CRIMINAL PROCEDURE, ENGLAND

COSTS AND EXPENSES

1960 No. 258

The Appeal Aid Certificate Rules, 1960

Made - - - - 12*th February,* 1960
Coming into Operation 14*th March,* 1960

In pursance of the power conferred upon me by subsection (8) of section two of the Summary Jurisdiction (Appeals) Act, 1933(a), as read with section twenty-one of the Legal Aid and Advice Act, 1949(b), I hereby make the following Rules:—

1.—(1) There shall be allowed to the solicitor assigned under an appeal aid certificate a fee of not less than £8 8s. 0d. and not exceeding £78 15s. 0d.

(2) Where the hearing of an appeal has not been concluded on the day on which it started there shall be allowed to the solicitor, in addition to the fee allowed under the foregoing paragraph, a daily fee in respect of the second and every subsequent day—

(*a*) where the court is one where a party may appear by a solicitor, and counsel has not been instructed, not exceeding £21 0s. 0d.;

(*b*) in any other case, not exceeding £15 15s. 0d.

(3) In addition to the fees payable under the foregoing provisions of this Rule, the solicitor shall be allowed—

(*a*) expenses actually and reasonably incurred by himself or his clerk in travelling to and from the court at which the appeal is heard or to and from any place visited for the purpose of preparing or conducting the appeal;

(*b*) subject to taxation thereof, any other out-of-pocket expenses actually and reasonably incurred;

2.—(1) There shall be allowed to counsel assigned under an appeal aid certificate a fee of not less than £8 13s. 0d. and not exceeding £64 10s. 0d.

(2) Where the hearing of an appeal 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.

In this paragraph—

(*a*) "relevant period" means either, as the court may determine either generally or in relation to a particular appeal, any day on any part of which the hearing of the appeal is going on or any period of five hours, whether continuous or not, during which the hearing of the appeal is going on;

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

(a) 23 & 24 Geo. 5. c. 38. (b) 12, 13 & 14 Geo. 6. c. 51.

(3) There shall be allowed to counsel, in addition to any fee allowed under the foregoing paragraphs—

(*a*) in respect of any conference or consultation in chambers or elsewhere lasting not more than half an hour, a fee not exceeding £2 7s. 0d.;

(*b*) in respect of any conference or consultation in chambers or elsewhere 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 the appeal to stand out of the list, 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 court it was reasonably necessary to obtain counsel's advice in writing, a fee not exceeding £11 0s. 0d.

3. Where a solicitor or counsel represents two or more appellants in respect of whom appeal aid certificates have been granted and whose appeals are heard together, the amount to be allowed to the solicitor or counsel under, as the case may be, paragraphs (1) and (2) of Rule 1 or paragraphs (1) and (2) of Rule 2 of these Rules shall be increased above the amount which would have been allowed to him if he had been representing only one such appellant (which amount is hereafter in this Rule referred to as the "normal amount") by such amount as appears to be proper in all the circumstances of the case, but save as aforesaid no payment other than one allowed under paragraph (3) of Rule 1, paragraph (3) of Rule 2 or Rule 7 of these Rules, shall be allowed to the solicitor or counsel under these Rules in respect of more than one of the appellants:

Provided that any increase allowed by virtue of this Rule shall not exceed, in any case where the number of appellants is two, forty per cent. of the normal amount, in any case where the number of appellants is three, sixty per cent. thereof, and in any case where the number of appellants exceeds three, a percentage thereof equal to the sum of forty per cent. and a percentage obtained by multiplying twenty by the number by which the number of appellants exceeds two.

4. Where notice of abandonment of an appeal has been received by the clerk of the peace there shall be allowed to the solicitor and to counsel previously assigned under an appeal aid certificate in that appeal, such fees not exceeding the fees mentioned in the foregoing Rules as the court may direct.

5.—(1) Subject to the provisions of these Rules, the sum to be paid to a solicitor or to counsel assigned under an appeal aid certificate shall be determined by the court, which 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 court on any day in waiting for the appeal to be heard if the appeal was in that day's list, and shall allow such amounts as appear to it to be fair remuneration for the work actually and reasonably done.

(2) In determining as aforesaid the sums to be paid to a solicitor or to counsel the court shall not allow any payment in respect of any conference, consultation, attendance or visit unless it is satisfied that such conference, consultation, attendance or visit was reasonably necessary.

