EXPLANATORY NOTE

(This Note is not part of the Rules but is intended to indicate their general purport.)

These Rules make provision as to the amount payable to a solicitor or counsel assigned under a defence certificate granted under section 21 of the Legal Aid and Advice Act (Northern Ireland) 1965.

Rule 1 requires clerks of the Crown and peace and clerks of petty sessions to keep records of applications for defence certificates. Rule 2 provides for the form and manner in which defence certificates are to be granted. Rule 3 deals with the method of determining solicitors' fees and expenses. Rule 4 deals with the method of determining counsel's fees. Rule 5 deals with instances where more than one defence certificate is granted in respect of more than one charge against the same person and where more than one person is represented. Rule 6 provides for the committee appointed under Rule 9 of the Legal Aid Certificates Rules (Northern Ireland) 1966 to determine the amounts payable to solicitors and counsel under defence certificates. Rule 7 provides that in exceptional cases there shall be increases above the amounts otherwise allowable. Rule 8 governs fees to be allowed in connection with work done in giving notice of appeal or application for leave to appeal to the Court of Criminal Appeal.

1966. No. 54 [C]

LEGAL AID IN CRIMINAL CASES: APPEAL AID CERTIFICATES RULES

RULES, DATED 23RD MARCH, 1966, MADE BY THE MINISTRY OF HOME AFFAIRS UNDER SECTION 27 OF THE LEGAL AID AND ADVICE ACT (NORTHERN IRELAND) 1965.

The Ministry of Home Affairs (hereinafter referred to as "the Ministry"), in exercise of the powers conferred on it by section 27 of the Legal Aid and Advice Act (Northern Ireland) 1965(a) and of all other powers in that behalf thereunto enabling it, hereby, after consultation with the Lord Chief Justice, the Attorney General, the County Court Rules Committee and the Magistrates' Courts Rules Committee and with the approval of the Ministry of Finance, makes the following Rules:—

List of Applications for Appeal Aid Certificates

1.—(1) Every clerk of the Crown and peace and clerk of petty sessions shall keep a list of all cases in which application is made for an appeal aid certificate or in which such certificate is granted and shall record therein (*a*) the name of the appellant or respondent on whose behalf the application is made, (*b*) in general terms the subject of the appeal, (*c*) the date and result of such application, and (*d*) the result of the appeal.

(2) Each clerk of the Crown and peace and each clerk of petty sessions shall send to the Ministry a copy of the list specified in paragraph (1) at such times as the Ministry may from time to time direct.

(a) 1965. c. 8 (N.I.).

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(a) 1965. c. 8 (N.I.).

Appeal Aid Certificates

2.—(1) Any appeal aid certificate granted by a Magistrates' Court shall be in Form A in the Schedule; and a copy of the certificate shall as soon as practicable after the certificate has been granted be sent by the clerk of petty sessions to the clerk of the Crown and peace (together with the name of the solicitor assigned) and to the Crown Solicitor for the county and to the Secretary of the Law Society.

(2) An appeal aid certificate granted by the county court shall be in Form B in the Schedule and the clerk of the Crown and peace shall send a copy of the certificate to the Crown Solicitor for the county and to the Secretary of the Law Society.

(3) When granting an appeal aid certificate the court shall, after taking into account any representations which the applicant may make, assign to him from the register maintained in pursuance of Rule 1 of the Legal Aid Certificates Rules (Northern Ireland) 1966(**a**) a solicitor to whose services the applicant shall be entitled.

(4) Except where the appeal aid certificate directs that a solicitor only shall be assigned, any member of the Bar whose name appears in the register maintained in pursuance of Rule 2 of the Legal Aid Certificates Rules (Northern Ireland) 1966 may be instructed on behalf of the person in respect of whom the appeal aid certificate is granted by the solicitor so assigned.

Fees for Solicitors

3.—(1) Subject to the provisions of these Rules, there shall be allowed to the solicitor assigned under an appeal aid certificate a fee of not less than £8 8s. 0d. and not exceeding £78 15s. 0d.

(2) Where the hearing of an appeal has not been concluded on the day on which it is started there shall be allowed to the solicitor, in addition to the fee allowed under paragraph (1) a daily fee in respect of the second and every subsequent day—

(*a*) where counsel has not been instructed, not exceeding £21 0s. 0d.;

(*b*) in any other case, not exceeding £15 15s. 0d.

(3) In addition to the fees payable under this Rule, the solicitor may be allowed—

(*a*) expenses actually and necessarily incurred on the scale applicable to witnesses for the prosecution in respect of—

(i) his travelling to and from the court at which the appeal is heard and to and from any other place visited for the purpose of preparing and conducting the appeal; and

(ii) costs in connection with the attendance of witnesses for the appellant; and

(*b*) subject to determination thereof under Rule 7 if the Ministry so directs, any other out-of-pocket expenses actually and necessarily incurred.

Fees for Counsel

4.—(1) Subject to the provisions of these Rules, there shall be allowed to counsel assigned under an appeal aid certificate a fee of not less than £8 8s. 0d. and not exceeding £63 0s. 0d.

(a) S.R. & O. (N.I.) 1966, No. 52.