

Legal aid and Assistance

LEGAL AID AND ASSISTANCE ACT LEGAL AID (FEES AND EXPENSES) RULES 2012

1960-23
Revoked
Subsidiary
2012/037

Subsidiary Legislation made under s. 8.

LEGAL AID AND ASSISTANCE ACT LEGAL AID (FEES AND EXPENSES) RULES 2012

Revoked by LN. 2014/167 as from 25.9.2014

(LN. 2012/037)

Commencement **20.3.2012**

Amending enactments	Relevant current provisions	Commencement date
LN. 2012/042	rr. 2 & 8(4)(c)	29.3.2012

ARRANGEMENT OF RULES

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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.

1. These rules may be cited as the Legal Aid (Fees and Expenses) Rules 2012.

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 after 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 8(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

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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.

Queen's Counsel.

6. Other than in relation to a case certified under rule 8(1), the fees payable to counsel under these Rules may, in the case of Queen's Counsel, be increased by one half.

Disbursements.

7.(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 £25 without the previous approval in writing of the taxing officer.

Exceptionally difficult and complex cases.

8. (1) A judge of the Supreme Court may, on application, certify a case under this subrule if it is a case—

- (a) which appears to him to involve serious or complex fraud; and
- (b) which is of exceptional difficulty or complexity; and
- (c) where the work likely to be required to be undertaken by counsel is such that the fees which would be due under the Schedule to such counsel would not represent reasonable remuneration.

(2) Subject to subrule (4) of this rule, in a case so certified the taxing officer shall allow such fees, including for preparation, as appear to him to represent reasonable remuneration for the work done by counsel taking into account all the relevant circumstances, including the nature, importance,

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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.

(3) 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.

(4) Payments made under subrule (2) shall—

- (a) take into account any payments made under rule 9;
- (b) not exceed any costs estimate provided under rule 10 unless justified on the grounds of reasonableness and the interests of justice;
- (c) *Deleted.*
- (d) shall not allow a total payment in relation to fees and disbursements in any particular case in excess of £100,000 without the prior approval of a judge of the Supreme Court.

Special rules for exceptionally difficult and complex cases – Interim payments.

9.(1) If a case certified under rule 8(1) is likely to be protracted, or if counsel faces financial difficulty if an interim payment is not made, he may claim from the taxing officer an interim payment of fees and disbursements likely to be payable.

(2) If the taxing officer grants the application, he must assess the appropriate payment on the basis of the work done to that time as appears to him to be reasonable.

(3) Counsel may in an appropriate case make more than one claim for interim payment, but the total interim payments under this rule may not exceed 80% of the likely total cost of the case, based on the assessment of the taxing officer and any costs estimate provided to him.

(4) Interim payments paid under this rule may include payments in relation to disbursements approved under rule 7.

Special rules for exceptionally difficult and complex cases – Costs estimate.

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10.(1) The taxing officer may require counsel to provide a detailed costs estimate for any case—

- (a) certified under rule 8(1); or
- (b) in relation to which he has received a notice under rule 8(3).

(2) The costs estimate must be provided as soon as the practicable after being requested by the taxing officer. It must—

- (a) provide justified, realistic costs estimates for the taxing officer, to assist him in accessing and managing the cost of legal aid;
- (b) estimate the probable cost of the work at specified intervals, at the key events and overall;
- (c) identify stages in the proceedings and estimate for each stage the work to be done and the resources needed to do it, and cost of disbursements, so that, where appropriate, funding can be authorised stage by stage;
- (d) generally, provide sufficient information to enable an effective management of the costs of the case.

(3) A costs estimate must be revised if the circumstances of the case change during the course of the proceedings.

Appeals.

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

Revocation.

12. Legal notice number 87 of 1981 is revoked.

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SCHEDULE

	Rule 3
1. On assignment, (to include the taking of instructions)–	£
(a) in the Supreme Court and the Court of Appeal;	from 30 to 100
(b) in the magistrates' court.	from 20 to 60
2. For a necessary attendance at the prison–	
(a) for the first hour or part thereof;	22
(b) for each subsequent hour or part thereof.	11
3. For attending a practice direction in the Supreme Court.	50
4. For attending in chambers on an application to the Supreme Court or the Court of Appeal.	30
5. For appearing in the magistrates' court–	
(a) on any application other than for an adjournment;	50
(b) where the proceedings are adjourned otherwise than at the request of the defence;	15
(c) on the hearing of committal proceedings or on summary trial–	
(i) for the first three hours or part thereof;	from 50 to 150
(ii) for each subsequent three hours or part thereof.	from 40 to 120

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6. For appearing in the Supreme Court—
- (a) on an application; 50
 - (b) on a trial on indictment—
 - (i) for the first period of five hours or part thereof; from 100 to 450
 - (ii) for each subsequent five hours or part thereof. from 75 to 300
 - (c) on an appeal from the magistrates' court.
 - (i) against conviction or against conviction and sentence; from 100 to 400
 - (ii) against sentence or against any order from which an appeal lies under section 278 of the Criminal Procedure Act. from 100 to 400
7. For appearing in the Court of Appeal—
- (a) on an application; 30
 - (b) on an appeal from the Supreme Court—
 - (i) for the first period of five hours or part thereof; from 100 to 500
 - (ii) for each subsequent period of five hours of part thereof. from 100 to 400
8. For appearing in the Privy Council—
- (a) on an application; 75
 - (b) on an appeal from the Court of Appeal—
 - (i) for the first period of five hours or part thereof; from 200 to 750

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- (ii) for each subsequent period of five hours or part thereof. from 150
to 500
9. For preparation throughout the conduct of the case—
- (a) in the magistrates' court; from 50
to 200
- (b) in the Supreme Court; from 50
to 750
- (c) in the Court of Appeal; from 250
to 1000
- (d) in the Privy Council. from 500
to 2000