

SCHEDULE 1

Regulation 4(c)

FEES OF COUNSEL

Appeals in the High Court of Justiciary

“4. In a hearing as specified in paragraph 1(c) or 2(b) of Chapter 1 or 2 of Part II of the Table of Fees which is set down for half a day or longer or where the appellant has been sentenced to a period of imprisonment of 10 years or more, to life imprisonment or where an order for lifelong restriction has been made, the fee payable shall be that in the range specified in paragraph 3(d) of Chapter 1 or 2 of Part II respectively.

5. Subject to paragraphs 9 to 11B below, the fees including those within a range of fees, as prescribed in Part II of the Table of Fees, shall include all preparation.

6. Where counsel is seeking a higher fee within the range under paragraph 3(d), 6(a), (b) or (c) (hearings) of Chapter 1 or 2 of Part II he or she will need to justify this by establishing that due to the nature of the case an unusually high level of preparation was required or that any of the factors below exist and that they have had a significant effect on the conduct of the case:—

- (a) novelty of the issues of law;
- (b) unusually complex issues of fact;
- (c) issues of considerable legal significance.

7. Where the Auditor determines the appropriate fee he or she shall specify which of the factors in paragraph 6 justify such a fee and the extent to which each of those factors contribute to that fee.

8. Where counsel is seeking a higher fee within the range under paragraph 2(a), 3(a), (b), (e) or 6(d) (written work) of Chapter 1 or 2 of Part II he or she will need to justify this by reference to either or both of the following factors:—

- (a) the content rather than the length of the document; and
- (b) the amount of documentation necessarily referred to.

9. Where a hearing has been fixed in an appeal under paragraph 3, 4 or 6 of Chapter 1 or 2 of Part II of the Table of Fees counsel may claim an additional fee for preparation for the hearing only where:—

- (a) it is set down for a day or more and counsel has spent more than 2 hours per day on preparation; or
- (b) the case is abnormal in magnitude, or difficulty, or in any other material respect.

10. Where an additional fee for preparation is claimed counsel must provide the Board with details of the nature of the preparation including:—

- (a) where a higher fee has been claimed or received within a range of fees, identification of the part or parts of that fee which relate to those factors mentioned in subparagraphs (a) to (c) of paragraph 6 above or to the factor of an unusually high level of preparation;
- (b) records providing a detailed summary of the nature of the work or, if applicable, the nature of the documentation perused at each stage of the process, the time taken and when and where the work was undertaken and the details of authorities referred to in the course of preparation; and
- (c) any contemporaneous record or notes made in the course of preparation.

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11. Except on cause shown, an additional fee for preparation shall only be allowable once to both junior and senior counsel notwithstanding that the assisted person may be represented by more than one junior or senior counsel or both during the course of the case.

11A. In assessing the amount of time for which an additional fee for preparation is payable the Board, or the Auditor as the case may be, will consider the amount of time that is reasonable having regard to the following factors:—

- (a) the facts and circumstances of the case; and
- (b) the extent to which payment for preparation is already covered by the prescribed fee or the fee deemed appropriate within the range of fees, taking into account that in cases set down for a day or more 2 hours preparation is covered by that fee by virtue of paragraph 9(a).

11B. The additional fee shall be calculated by dividing the time allowed for additional preparation in terms of paragraph 11A above into units of 6 hours, each unit payable at the rate of two thirds of the prescribed fee or the fee deemed appropriate within the range of fees in Chapter 1 or 2 of Part II of the Table of Fees.”

SCHEDULE 2

Regulation 4(4)(a)

FEES OF COUNSEL IN APPEAL PROCEEDINGS

“PART 2

FEES OF COUNSEL IN APPEAL PROCEEDINGS

CHAPTER 1 — JUNIOR COUNSEL

		<i>Junior as Leader</i>	<i>Junior Alone</i>	<i>Junior with Leader</i>
1.	Appeal against Sentence			
(a)	drafting Grounds or Note of Appeal against sentence	£82	£82	£82
(b)	written Submissions in Appeal against Sentence	£125	£100	£75
(c)	any hearing under sections 107 and 187 of the Criminal Procedure (Scotland) Act 1995, including any consultation on the day of the appeal	£201	£150	£112
(d)	any hearing on appeal against sentence, including any consultation on the day of the appeal	£201	£150	£112
(e)	opinion (or note) on appeal against sentence (where not otherwise prescribed)	£75	£75	£75
2.	Appeal by way of Bill of Suspension, Bill of Advocation or Stated Case			

