

2008 No. 957

LEGAL SERVICES COMMISSION, ENGLAND AND WALES

The Criminal Defence Service (Funding) (Amendment) Order 2008

<i>Made</i> - - - -	<i>2nd April 2008</i>
<i>Laid before Parliament</i>	<i>2nd April 2008</i>
<i>Coming into force</i> - -	<i>24th April 2008</i>

The Lord Chancellor makes this Order in exercise of the powers conferred by section 14(3) of the Access to Justice Act 1999(a).

He has had regard to the matters specified in section 25(3) of that Act and has consulted the General Council of the Bar and the Law Society in accordance with section 25(2) of that Act.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Criminal Defence Service (Funding) (Amendment) Order 2008 and comes into force on 24th April 2008.

(2) In this Order “the 2007 Order” means the Criminal Defence Service (Funding) Order 2007(b).

Amendments to the 2007 Order

2. In article 3(6A) of the 2007 Order, after “Cases” insert “, except as provided in paragraph 25 of Schedule 2”.

3. After paragraph 24 of Schedule 2 to the 2007 Order insert—

“Very High Cost Cases

25.—(1) This paragraph applies where, in a Very High Cost Case, a litigator instructs an advocate who is not a member of a Very High Cost Case (Crime) Panel, in accordance with the contract.

(2) The litigator may claim payment from the Commission in respect of work undertaken by the advocate and authorised in accordance with the contract.

(a) 1999 c.22. The powers were conferred on the Lord Chancellor by that Act, transferred to the Secretary of State for Constitutional Affairs by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887) and transferred back to the Lord Chancellor by the Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429).
(b) S.I. 2007/1174, amended by S.I. 2007/3552, which among other things introduced article 3(6A) and replaced Schedule 2.

(3) Where such a claim is made, the Commission must pay the litigator at rates no higher than the rates set out in the tables following this paragraph.

(4) In this paragraph “the contract” means the Very High Cost Case contract for panel members, made between the Commission and panel members and dated 2nd April 2008(a).

(5) In the tables following this paragraph—

- (a) a reference in the first table to a category is a reference to that category as defined in the contract;
- (b) a reference in the first table to a level A or B solicitor-advocate is a reference to a level A or B solicitor-advocate as defined in the contract;
- (c) a reference in the second table to a junior includes a solicitor-advocate.

<i>Preparation (hourly rates)</i>	<i>Category 1 £</i>	<i>Category 2 £</i>	<i>Category 3 £</i>	<i>Category 4 £</i>
Counsel				
QC	145	113	91	91
Leading junior	127	100	79	79
Led junior	91	73	61	61
Junior alone	100	82	70	70
2nd led junior	63	50	43	43
Solicitor-advocate				
Leading level A	145	113	91	91
Led level A	127	100	79	79
Leading level B	127	100	79	79
Led level B	104	86	66	66
Level A alone	131	109	88	88
Level B alone	113	95	75	75
Second advocate	63	50	43	43

<i>Advocacy</i>	<i>Preliminary hearing £</i>	<i>Half day £</i>	<i>Full day £</i>
QC	113	238	476
Leading junior	86	195	390
Led junior	58	126	252
Junior alone	67	143	285
Second led junior	34	64	128
<i>Noter</i>	29	55	109

<i>Travelling, waiting and mileage</i>
£25 per hour for travelling (up to a maximum of four hours in one day) or waiting £0.45 per mile for mileage”

(a) The contract is available from the Legal Services Commission, 85 Gray’s Inn Road, London WC1X 8TX and at www.legalservices.gov.uk.

Signed by authority of the Lord Chancellor

2nd April 2008

Hunt
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Criminal Defence Service (Funding) Order 2007 (S.I. 2007/1174), which provides for the funding and remuneration of services provided under Part 1 of the Access to Justice Act 1999 as part of the Criminal Defence Service. This Order provides that in a Very High Cost Case where a litigator instructs an advocate who is not a member of a panel for such cases he may apply to the Legal Services Commission for payment in respect of the advocate's work, where the instruction is made, and the work done, in accordance with the Commission's contract for those cases. It then sets out the maximum payments which the Commission may make.

No separate impact assessment has been prepared for this Order, as it is not expected to have any different impact on businesses, charities or voluntary bodies from that of the introduction of the very high cost case regime as a whole, for which an assessment was prepared by the Legal Services Commission which is available at www.legalservices.gov.uk or from the Legal Services Commission, 85 Gray's Inn Road, London WC1X 8TX.

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