(3) In determining as aforesaid the sums to be paid to a solicitor or to counsel the court shall take into account any payment which has already been made to him in the same case under a legal aid certificate.

6. If it appears to the court at any time after the conclusion of the hearing of an appeal in respect of which an appeal aid certificate was granted that for any reason, including the exceptional length, complexity or difficulty of the case, the sums payable under these Rules or any of them, would not provide fair remuneration according to the work actually and reasonably done by the solicitor, or, as the case may be, by counsel, it shall certify accordingly, and where it so certifies any limitation contained in these Rules, or, as the case may be, in such Rule as is mentioned in the certificate, on the amount of any fee payable shall not apply, and the court shall, after taking into account all the relevant circumstances of the case and having regard to the considerations mentioned in Rule 5 of these Rules, 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 actually and reasonably done.

7. Where a solicitor assigned under an appeal aid certificate reasonably undertakes in connection therewith work to which this Rule applies, there shall, in addition to the fees which may be paid to him under the foregoing Rules, be allowed sums in respect of his disbursements on the said work, including, in a case where counsel is also assigned, counsel's fees not exceeding £11 0s. 0d. for his opinion, if any is given, in connection with the work, and a fee not exceeding £10 10s. 0d. in respect of the said work.

The work to which this Rule applies is work in applying for a case to be stated, and in matters preliminary thereto, being work done within the ordinary time for making the application for the case to be stated.

8. Any solicitor or counsel assigned under an appeal aid certificate may, as regards any sum allowed under the foregoing Rules in respect of that appeal aid certificate, or as regards any refusal by the court to grant a certificate under Rule 6 of these Rules, make written representations to the presiding Judge, and the presiding Judge may, having regard to the provisions of the foregoing Rules, make such alteration, if any, as appears to him proper in any sum which has been allowed as aforesaid before such representations, or, as the case may be, may grant the certificate previously refused by the court, and where a certificate is so granted the said Rule 6 shall have effect as if the certificate had been granted thereunder.

9.—(1) In these Rules—

"appeal aid certificate" has the same meaning as in section two of the Summary Jurisdiction (Appeals) Act, 1933;

"legal aid certificate" has the same meaning as in the Poor Prisoners' Defence Act, 1930(**a**);

"presiding Judge" includes the chairman of the court by which an appeal is heard, or, if the appeal is abandoned, by which it might have been heard, a recorder, a deputy recorder and an assistant recorder.

(2) The Interpretation Act, 1889(**b**), shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

10. The Appeal Aid Certificate (Fees and Expenses) Rules, 1953(**c**), and the Appeal Aid Certificate (Fees and Expenses) Rules, 1959(**d**), are hereby revoked.

(**a**) 20 & 21 Geo. 5. c. 32.
(**b**) 52 & 53 Vict. c. 63.
(**c**) S.I. 1953/1428 (1953 I, p. 414).
(**d**) S.I. 1959/2239 (1959 I, p. 843).

11. These Rules shall apply in respect of any appeal aid certificate granted on or after the fourteenth day of March, 1960, and accordingly these Rules shall come into operation on the said date.

12. These Rules may be cited as the Appeal Aid Certificate Rules, 1960.

R. A. Butler,
One of Her Majesty's Principal Secretaries of State.

Home Office,
Whitehall.
12th February, 1960.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules make provision as to the amounts payable under the Summary Jurisdiction (Appeals) Act, 1933, to a solicitor or counsel assigned under an appeal aid certificate in cases of appeals to quarter sessions. Rule 1 relates to the fees and other sums to be allowed to a solicitor; Rule 2 relates to the fees to be allowed to counsel; Rule 3 makes special provision for a case where two or more appellants whose appeals are heard together are represented by the same solicitor or counsel; Rule 4 relates to the payment of fees in cases where an appeal is abandoned; Rule 5 relates to the assessment of the sums to be allowed; Rule 6 makes provision for the allowance of higher fees to be paid in cases where the fees otherwise payable would not represent fair remuneration for the work done; Rule 7 provides for the allowance to a solicitor of a sum in respect of disbursements in connection with an application for a case to be stated; and Rule 8 provides for a review by the presiding Judge, on representations made by a solicitor or counsel, of certain matters arising under the Rules.