

Subsidiary Legislation made under s.14.

Legal Assistance (Scale of Fees) Rules

1960.12.06-2

	<i>Commencement</i>	1.1.1961
Amending enactments	Relevant current provisions	Commencement date
LN. 2018/146 ¹	rr. 2, 10-11	27.6.2018

¹ If these Rules are revoked before the expiry of three years from the date of commencement, then the previous provisions which were revoked by these Rules shall be revived thereby reverting to the state of law before these Rules were commenced.

1960-23

Legal Aid and Assistance

1960.12.06-2

Legal Assistance (Scale of Fees) Rules

ARRANGEMENT OF RULES

Rule

1. Title.

PART 1

2. Fee payable on report submitted under section 14.

PART 2

3. Fee payable to barrister in proceedings in Supreme Court.
4. Fee payable to barrister in proceedings in Court of First Instance.
5. Sum payable to a solicitor in proceedings in Supreme Court.
6. Sum payable to a solicitor in proceedings in Court of First Instance.
7. Fee payable to barrister and solicitor where proceedings are referred.
8. Barristers' fees not to be disbursements.
9. Bases of taxation.

PART 3

10. Scale fee proceedings.
11. Upon commencement of this Part, the fees to be allowed to

Title.

1. These Rules may be cited as the Legal Assistance (Scale of Fees) Rules.

PART 1

Fee payable on report submitted under section 14.

2. The fee payable to a barrister or solicitor in respect of a report submitted to the Registrar under section 14 of the Act shall be £150.

PART 2

Fee payable to barrister in proceedings in Supreme Court.

3. The fee payable to a barrister giving legal assistance under Part II of the Act in connection with proceedings in the Supreme Court shall be eighty per cent of the amount allowed on the taxation of the costs.

Fee payable to barrister in proceedings in Court of First Instance.

4. The fee payable to a barrister giving legal assistance under Part II of the Act in connection with proceedings in the Court of First Instance shall be ninety per cent of the amount allowed on the taxation of the costs.

Sum payable to a solicitor in proceedings in Supreme Court.

5. The sums payable to a solicitor giving legal assistance under Part II of the Act in connection with proceedings in the Supreme Court shall be the full amount allowed on the taxation of the costs on account of disbursements and eighty per cent of the amount so allowed on account of profit costs.

Sum payable to a solicitor in proceedings in Court of First Instance.

6. The sum payable to a solicitor giving legal assistance under Part II of the Act in connection with proceedings in the Court of First Instance shall be the full amount allowed on taxation of the costs on account of disbursements and ninety per cent of the amount so allowed on account of profit costs.

Fee payable to barrister and solicitor where proceedings are referred.

7. Where any case, in respect of which legal assistance has been given under Part II of the Act, is referred to any person by the Supreme Court or the Court of First Instance, there shall be

payable to barrister and solicitor the same fees as would have been payable if such reference had been a proceeding in the court by which it was referred, and, for the purposes of these Rules, all proceedings in connection with such reference shall be taxed by the court which referred them as if they were proceedings in the court by which such reference was made.

Barristers' fees not to be disbursements.

8. For the purposes of rules 3 and 4, a barrister's fees shall be taxed as if they had been paid by the solicitor but shall not by reason thereof be treated as disbursements for the purpose of rule 5 or 6.

Bases of taxation.

9. Subject to rule 8, costs shall be taxed for the purposes of these Rules according to the ordinary rules applicable on a taxation as between solicitor and client where the costs are to be paid out of a common fund in which the client and others are interested:

Provided that no question shall be raised as to the propriety of any act for which prior approval was obtained as required by or under the Act.

PART 3**Scale fee proceedings.**

10. This Part applies for the purpose of the fees payable to barristers and solicitors giving legal assistance to proceedings listed under Part I, paragraph 3 of the Schedule to the Act.

