

1981 No. 365

LEGAL AID

**Legal Aid (Remuneration of Solicitors and Counsel in
Authorised Summary Proceedings) Order (Northern Ireland) 1981**

Made 20th October 1981

Coming into operation 31st December 1981

To be laid before Parliament

The Secretary of State in pursuance of Article 13(2) of and paragraphs 1(3), 2(3) and 6 of Schedule 2 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(a) hereby, after consultation with the Magistrates' Court Rules Committee, makes the following Order:—

Citation, operation and application

1.—(1) This Order may be cited as the Legal Aid (Remuneration of Solicitors and Counsel in Authorised Summary Proceedings) Order (Northern Ireland) 1981.

(2) This Order shall come into operation on 31st December 1981 and shall apply only to proceedings commenced after that date.

Sums allowed to solicitors and counsel in connection with authorised summary proceedings

2.—(1) Subject to this paragraph, the sums allowed to solicitors or counsel acting for assisted persons in connection with authorised summary proceedings shall be assessed by the Legal Aid Committee in accordance with the provisions of the Schedule to this Order.

(2) With the leave of the Legal Aid Committee, any solicitor or counsel may, if aggrieved as to any sum allowed on an assessment in accordance with the Schedule to this Order, make written representations to the Council of the Law Society and that Council may allow such costs and fees in respect of the work to which the certificate relates as appears to it to represent fair remuneration according to the work reasonably undertaken and properly done.

Payment for work done in authorised summary proceedings

3.—(1) Where payment is sought in respect of the remuneration of a solicitor or counsel for work done on behalf of an assisted person in connection with authorised summary proceedings the solicitor shall lodge with the Legal Aid Committee such papers and information as will enable that Committee to assess such remuneration, including a report of the case on a form approved by the Legal Aid Committee and where necessary or if so directed by the Committee—

(a) a bill of costs setting out—

- (i) a summary in narrative form of the work done including the time spent in the preparation and conduct of the case;
- (ii) a basic fee for conducting the case which may be allowed in accordance with the provisions of the Schedule to this Order;

(a) S.I. 1981/228 (N.I. 8)

- (iii) any additional fees which may be so allowed for attendance at court on every day on which an adjourned hearing takes place;
 - (iv) counsel's fees, where counsel is instructed;
 - (v) disbursements, travelling and other out-of-pocket expenses actually and reasonably incurred;
 - (vi) a fee for work done in accordance with the regulations and which may be allowed under paragraph 5 of the Schedule to this Order for work done in giving notice of appeal or in applying for a case to be stated;
- (b) where application is made for a certificate under paragraph 4 of the Schedule to this Order that the sums payable by virtue of such Schedule would not provide fair remuneration, such fees, in lieu of the above, shall be included in the bill as are regarded as fair remuneration for the work reasonably undertaken and properly done;
- (c) counsel's brief and a note indicating the time involved including time spent at the court on any day waiting for the case to be heard if the case was in that day's list;
- (d) vouchers and receipts for out-of-pocket expenses incurred or paid;
- (e) where appropriate, a statement in support of an application for a certificate referred to under sub-paragraph (b) above, setting out all relevant circumstances and the grounds upon which the application is made in relation to the whole or any part of the work carried out.

(2) Where costs are assessed by the Legal Aid Committee in accordance with the Schedule to this Order the secretary to the Committee shall notify counsel of any reduction in or disallowance of counsel's fees and where counsel is dissatisfied with any decision of the Committee he shall notify the Committee in writing.

Interpretation

4. In this Order.—

“assisted person” means a person in respect of whom a certificate is in force;

“authorised summary proceedings” means proceedings specified in paragraph 3 of Part I of Schedule 1 to the Order;

“certificate” means a civil aid certificate issued in accordance with a scheme made by the Law Society under Article 18 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 or with regulations made under Part II thereof and includes an emergency certificate;

“Law Society” means the Incorporated Law Society of Northern Ireland;

“Legal Aid Committee” means the Committee established in accordance with Article 18(4) of the Order under a scheme made by the Law Society;

“regulations” means any regulations for the time being in force under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.

