STATUTORY RULES OF NORTHERN IRELAND

2019 No. 119

ACCESS TO JUSTICE

The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019

Made - - - -	*18th June 2019*
Coming into operation -	*1st July 2019*

The Department of Justice makes the following Order in exercise of the powers conferred by Articles 12(3) and 47 of the Access to Justice (Northern Ireland) Order 2003(**a**)and now vested in it(**b**).

In accordance with Article 47(2)(a) of the 2003 Order, the Department has consulted with the Lord Chief Justice, the Law Society and the General Council of the Bar of Northern Ireland.

In accordance with Article 47(1) of the 2003 Order, the Department has had regard to the matters specified in that provision.

Citation and commencement

1. This Order may be cited as the Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 and shall come into operation on 1st July 2019.

Amendments to the Civil Legal Services (Remuneration) Order (Northern Ireland) 2015

2. The Civil Legal Services (Remuneration) Order (Northern Ireland) 2015(**c**) is amended as follows.

3. In Article 6—

(1) in paragraph (3)—

(a) for sub-paragraph (b), substitute—

"(b) subject to paragraph (3A), the total liability for such disbursement exceeds £500; and";

(b) in sub-paragraph (c), for "discharged", substitute "incurred";

(2) following paragraph (3), insert—

"(3A) For the purposes of this Article, where a liability has been incurred as a result of the joint instruction of an expert, sub-paragraph (3)(b) shall be deemed to be satisfied provided that the total cost as between those jointly instructing that expert exceeds £500.";

(**a**) S.I. 2003/435 (N.I. 10). Articles 12 and 47 of the 2003 Order were amended by section 6 of, and paragraphs 6(12) and (38) of Schedule 2 to, the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014─2014 c. 11 (N.I.).
(**b**) S.I. 2010/976.
(**c**) S.R. 2015 No. 201 to which relevant amendments were made by S.R. 2016 No. 336 and by S.R. 2016 No. 396.

(3) in paragraphs (10) and (11), for "solicitor", substitute "representative".

4. In Article 8—

(1) omit paragraph (3);

(2) in paragraphs (4), (7) and (8) for "solicitor", substitute "representative".

5. In Article 9(1), for "solicitor", substitute "representative".

6. In Schedule 2—

(1) after paragraph 3(2) in Part 1, insert—

"(3) In respect of any claims for costs made for work done under Tables 2 and 3 of Part 2 of this Schedule, a solicitor may claim for mileage only at the rate of 35.7p per mile. No claim shall be entertained for travel and waiting time.

(4) Unless otherwise prescribed by this Schedule, travel and waiting time may be claimed at the rate of £24.25 per hour and mileage may be claimed at the rate of 35.7p per mile for matters falling within this Schedule.";

(2) for "Letters/Telephone Calls" (wherever occurring), substitute "Letters/Emails/Telephone Calls";

(3) in Table 1 of Part 2—

(a) for "£3.35 per hour", substitute "£3.35 per item / call";

(b) omit "Travel and waiting time £24.25 per hour"; and

(c) omit "Mileage rate 35.7p per mile".

7. In Schedule 3—

(1) in paragraph 2 in Part 1, for "the solicitor shall submit a claim", substitute "the representative shall submit a claim";

(2) in paragraph 3(1) in Part 1, for "solicitor", substitute "representative";

(3) after paragraph 3(2) in Part 1, insert—

"**4.** In this Schedule, any reference to "Letters" or "letters" shall be taken to include reference to emails.

5. In respect of claims for costs made under Table 2 of Part 2 of this Schedule, a solicitor may claim for mileage only at the rate of 35.7p per mile. No claim shall be entertained for travel and waiting time.

6. In respect of claims for costs made under Table 5 of Part 2 of this Schedule, no claim shall be entertained for waiting time.

7. In respect of claims for costs made under Table 7 of Part 2 of this Schedule, travel time may be claimed by solicitors at the rate of £24.25 per hour and no claim shall be entertained for waiting time.

8. In respect of claims for costs made under Tables 1, 2, 3, 5, 8 and 10 in Part 3 of this Schedule, travel time may be claimed by solicitors at the rate of £24.25 per hour.

9. In respect of claims for costs made under Tables 3 and 5 only in Part 3 of this Schedule, waiting time may be claimed by solicitors at the rate of £24.25 per hour. No other claims for waiting time by solicitors shall be entertained for proceedings in Part 3 of this Schedule.

10. In respect of claims for costs made under Table 7 in Part 3 of this Schedule, a solicitor may claim for mileage only at the rate of 35.7p per mile. No claim shall be entertained for travel and waiting time.

11. Unless otherwise prescribed by this Schedule, travel and waiting time, where payable may be claimed by solicitors at the rate of £29.25 per hour and mileage, where payable may be claimed at the rate of 35.7p per mile for proceedings falling within this Schedule.

12. Unless otherwise prescribed by this Schedule, travel time, where payable may be claimed by authorised counsel at the rate of £12 per hour and mileage, where payable may be claimed at the rate of 35.7p per mile for proceedings falling within this Schedule.

