

Subsidiary Legislation made under s.8.

Legal Aid (Fees and Expenses) Rules 2014**LN.2014/167***Commencement* **25.9.2014**

ARRANGEMENT OF RULES

Rule

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SCHEDULE

In exercise of the powers conferred upon it by section 8 of the Legal Aid and Assistance Act, and of all other enabling powers, the Government has made the following rules—

Title and commencement.

1. These rules may be cited as the Legal Aid (Fees and Expenses) Rules 2014 and come into operation on the day of publication.

Interpretation.

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

“counsel” means a person enrolled as a barrister under section 28 or as a solicitor under section 29 of the Supreme Court Act;

“taxing officer” means the Registrar of the Supreme Court, the Registrar of the Court of Appeal or the clerk of the magistrates’ court, as the case may be.

Taxation of fees.

3.(1) Subject to the other provisions of these Rules, the fees to be allowed for counsel upon the commencement of these Rules under any of sections 3, 3A, 4 and 5 of the Act shall be taxed in accordance with or within the limits set out in the Schedule.

(2) In assessing the level of fees due under the Schedule 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 payable to counsel.

Factors relevant to taxation.

4. In taxing the sums payable to counsel under these Rules, the taxing officer shall take into account all the relevant circumstances, including the nature, importance, complexity and difficulty of the work and the time involved, and including time lost as a result of any adjournment, other than an adjournment for the convenience of counsel.

Assignment to more than one person.

5. Other than in relation to a case certified under rule 7(1), where one counsel has been assigned to two or more persons whose cases are heard together, the taxing officer shall allow the full sum payable to counsel in respect of the person to whom the highest fees would have been allowed if the cases had been heard separately, and shall allow such amount as appears

proper for the second and each other of those persons, not exceeding for the second person 40% and for each other person 20% of the amount allowed for the first.

Disbursements.

6.(1) In addition to the fees payable under these Rules, there shall be allowed to counsel 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 aid; and
- (c) the amount of the disbursement is reasonable.

(2) Notwithstanding subrule (1), counsel shall not make disbursements on behalf of any person in excess of £100 without the previous approval in writing of the taxing officer.

(3) Where a taxing officer has, in accordance with subrule (2), approved the instruction of a barrister or solicitor as a disbursement in a case, the amount of the disbursement allowed to counsel for the fees of that barrister or solicitor shall be calculated in accordance with the fees set out in the Schedule.

Exceptional cases.

7.(1) Where a legal aid certificate has been granted pursuant to section 3 or 3A of the Act, a judge of the Supreme Court may make a finding on application by counsel, at any time until the final disposition of the case (including every appeal therefrom), that the case is likely to be of exceptional difficulty or complexity.

(2) If the judge makes a finding of exceptional difficulty or complexity under subrule (1), then—

- (a) he shall endorse the certificate to that effect; and
- (b) subject to subrule (3), 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.

(3) The fees allowed under subrule (2)(b) shall not be more than two times the fees prescribed in paragraphs 1-8 of the Schedule and not more than four times the fees prescribed in paragraph 9 of the Schedule.

(4) On becoming aware that a case is one likely to lead to an application under subrule (1), counsel shall forthwith notify the taxing officer in writing of that fact.

(5) Where an application made under subrule (1) has been refused, any subsequent application to a judge under that subrule in respect of the same case may only be made following a material change in circumstances in the nature of the case.

(6) 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 subrule 2(a) to be removed.

Appeals from decisions by taxing officer.

8. Counsel aggrieved by a decision of a taxing officer may appeal from the decision to the Chief Justice, whose decision shall be final.

Revocation.

9. Subject to rule 10, the Legal Aid (Fees and Expenses) Rules 2012 are revoked.

Transitional provision.

10.(1) Where a legal aid certificate has been issued prior to the commencement of these Rules then, subject to the provisions of subrule (2)–

- (a) the fees and expenses set out in the Schedule to the Legal Aid (Fees and Expenses) Rules 2012 shall apply in relation to fees and expenses incurred in respect of that case before the commencement of these Rules;
- (b) the fees and expenses set out in the Schedule to these Rules shall apply in relation to fees and expenses incurred in respect of that case after the commencement of these Rules.

(2) Where, prior to the commencement of these Rules, a case has been certified under subrule 8(1) of the Legal Aid (Fees and Expenses) Rules 2012, the provisions of the Legal Aid (Fees and Expenses) Rules 2012 shall continue to apply to that case until its final disposition, and to every appeal therefrom, as if they had not been revoked.

SCHEDULE

Rule 3

1. On assignment, (to include the taking of instructions)–		£
(a) in the Supreme Court and the Court of Appeal;	From	75
	To	500
(b) in the magistrates’ court.	From	50
	To	250
2. For a necessary attendance at the prison–		
(a) for the first hour or part thereof;	up to	75
(b) for each subsequent hour or part thereof.	up to	50
3. For attending a plea and case management hearing or other mention in the Supreme Court.	up to	150
4. For attending in chambers on an application to the Supreme Court or the Court of Appeal.	up to	250
5. For appearing in the magistrates’ court–		
(a) on any application other than for an adjournment;	up to	200
(b) where the proceedings are adjourned otherwise than at the request of the defence;	up to	100
(c) on the hearing of committal proceedings or on summary trial–		
(i) for the first three hours or part thereof;	from	100
	to	300
(ii) for each subsequent three hours or part thereof.	from	100
	to	300
6. For appearing in the Supreme Court–		
(a) on an application;	up to	350
(b) on a trial on indictment–		
(i) for the first period of five hours or part thereof;	from	400

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(ii) for each subsequent five hours or part thereof.	to	1,000
	from	350
(c) on an appeal from the magistrates' court.	to	900
(i) against conviction or against conviction and sentence;	from	350
	to	950
(ii) against sentence or against any order from which an appeal lies under the Criminal Procedure and Evidence Act 2011.	from	350
	to	950
7. For appearing in the Court of Appeal—		
(a) on an application;	up to	350
(b) on an appeal from the Supreme Court—		
(i) for the first period of five hours or part thereof;	from	400
	to	1,250
(ii) for each subsequent period of five hours of part thereof.	from	350
	to	1,000
8. For appearing in the Privy Council—		
(a) on an application;	up to	500
(b) on an appeal from the Court of Appeal—		
(i) for the first period of five hours or part thereof;	from	500
	to	1,500
(ii) for each subsequent period of five hours or part thereof.	from	400
	to	1,250
9. For preparation throughout the conduct of the case—		
(a) in the magistrates' court;	from	100
	to	500
(b) in the Supreme Court;	from	150
	to	2,250
(c) in the Court of Appeal;	from	500
	to	3,000
(d) in the Privy Council.	from	1,000
	to	6,000