STATUTORY RULES OF NORTHERN IRELAND

2011 No. 152

LEGAL AID AND ADVICE

The Legal Aid for Crown Court Proceedings (Costs) (Amendment) Rules (Northern Ireland) 2011

Made - - - -	*23rd March 2011*
Coming into operation	*13th April 2011*

The Department of Justice makes the following Rules in exercise of the powers conferred by Article 36(3) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(**1**), and now vested in it(**2**).

In accordance with Article 36(3) of that Order, the Department has consulted with the Lord Chief Justice, the Attorney General and the Crown Court Rules Committee and it has obtained the approval of the Department of Finance and Personnel.

In accordance with Article 37 of that Order, the Department has had regard to the matters specified in that Article.

Citation, commencement and application

1. These Rules may be cited as the Legal Aid for Crown Court Proceedings (Costs) (Amendment) Rules (Northern Ireland) 2011 and shall come into operation on 13th April 2011.

2. In these Rules a reference to a rule or Schedule by number alone is a reference to the rule or Schedule so numbered in or to the Legal Aid for Crown Court Proceedings (Costs) Rules (Northern Ireland) 2005(**3**).

3.—(1) Subject to paragraph (2), these Rules 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 Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 on or after 13th April 2011.

(2) The Legal Aid for Crown Court Proceedings (Costs) Rules (Northern Ireland) 2005 continue to apply as if these Rules had not been made in respect of cases in which a criminal aid certificate was granted under Article 29, or deemed to have been granted under Article 36(2), of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 before 13th April 2011.

(**1**) S.I. 1981/228 (N.I. 8)
(**2**) S.I. 1982/159 and S.I. 2010/976
(**3**) S.R. 2005 No. 112, which was amended by S.R. 2009 No. 267

Amendments to the Legal Aid for Crown Court Proceedings (Costs) Rules (Northern Ireland) 2005

4. The Legal Aid for Crown Court Proceedings (Costs) Rules (Northern Ireland) 2005 are amended as follows.

5. In each place where it appears, for "advocate" substitute "counsel".

6. In rule 2—

(a) omit the definition of 'advocate';

(b) omit the definition of 'Certificate of Exceptionality';

(c) after the definition of 'counsel', insert–

> ""court-ordered youth conference" has the meaning given by Article 33A(5) of the Criminal Justice (Children) (Northern Ireland) Order 1998(**4**);
>
> "the Department" means the Department of Justice established by the Department of Justice Act (Northern Ireland) 2010(**5**);";

(d) omit the definition of 'the Court Service';

(e) after the definition of 'main hearing', insert—

> ""meeting" has the meaning given by Article 3A(1) and (2) of the Criminal Justice (Children) (Northern Ireland) Order 1998;";

(f) after the definition 'the Order', insert–

> ""PPE Range" means the number of pages of prosecution evidence, and for this purpose the number of pages of prosecution evidence includes all–
>
> (a) witness statements,
>
> (b) documentary and pictorial exhibits,
>
> (c) records of interviews with the assisted person, and
>
> (d) records of interviews with other defendants,
>
> served on the court;
>
> "Queen's Counsel" includes senior counsel practising outside of Northern Ireland;";

(g) after the definition of 'taxing master', insert—

> ""youth conference" has the meaning given by Article 3A(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998;
>
> "youth conference co-ordinator" has the meaning given by Article 3A(3) of the Criminal Justice (Children) (Northern Ireland) Order 1998.";

(h) omit the definitions of 'a Very High Cost Case' and 'a Very High Cost Case Certificate'.

7. In rule 4—

(a) in paragraph (1), omit "Subject to rules 16 and 17,";

(b) after paragraph (2), insert—

> "(3) Nothing in these Rules permits the payment of a leading junior counsel fee to counsel or a solicitor of less than fifteen years' standing.".

8. After rule 4, insert—

(**4**) S.I. 1998/1504 (N.I. 9); Article 33A was inserted by section 59 of the Justice (Northern Ireland) Act 2002 (c. 26) and Article 3A was inserted by section 57 of that Act

(**5**) 2010 c. 3

"**Enhanced costs where solicitor conducts trial or hearing**

4A.—(1) Where a solicitor exercising his right of audience under section 50 of the Judicature (Northern Ireland) Act 1978(**6**) conducts a trial or hearing without counsel he shall be entitled to an enhancement of his costs in accordance with this rule.

(2) Subject to paragraphs (4) to (6), where the solicitor has at least three years' standing, the amount of any enhancement under this rule shall be the standard fee to which a sole junior counsel, if conducting the trial or hearing, would have been entitled.

(3) Subject to paragraphs (4) to (6), where the solicitor has less than three years' standing, the amount of any enhancement under this rule shall be fifty per cent of the standard fee to which a sole junior counsel, if conducting the trial or hearing, would have been entitled.

(4) This rule also applies where a criminal aid certificate was granted for two counsel and a solicitor conducts the trial or hearing with or without a second counsel.

(5) Where the solicitor has at least three years' standing, the amount of any enhancement under this rule shall be the standard fee to which a leading junior counsel (or led junior counsel, as applicable), if conducting the trial or hearing, would have been entitled.

(6) Where the solicitor has less than three years' standing, the amount of any enhancement under this rule shall be fifty percent of the standard fee to which a leading junior counsel (or led junior counsel, as applicable), if conducting the trial or hearing, would have been entitled.".