Revocation

5. The Legal Aid (Remuneration of Solicitors and Counsel in Authorised Summary Proceedings) Order (Northern Ireland) 1965(a) is hereby revoked except in relation to proceedings commenced before the coming into operation of this Order.

Northern Ireland Office
20th October 1981

James Prior
One of Her Majesty's Principal
Secretaries of State.

SCHEDULE

**Remuneration of Solicitors and Counsel in
Authorised Summary Proceedings**

1.—(1) There shall be allowed to the solicitor acting under a certificate on behalf of an assisted person in proceedings before a court of summary jurisdiction a basic fee not exceeding £36.75 and, in addition, a further fee not exceeding £12.60 in respect of every day on which an adjourned hearing takes place.

- (2) In addition to any fee payable under sub-paragraph (1) the solicitor shall be allowed:—
- (a) expenses actually and reasonably incurred by him in travelling to and from the court in which the hearing takes place and to and from any place visited for the purpose of preparing or conducting the case; and
- (b) any other out-of-pocket expenses actually and reasonably incurred.

2.—(1) There shall be allowed to counsel acting under a certificate on behalf of an assisted person a basic fee not exceeding £37.75.

(2) Where a hearing has not been 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 this paragraph—

- (a) “relevant period” means either, as the Law Society may determine generally, or as the Legal Aid Committee may determine in relation to any particular hearing, any day during any part of which the hearing continues or any period of five hours, whether continuous or not, during which the hearing continues;
- (b) “refresher fee” means such fee in addition to the fee allowed under sub-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 more than half-an-hour, a fee of £2.35;
- (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) in respect of any application to the court for a case, which is in a list of cases to be heard on any particular day, not to be heard on that day, such fee as appears to be proper in all the circumstances of the case;
- (d) for advice in writing, if in the opinion of the Legal Aid Committee it was reasonably necessary to obtain counsel’s advice in writing, a fee not exceeding £11.00.

3.—(1) Subject to the provisions of this Schedule, the Legal Aid Committee in assessing the sums payable to a solicitor or counsel shall take into account all the relevant circumstances, including the nature, importance, complexity or difficulty of the work, and the time involved, including time spent at the court on any day waiting for the case to be heard, if the case was in that day’s list, and shall allow such amounts as appear to them to represent fair remuneration for the work reasonably undertaken and properly done.

(2) In assessing as aforesaid, the Legal Aid Committee shall not allow any sum in respect of any conference, consultation, attendance or visit unless it is satisfied that such conference, consultation, attendance or visit was reasonably necessary.

4. If it appears to the Legal Aid Committee in assessing the sums payable to a solicitor or counsel that for any reason, including the exceptional length, difficulty or complexity of the case in respect of which the certificate was granted, the sums payable by virtue of this Schedule would not provide fair remuneration according to the work reasonably undertaken and properly done, it shall certify accordingly, and, where it so certifies, any limitation contained in the Schedule on the amount of any fee payable shall not apply, and the Legal Aid Committee shall,

after taking into account all the relevant circumstances of the case and having regard to the considerations mentioned in the preceding paragraph, allow such fees in respect of the work to which the certificate relates as appear to it to represent fair remuneration according to the work reasonably undertaken and properly done.

5. Where a solicitor acting on behalf of an assisted person under a certificate reasonably undertakes work in giving notice of appeal or in applying for a case to be stated and in matters preliminary thereto, being work done within the ordinary time for giving notice or making an application, there shall, in addition to the fees which may be paid to him under the foregoing provisions of this Schedule and his disbursements on the said work, be allowed to him a fee not exceeding £10.50 in respect of the said work and, in any case where counsel's opinion is required, a fee not exceeding £11.00 shall be allowed to counsel for his opinion.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order provides for the remuneration of solicitors and counsel in summary proceedings for which legal aid is given under Part II of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981. It replaces, with minor amendment, the Legal Aid (Remuneration of Solicitors and Counsel in Authorised Summary Proceedings) Order (Northern Ireland) 1965 made under the Legal Aid and Advice Act (Northern Ireland) 1965. That Act has been repealed and consolidated in the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.