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		<i>Junior as Leader</i>	<i>Junior Alone</i>	<i>Junior with Leader</i>
	(a) drafting Bill of Suspension or Bill of Advocation or adjustment of Stated Case	£85-£266	£82-£200	£75-£150
	(b) appearance at any hearing on Stated Case, Bill of Suspension or Advocation	£335	£250	£187
	(c) opinion	£125	£125	£125
3.	Appeal against Conviction or Conviction and Sentence			
	(a) drafting Grounds of Appeal against conviction or conviction and sentence	£250-£420	£200-£350	£140-£300
	(b) written Submissions in Appeal against conviction or conviction and sentence	£250-£420	£200-£350	£140-£300
	(c) completion of Form 15 (available once per case)	£150	£150	£150
	(d) Hearing on Appeal against conviction or conviction and sentence	£700-£1,089	£500-£825	£400-£625
	(e) opinion	£250-£400	£200-£350	£140-£300
4.	Appeal Hearing before a Full Bench (5 or more Judges)	£1,300	£1000	£750
5.	Appeals in relation to Bail or Interim Liberation			
	(a) all work in connection with an appeal relating to granting of bail or interim liberation, except (b) below	£30	£30	£30
	(b) all work in connection with an application for interim liberation before 3 judges	£140	£100	£75
6.	Appeals Conduct Other			
	(a) hearing on petition to the Nobile Officium	£700-£1,089	£500-£825	£305-£625
	(b) reference to the High Court (devolution issue)	£700-1,089	£500-825	£400-£625
	(c) appeal arising from pre-trial or continuing trial hearing	£700-£1,089	£500-£825	£400-£625
	(d) opinion	£250-£400	£200-£350	£140-£300
7.	Appeals Written Work Other			
	(a) drafting Devolution Minute	£150	£150	£150
	(b) drafting Petition to the Nobile Officium	£225	£225	£225
8.	Consultations	£210	£184	£135

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	<i>Junior as Leader</i>	<i>Junior Alone</i>	<i>Junior with Leader</i>
9. Travel			
Supplementary fee chargeable in addition to any of the above fees where necessary travel is undertaken within Scotland, including travel to a Procurator Fiscal's office or elsewhere to view productions	£100	£100	£100
Supplementary fee chargeable in addition to any of the above fees where necessary travel is undertaken furth of Scotland	£200	£200	£200
10. Accommodation and associated subsistence			
Payment of necessary accommodation and associated subsistence per day	£100.00	£100.00	£100.00

CHAPTER 2 – SENIOR COUNSEL

	<i>Senior</i>
1. Appeal against Sentence	
(a) drafting Grounds or Note of Appeal against sentence	£124
(b) written Submissions in Appeal against Sentence	£152
(c) any hearing under sections 107 and 187 of the Criminal Procedure (Scotland) Act 1995, including any consultation on the day of the appeal	£228
(d) any hearing on appeal against sentence, including any consultation on the day of the appeal	£228
(e) opinion (or note) on appeal against sentence (where not otherwise prescribed)	£114
2. Appeal by way of Bill of Suspension, Bill of Advocation or Stated Case	
(a) drafting Bill of Suspension or Bill of Advocation or adjustment of Stated Case	£124-£300
(b) appearance at any hearing on Stated Case, Bill of Suspension or Advocation	£393
(c) opinion	£187.50
3. Appeal against Conviction or Conviction & Sentence	
(a) drafting Grounds of Appeal against conviction or conviction and sentence	£250-£506
(b) written Submissions in Appeal against conviction or conviction and sentence	£250-£506
(c) completion of Form 15 (available once per case)	£225

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		Senior
(d)	Hearing on Appeal against conviction or conviction and sentence	£900-£1,250
(e)	opinion	£350-£700
4.	Appeal Hearing before a Full Bench (5 or more Judges)	£1,500
5.	Appeals in relation to Bail or Interim Liberation	
(a)	all work in connection with an appeal relating to granting of bail or interim liberation, except (b) below	£50
(b)	all work in connection with an application for interim liberation before 3 judges	£150
6.	Appeals Conduct Other	
(a)	hearing on petition to the Nobile Officium	£900-£1,250
(b)	reference to the High Court (devolution issue)	£900-£1,250
(c)	any appeal arising from pre-trial or continuing trial hearing	£900-£1,250
(d)	opinion	£350-£700
7.	Appeals Written Work Other	
(a)	drafting Devolution Minute	£150
(b)	drafting Petition to the Nobile Officium	£225
8.	Consultations	£250
9.	Travel	
	Supplementary fee chargeable in addition to any of the above fees where necessary travel is undertaken within Scotland, including travel to a Procurator Fiscal's office or elsewhere to view productions	£100
	Supplementary fee chargeable in addition to any of the above fees where necessary travel is undertaken furth of Scotland	£200
10.	Accommodation and associated subsistence	
	Payment of necessary accommodation and associated subsistence per day	£100.00"