9. Omit rule 7(4).

10. In rule 8—

(a) omit paragraphs (4) to (14);

(b) after paragraph (3), insert–

"(14A) Costs in respect of work done in a case which proceeded to trial and that trial lasted more than 80 days shall be assessed by the Commission in accordance with paragraph (14B), and on an exceptional basis may be submitted to the Department for approval.

(14B) When assessing the costs payable under paragraph (14A), the Commission shall have regard to–

(a) the Basic Trial Fee and the Refresher Fee payable for trials lasting between 17 and 80 days; and

(b) any Additional Fees which would otherwise be payable under Part 4 of Schedule 1.".

11. Omit rule 10(4).

12. In rule 11—

(a) omit paragraphs (4) to (8);

(b) after paragraph (3), insert–

"(8A) Costs in respect of work done in a case which proceeded to trial and that trial lasted more than 80 days shall be assessed by the Commission in accordance with paragraph (8B), and on an exceptional basis may be submitted to the Department for approval.

(8B) When assessing the costs payable under paragraph (8A), the Commission shall have regard to–

(**6**) 1978 c. 23

(a) the Basic Trial Fee and the Refresher Fee payable for trials lasting between 73 and 80 days; and

(b) any Additional Fees which would otherwise be payable under Part 4 of Schedule 1.".

13. In rule 13—

(a) in paragraph (1)–

(i) omit sub-paragraph (b);

(ii) omit ", to review the decision";

(b) in paragraph (6)(a), omit "or the decision referred to in paragraph (1)(b), as the case may be,";

(c) omit paragraph (9).

14. Omit rule 14(15).

15. Omit rules 16, 16A, 16B, 16C, 17, 17A and 17B.

16. In rule 19(1)(a), for the words ", 15, 16 or 17" substitute "or 15".

17. In rule 20(4)(a), after "the Lord Chief Justice," insert "the Attorney General,".

18. In Schedule 1—

(a) omit paragraph 1;

(b) following paragraph 7, for the Tables of Basic Trial Fees and Refresher Fees, substitute the following Tables–

"TABLES OF BASIC TRIAL FEES AND REFRESHER FEES

(a) Basic Trial Fees

SOLICITOR

Actual Duration of Trial			
Offence falling within	*Trial Fee 1*	*Trial Fee 2*	*Trial Fee 3*
	1 to 8 days	*9 to 16 days*	*17 to 80 days*
Class A	£6,465	£8,599	£12,868
Class B	£2,325	£3,348	£4,888
Class C	£1,425	£2,038	£2,955
Class D	£3,600	£5,400	£7,182
Class E	£1,425	£2,038	£2,955
Class F	£1,650	£2,360	£3,422
Class G	£2,700	£4,050	£5,387
Class H	£1,425	£2,038	£2,955
Class I	£1,425	£2,038	£2,955

COUNSEL

Queen's Counsel

Actual Duration of Trial

Offence falling within	*Trial Fee 1*	*Trial Fee 2*	*Trial Fee 3*	*Trial Fee 4*	*Trial Fee 5*	*Trial Fee 6*	*Trial Fee 7*	*Trial Fee 8*	*Trial Fee 9*	*Trial Fee 10*
	1 to 8 days	*9 to 16 days*	*17 to 24 days*	*25 to 32 days*	*33 to 40 days*	*41 to 48 days*	*49 to 56 days*	*57 to 64 days*	*65 to 72 days*	*73 to 80 days*
Class A	£6,000	£8,000	£12,000	£16,000	£20,000	£28,000	£36,000	£48,000	£60,000	£72,000
Class B	£3,200	£4,600	£6,700	£9,660	£12,075	£16,905	£21,735	£28,980	£36,225	£43,470
Class C	£2,800	£4,000	£5,800	£8,400	£10,500	£14,700	£18,900	£25,200	£31,500	£37,800
Class D	£4,000	£6,000	£8,000	£12,000	£15,000	£21,000	£27,000	£36,000	£44,999	£53,999
Class E	£2,800	£4,000	£5,800	£8,400	£10,500	£14,700	£18,900	£25,200	£31,500	£37,800
Class F	£2,800	£4,000	£5,800	£8,400	£10,500	£14,700	£18,900	£25,200	£31,500	£37,800
Class G	£4,000	£6,000	£8,000	£12,000	£15,000	£21,000	£27,000	£36,000	£44,999	£53,999
Class H	£2,800	£4,000	£5,800	£8,400	£10,500	£14,700	£18,900	£25,200	£31,500	£37,800
Class I	£2,800	£4,000	£5,800	£8,400	£10,500	£14,700	£18,900	£25,200	£31,500	£37,800

Leading Junior Counsel

Actual Duration of Trial

Offence falling within	*Trial Fee 1*	*Trial Fee 2*	*Trial Fee 3*	*Trial Fee 4*	*Trial Fee 5*	*Trial Fee 6*	*Trial Fee 7*	*Trial Fee 8*	*Trial Fee 9*	*Trial Fee 10*
	1 to 8 days	*9 to 16 days*	*17 to 24 days*	*25 to 32 days*	*33 to 40 days*	*41 to 48 days*	*49 to 56 days*	*57 to 64 days*	*65 to 72 days*	*73 to 80 days*
Class A	£4,500	£6,000	£9,000	£12,000	£15,000	£21,000	£27,000	£36,000	£45,000	£54,000