
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 112

**The Legal Aid for Crown Court Proceedings
(Costs) Rules (Northern Ireland) 2005**

Determination of solicitors' fees

8.—(1) The Commission shall consider the claim, any further particulars, information or documents submitted by the solicitor under rule 7 and any other relevant information and shall allow such work as appears to it to have been reasonably undertaken and properly done.

(2) Subject to the provisions of this rule, the Commission shall allow fees for work allowed by it under this rule in accordance with Schedule 1.

(3) The Commission may, except in relation to work for which a Guilty Plea 1 Fee is payable or a fixed fee is allowed under paragraph (15), allow any of the following classes of fee to the solicitor in respect of work allowed by it under this rule –

- (a) a Basic Trial Fee or Guilty Plea 2 Fee, as applicable, for preparation and, where appropriate, the first day's hearing including, where they took place on that day, short consultations, applications and appearances (including bail applications), views and any other preparation;
- (b) a Refresher Fee for any day or part of a day during which a hearing continued, including, where they took place on that day, short consultations, applications and appearances (including bail applications), views and any other preparation;
- (c) subsidiary fees for attendance at applications and appearances (including bail applications and adjournments for sentence) not covered by sub-paragraph (a) or (b).

(4) Where a solicitor considers that, owing to the exceptional circumstances of the case (or part of the case which is the subject-matter of the application), the amount payable by way of fees in accordance with paragraphs (2) and (3) would not provide reasonable remuneration for some or all of the work involved, he may apply to the Commission for a Certificate of Exceptionality and the Commission may, in its discretion, grant such application in accordance with paragraph (7).

(5) An application under paragraph (4) shall be made by the solicitor prior to the commencement of the trial; provided that, if satisfied that it was not reasonably practicable for the solicitor to do so, the Commission may accept such application after the conclusion of the proceedings.

(6) When applying for a Certificate of Exceptionality under paragraph (4), the solicitor shall specify –

- (a) the basis upon which the application is made;
- (b) the nature of the work which is the subject-matter of the application; and
- (c) the number of additional hours sought for each piece of work which is the subject-matter of the application.

(7) When considering an application for a Certificate of Exceptionality, the Commission shall have regard, among the matters which are relevant, to –

- (a) whether the issues involved are significantly more complex than other cases involving the same offence or Class of Offence;

- (b) whether the volume of evidence (including any un-used evidentiary material) is significantly greater than that in other cases involving the same offence or Class of Offence;
- (c) any novel issues of law which are involved in the case; and
- (d) any new precedents established in the case,

and if it decides that there are no such exceptional circumstances, the standard fee provided for in Schedule 1 shall apply and no additional funding or other uplift shall be payable.

(8) Where the Commission grants a Certificate of Exceptionality, it shall authorise additional hours, at the rate specified in paragraph (14), up to a specified maximum to cover such additional work as it will approve under the Certificate.

(9) Subject to paragraph (10), the total additional funding approved by the Commission under this rule shall not exceed one hundred and seventy-five per cent of the standard fee provided for in Schedule 1 in respect of the work which is the subject-matter of the application.

(10) If the Commission is satisfied that the circumstances of the case are wholly exceptional, it may approve additional funding up to the maximum amount specified in paragraph (9) and refer the application under paragraph (4) to the taxing master who may approve such further funding as he considers to be reasonable.

(11) Where a Certificate of Exceptionality has been granted by the Commission, the solicitor may carry out additional work up to the specified sum approved under the Certificate.

(12) For the purpose of determining the solicitor's fees in a case in which a Certificate of Exceptionality has been granted, the solicitor shall account to the Commission for the manner in which any additional approved hours were expended.

(13) When determining the solicitor's fees in a case in which a Certificate of Exceptionality has been granted, the Commission shall not allow payment for any additional hours claimed under the Certificate unless satisfied by the solicitor that the additional work was reasonably undertaken and properly done.

(14) The additional hours of work allowed under paragraphs (12) and (13) shall be paid at the rate of £90 per hour, and such payment shall be made to the solicitor together with the fees allowed under paragraph (2).

(15) In any proceedings specified in paragraph 2 of Schedule 1, the Commission shall allow a fixed fee calculated in accordance with paragraphs 19, 20(2) and 21(2) and (3), together with any travelling allowance payable under paragraph 29(1), of that Schedule.