1966. No. 52 [C]

LEGAL AID IN CRIMINAL CASES: LEGAL 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:—

Register of Solicitors willing to act

1. The clerk of the Crown and peace for each county shall maintain a register of solicitors practising in the county who are willing to undertake the defence of legally aided persons in criminal cases, and shall keep each clerk of petty sessions in the county informed of the names and addresses of the solicitors who are from time to time on the register.

Register of Counsel willing to act

2. The clerk of the Crown and peace for each county shall maintain a register of members of the Bar who are willing to appear as counsel for legally aided persons in criminal cases, and shall keep each clerk of petty sessions in the county informed of the names and addresses of the said members who are from time to time on the register.

List of legal aid certificates granted, etc.

3.—(1) Each clerk of petty sessions shall keep a list of all cases in which application for a legal aid certificate is made or in which such certificate is granted and shall record therein for each case (*a*) the name of the person on whose behalf the application was made, (*b*) the charge or charges preferred, (*c*) the date and result of such application, (*d*) whether or not he pleaded guilty, (*e*) the decision of the Court, (*f*) whether an appeal was brought against the decision, (*g*) whether an appeal aid certificate was granted, and (*h*) the decision on appeal.

(2) 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.

Legal aid certificates

4.—(1) A legal aid certificate shall be in the form specified in the Schedule.

(2) When granting a legal aid certificate a magistrates' court shall, after taking into account any representations which the person charged may make, assign to him, from the register maintained in pursuance of Rule 1, a solicitor to whose services the person shall be entitled.

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

(3) When in a case of murder a magistrates' court has thought fit to direct that the person charged shall have counsel assigned to him, any member of the Bar whose name appears in the register maintained in pursuance of Rule 2 may be instructed, on behalf of the person charged, by the solicitor assigned as aforesaid; and any member of the Bar instructed as aforesaid shall, for the purposes of these Rules, be regarded as having been assigned in pursuance of a legal aid certificate.

(4) The clerk of petty sessions shall send a copy of the legal aid certificate to the Secretary of the Law Society, to the Crown Solicitor for the county and to the District Inspector for the district in which the Court sat.

Fees for Solicitor

5.—(1) Subject to the provisions of these Rules there shall be allowed to the solicitor assigned as aforesaid a fee of not less than £6 6s. 0d. and not exceeding £47 5s. 0d. and a further fee not exceeding £9 9s. 0d. in respect of every day on which an adjourned hearing takes place or, in a case where counsel has been assigned under the certificate, such fee as appears to represent fair remuneration according to the work reasonably undertaken and properly done.

(2) In addition to any fees payable under paragraph (1) 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 hearing takes place and to and from any other place visited for the purpose of preparing or conducting the defence; and

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

(*b*) subject to determination thereof under Rule 9 if the Ministry so directs, any other out-of-pocket expenses actually and necessarily incurred.

Fees for Counsel

6.—(1) There shall be allowed to counsel assigned under a legal aid certificate such fee as represents fair remuneration for the work reasonably undertaken and properly done.

(2) Where a hearing has not concluded at the end of the first relevant period thereof there shall be allowed to counsel in respect of each relevant period, or, in the case of an incomplete period, part thereof, after the first a refresher fee.

(3) In paragraph (2)—

(*a*) "relevant period" means either, as may be determined under Rule 9, any day on any part of which the hearing is going on or any period of five hours, whether continuous or not, during which the hearing is going on;

(*b*) "refresher fee" means such fee in addition to the fee allowed under paragraph (1), not exceeding half the fee allowed as aforesaid, as appears to be proper in all the circumstances of the case.

(4) There shall be allowed to counsel in addition to any fees allowed under the foregoing paragraphs—

(*a*) in respect of any conference or consultation lasting not less than half-an-hour, a fee of £2 2s. 0d.;

(*b*) in respect of any conference or consultation lasting more than half-an-hour, such fee as appears to be proper in all the circumstances of the case;

(*c*) for advice in writing, if in the opinion of the committee referred to in Rule 9 it was reasonably necessary to obtain counsel's advice in writing, a fee not exceeding £10 10s. 0d.

More than one legal aid certificate granted or more than one person represented

7.—(1) Where more than one charge is brought at the same magistrates' court against any person in respect of whom more than one legal aid certificate has been granted, fees shall be allowed to the solicitor assigned (and to counsel if assigned) as if only one legal aid certificate had been granted in respect of that person, unless the Court orders otherwise.

(2) Where a solicitor or counsel assigned under a legal aid certificate represents two or more persons jointly charged with an offence, whether one or more legal aid certificates has or have been granted, the amount to be allowed to the solicitor or counsel under, as the case may be, Rule 5(1) or Rule 6(1) and (2) shall be increased, in respect of each such person other than the person charged first, by such amount as appears to the said committee to be proper in all the circumstances of the case, but, save as aforesaid, no payment other than any payment allowed under Rule 5(2) or Rule 6(4) or Rule 8 shall be allowed to the solicitor or counsel under these Rules in respect of any person jointly charged other than the person charged first:

Provided that any increase allowed by virtue of this Rule shall not exceed—

(i) in respect of the person charged second, forty per cent. of the amount which would be payable but for the said increase; and

(ii) in respect of any person charged other than the person charged first or second, twenty per cent. of the said amount.

Work done in connection with appeals

8. Where a solicitor assigned under a legal aid certificate reasonably undertakes in connection therewith work in giving notice of appeal or applying for a case to be stated, and in matters preliminary thereto, being work done within the ordinary time for giving the notice or making the application, there shall, in addition to the fees which may be paid to him under the foregoing Rules and his disbursements on the said work, be allowed a fee not exceeding £10 10s. 0d. in respect of the said work.

Taxation

9.—(1) The amounts to be allowed to solicitors or counsel under these Rules shall be determined by a committee selected from a panel appointed by the Minister of Home Affairs and consisting of—

(*a*) four practising counsel, two of whom shall be nominated by the Bar Council; and

(*b*) eight practising solicitors, four of whom shall be nominated by the Council of the Law Society.