CRIMINAL PROCEDURE

Poor Persons' Defence

RULES, DATED 3RD JANUARY, 1956, MADE BY THE MINISTRY OF HOME AFFAIRS, WITH THE APPROVAL OF THE LORD CHIEF JUSTICE AND THE MINISTRY OF FINANCE, UNDER SECTION 43 OF THE CRIMINAL JUSTICE ACT (NORTHERN IRELAND), 1945, AS MODIFIED BY SECTION 4 OF THE SUMMARY JURISDICTION ACT (NORTHERN IRELAND), 1953.

1956. No. 1 [C]

The Ministry of Home Affairs (hereinafter referred to as "the Ministry"), in exercise of the powers conferred on it by section 43 of the Criminal Justice Act (Northern Ireland), 1945 (hereinafter referred to as "the Act"), as modified by section 4 of the Summary Jurisdiction Act (Northern Ireland), 1953, and of all other powers in that behalf thereunto enabling it, hereby makes the following Rules:—

List of Solicitors willing to act

1.—(1) The Clerk of the Crown and Peace for each County shall keep a list of solicitors practising in the County who are willing to undertake the defence of poor persons, and shall send a copy of such list to each Clerk of Petty Sessions in the County.

(2) The Clerk of the Crown and Peace shall remove the name of any solicitor from the list, either on the application of the solicitor himself or by direction of any Judge.

List of Counsel willing to act

2.—(1) The Clerk of the Crown and Peace for each County shall keep a list of members of the Bar who are willing to appear as Counsel for poor persons, and shall send a copy of such list to each Clerk of Petty Sessions in the County.

(2) The Clerk of the Crown and Peace shall remove the name of any member of the Bar from the list, either on the application of the member himself or by direction of any Judge.

List of applications for Defence Certificates

3.—(1) Each Clerk of the Crown and Peace and each Clerk of Petty Sessions shall keep a list of all cases in which application for a Defence Certificate is made to a certifying authority for which he acts or in which such Certificate is offered by such a certifying authority, and shall record therein for each case (*a*) the name of the person returned for trial, (*b*) in general terms the charge or charges preferred, and (*c*) the date and result of such application. Each Clerk of the Crown and Peace shall include in his list particulars of every case in which the defence of any person is undertaken at the request of a Judge in the circumstances described in sub-section (2) of section 43 of the Act.

(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.

Defence Certificates

4.—(1) A Defence Certificate granted by a Court of Summary Jurisdiction shall be in form A(i) or A(ii) in the Schedule hereto, and the Clerk of Petty Sessions shall, as soon as a Certificate has been granted, send a copy thereof to the Clerk of the Crown and Peace.

(2) A Defence Certificate granted by a Judge shall be in Form B(i) or B(ii) in the Schedule hereto.

(3) A certifying authority shall, when granting a Defence Certificate, after taking into account any representations which the person charged may make, assign to him, from the list kept in pursuance of Rule 1 hereof, a solicitor, to whose services the person shall be entitled.

(4) Where the charge is one of murder, or the case appears to present exceptional difficulty, a certifying authority may certify that in its opinion the interests of justice require that the person charged shall have the assistance of two Counsel.

(5) The Clerk of the Crown and Peace shall furnish to the solicitor assigned as aforesaid a copy of the depositions in the case.

(6) Any member of the Bar whose name appears in the list kept in pursuance of Rule 2 hereof may be instructed, on behalf of the person charged, by the solicitor assigned as aforesaid, and, in any case in which a certifying authority has given a certificate as provided for in paragraph (4) of this Rule, one such member of the Bar and a member of the Bar, being one of Her Majesty's Counsel who has expressed his willingness to undertake the defence, may be so instructed. 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 Defence Certificate.

Fees for Solicitors

5.—(1) Subject to the provisions of Rule 7 hereof there shall be allowed to a solicitor assigned in pursuance of a Defence Certificate on the trial or retrial of a case other than a case of murder a fee of £6 6s. 0d.:

Provided that, within seven days following the conclusion of the trial or retrial, the Judge may, if he think fit, certify that the case was one of exceptional length or difficulty, and thereupon the fee may be increased to such sum as he may direct, not exceeding £12 12s. 0d.

(2) Where the trial or retrial of a case other than a case of murder has lasted more than one full day there shall be allowed to the solicitor, in addition to the fee allowed under paragraph (1) of this Rule, a daily fee, in respect of the second and every subsequent day, of £3 13s. 6d.

(3) Subject to the provisions of Rule 7 hereof there shall be allowed to a solicitor assigned in pursuance of a Defence Certificate on the trial or retrial of a case of murder a fee of £21 where one Counsel has been assigned or a fee of £26 5s. 0d. where two Counsel have been assigned.

(4) Where the trial or retrial of a case of murder has lasted more than one full day there shall be allowed to the solicitor, in addition to the fee allowed under paragraph (3) of this Rule, a daily fee, in respect of the second and every subsequent day, of £7 7s. 0d.

(5) Notwithstanding the provisions of paragraphs (3) and (4) of this Rule, the Judge may, if he think fit, within seven days following the conclusion of the trial or retrial, certify that the case was one of exceptional length or difficulty, and thereupon the fee may be increased to such sum as he may direct, not exceeding £42, together with such daily fee as he may direct, not exceeding £10 10s. 0d., in respect of each day for which the trial or retrial has lasted, other than the first day.

(6) In addition to any fees payable under the foregoing provisions of this Rule, the solicitor may be allowed travelling expenses actually and necessarily incurred by himself and his clerk on the scale applicable to the travelling expenses of witnesses for the prosecution, and also, subject to taxation thereof if the Ministry so direct, any other out-of-pocket expenses which he has actually and reasonably incurred.

Fees for Counsel

6.—(1) Subject to the provisions of Rule 7 hereof there shall be allowed to Counsel assigned in pursuance of a Defence Certificate on the trial or retrial of a case other than a case of murder a fee of £4 14s. 6d., or, if two Counsel have been assigned, a fee of £7 17s. 6d. for senior Counsel and a fee of £4 14s. 6d. for junior Counsel:

Provided that, within seven days following the conclusion of the trial or retrial, the Judge may, if he think fit, certify that the case was one of exceptional length or difficulty, and thereupon the fee may be increased to such sum as he may direct, not exceeding £15 15s. 0d., or, if two Counsel have been assigned, not exceeding £23 12s. 6d. for senior Counsel and £15 15s. 0d. for junior Counsel.

(2) Where the trial or retrial of a case other than a case of murder has lasted more than one full day there shall be allowed to Counsel, in addition to the fee allowed under paragraph (1) of this Rule, a daily fee, in respect of the second and every subsequent day, of £3 3s. 0d., or, if two Counsel have been assigned, of £5 5s. 0d. for senior Counsel and of £3 3s. 0d. for junior Counsel.

(3) Subject to the provisions of Rule 7 hereof there shall be allowed to Counsel assigned in pursuance of a Defence Certificate on the trial or retrial of a case of murder a fee of £21, or, if two Counsel have been assigned, a fee of £26 5s. 0d. for senior Counsel and a fee of £17 17s. 0d. for junior Counsel: