for most cases in the Crown Court. Initial determinations in such cases will be undertaken by the Northern Ireland Legal Services Commission. Schedule 2 provides for special hourly rates of payment in very high cost cases, in respect of which determinations will be undertaken by the taxing master. A system of redeterminations and appeals is provided enabling solicitors and counsel to challenge the fees determined in a particular case.

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