11.(1) Upon commencement of this Part, the fees to be allowed to barristers and solicitors giving legal assistance in connection with proceedings pursuant to rule 10 above, shall be taxed in accordance with or within the limits set out in this rule-

- (a) On assignment (to include the taking of instructions): From £75 to a maximum of £500
- (b) For attending a case management hearing or other mention in the Supreme Court: Up to a maximum of £150
- (c) For attending in chambers on an application: Up to a maximum of £250
- (d) For appearing in a Court, other than the Court of Appeal or the Privy Council—
 - (A) On an application: Up to a maximum of £350

- (B) On a trial–
 - (i) for the first period of five hours or part thereof: From £400 to a maximum of £1,000
 - (ii) for each subsequent five hours or part thereof: From £350 to a maximum of £900

- (e) For appearing in the Court of Appeal–
 - (A) On an application: Up to a maximum of £450
 - (B) On an appeal from the Supreme Court–
 - (i) For the first period of five hours or part thereof: From £450 to a maximum of £1,250
 - (ii) For each subsequent period of five hours of part thereof: From £350 to a maximum of £1,000

- (f) For appearing in the Privy Council–
 - (A) On an application: Up to a maximum of £550
 - (B) On an appeal from the Court of Appeal–
 - (i) For the first period of five hours or part thereof: From £550 to a maximum of £1,500
 - (ii) For each subsequent period of five hours or part thereof: From £400 to a maximum of £1,250

- (g) For preparation throughout the conduct of the case for each application–
 - (A) In a court, other than the Court of Appeal or the Privy Council: From £150 to a maximum of £2,250
 - (B) In the Court of Appeal: From £500 to a maximum of £3,000
 - (C) In the Privy Council: From £1,000 to a maximum of £6,000.

(2) In assessing the level of fees payable to a barrister or solicitor in the case of any part period of hours, the taxing officer shall have regard to the time involved in calculating the proportion of fees.

(3) In taxing the sums payable to a barrister or solicitor under this rule, the taxing officer shall take into account all the relevant circumstances, including the seniority of the barrister or solicitor, the nature, importance, complexity and difficulty of the work and the time involved, including time lost as a result of any adjournment, other than an adjournment for the convenience of the said barrister or solicitor.

(4) In addition to the fees payable under these Rules, there shall be allowed to a barrister or solicitor all disbursements where—

- (a) it is in the interests of justice to do so;
- (b) it is reasonable for the representative to incur the disbursement for the purpose of providing legal assistance; and
- (c) the amount of the disbursement is reasonable.

(5) Notwithstanding sub-rule (4), a barrister or solicitor shall not make disbursements on behalf of any person in excess of £100 without the previous approval in writing of the taxing officer.

(6) Where a taxing officer has, in accordance with sub-rule (5), approved the instruction of a barrister or solicitor as a disbursement in a case, the amount of the disbursement allowed for the barrister's or solicitor's fees shall be calculated in accordance with the fees set out in this rule.

(7) Where legal assistance has been granted in a case within this Part, a Judge of the Supreme Court may make a finding on application by a barrister or solicitor, at any time until the final disposition of the case (including every appeal therefrom), that the case is likely to be or has been of exceptional difficulty or complexity.

(8) In determining whether a case is of exceptional difficulty or complexity a Judge shall have regard to all relevant circumstances including the nature and importance of the case, whether the case involves a difficult point of law, whether the case requires a high volume of work and the complexity, length or urgency of the case or any aspect of it.

(9) If pursuant to sub-rule (7) a Judge makes a finding of exceptional difficulty or complexity, then—

- (a) he shall endorse the certificate to that effect; and

- (b) subject to sub-rule (10), the taxing officer shall allow such fees as appear to him to represent reasonable remuneration for the work to be done, including for the preparation of the conduct of the case.
- (10) The fees allowed under sub-rule (9)(b) shall not be more than two times the fees prescribed in paragraphs (a) to (g) of sub-rule (1).
- (11) On becoming aware that a case is one likely to lead to an application under sub-rule (7), a barrister or solicitor shall notify the taxing officer in writing of that fact.
- (12) Where an application made under sub-rule (7) has been refused, any subsequent application to a Judge under that sub-rule in respect of the same case may only be made following a material change in circumstances in the nature of the case.
- (13) A Judge may, following a material change of circumstances, and where he deems it appropriate, revoke a finding that a case is of exceptional difficulty or complexity and shall on making such revocation cause the endorsement of the certificate under sub-rule 9(a) to be removed.
- (14) A barrister or solicitor aggrieved by a decision of a taxing officer may appeal the decision to the Chief Justice, whose decision shall be final.
- (15) Notwithstanding any other provision in this or any other enactment, the total fees payable to counsel in respect of legal assistance for proceedings to which scale fees apply in the-
- (a) Magistrates Court shall be capped at £5,000;
 - (b) Supreme Court shall be capped at £10,000;
 - (c) Court of Appeal shall be capped at £15,000; and
 - (d) Privy Council shall be capped at £20,000.