13. For the proceedings listed in Part 2 of this Schedule, any claim by a solicitor for travelling and mileage to attend Court shall be from the solicitor's office to which the certificate relates. Any claim by Counsel for travelling and mileage to attend Court shall be from the Bar Library, 91 Chichester Street Belfast BT1 3JQ.

14. For the proceedings listed in Part 3 of this Schedule, any claim by a solicitor for travelling and mileage to attend Court, Tribunal or hearing venue as applicable shall be from the solicitor's office to which the certificate relates. Any claim by Counsel for travelling and mileage to attend Court, Tribunal or hearing venue shall be from the Bar Library, 91 Chichester Street Belfast BT1 3JQ.".

(4) in Tables 3, 6 and 8 of Part 2, for "Consultation", substitute "Consultation and Preparation";

(5) in Tables 1 and 4 of Part 2, for "Preparation", substitute "Consultation (other than with Counsel) and Preparation";

(6) in Table 8 of Part 3, for "Non routine telephone calls", substitute "Non routine telephone calls (over 5 minutes)";

(7) in Table 9 of Part 3, for "Consultation", substitute "Consultation and Preparation".

8. In Schedule 4—

(1) in paragraph 2 in Part 1, for "solicitor", substitute "representative";

(2) after paragraph 6 in Part 1, insert—

"**7.** In this Schedule, any reference to "Letters" or "letters" shall be taken to include reference to emails.

8. For the proceedings listed in Part 2 of this Schedule, any claim by a solicitor for travelling and mileage to attend Court shall be from the solicitor's office to which the certificate relates. Any claim by Counsel for travelling and mileage to attend Court shall be from the Bar Library, 91 Chichester Street Belfast BT1 3JQ.

9. For proceedings falling to be remunerated under Tables 3 to 11 of Part 2 of this Schedule, no claims for waiting time shall be entertained.

10. For proceedings falling within Table 1 of Part 3, no claim for mileage shall be entertained. Any claim by a solicitor for travelling to attend Court shall be from the solicitor's office to which the certificate relates.

11.—(1) For proceedings listed within Tables 2, 3 and 4 of Part 3 of this Schedule and proceedings listed within Part 4 of this Schedule, travel may be claimed as follows and claims shall not be entertained for mileage or waiting—

(a) Counsel travelling to attend a court—

(i) 20 to 50 miles from the Head Post Office, Belfast, is entitled to an additional sum of £23;

(ii) More than 50 miles from the Head Post Office, Belfast, is entitled to an additional sum of £46.

(b) Solicitor travelling to attend a court—

(i) 20 to 50 miles from the solicitor's office, or where the solicitor's firm practises from more than one office, from the office which dealt with the proceedings is entitled to an additional sum of £23;

(ii) More than 50 miles from the solicitor's office, or where the solicitor's firm practises from more than one office, from the office which dealt with the proceedings is entitled to an additional sum of £46.

(2) Where a solicitor or counsel has conducted more than one case in the same day at the same venue, the fee set out in sub-paragraph (1) may be claimed once only and the fee shall be divided proportionately over the number of cases conducted by the solicitor or counsel.

12. In any proceedings listed in Part 5 of this Schedule to which travel and mileage are payable, any claim by a solicitor for travelling and mileage to attend Court shall be from the solicitor's office to which the certificate relates and any claim by Counsel for travelling and mileage to attend Court shall be from the Bar Library, 91 Chichester Street Belfast BT1 3JQ.

13. In respect of claims for costs made under Table 1 of Part 5 of this Schedule, travel may be claimed by solicitor only from the solicitor's office to which the certificate relates at the rate of £15 per hour and mileage at the rate of 35.7p per mile. No claim shall be entertained for waiting time.

14. In respect of any claim for costs made under Table 2 of Part 5 of this Schedule, no claim for travelling or waiting time or mileage shall be entertained.

15. In respect of any claim for costs made under Table 3 of Part 5 of this Schedule, no claim for mileage shall be entertained

16. For the proceedings listed in Part 6 of this Schedule, a solicitor may claim for mileage only from the solicitor's office to which the certificate relates at the rate of 35.7p per mile. No claim shall be entertained for travel and waiting time.

17. Unless otherwise prescribed by this Schedule, travel and waiting time where payable, may be claimed by solicitors at the rate of £29.25 per hour and mileage where payable may be claimed at the rate of 35.7p per mile for proceedings falling within this Schedule.

18. Unless otherwise prescribed by this Schedule, travel time where payable may be claimed by authorised counsel at the rate of £12 per hour and mileage where payable may be claimed at the rate of 35.7p per mile for proceedings falling within this Schedule.".

(3) in Part 2—

(a) under the cross heading, for "Children (Northern Ireland) Order 1995 – including Children Order appeals from the Family Proceedings Court" substitute "All proceedings including appeals from the Family Proceedings Court and Domestic Proceedings Court";

(b) in Table 2, for "Consultation", substitute "Consultation and Preparation";

(c) in Tables 3 to 11—

(i) for "35% of Composite Fee – Case Withdrawn or Transferred" substitute "35% of Composite Fee – Case Withdrawn or Transferred (following first directions hearing but before a final hearing date is set)";

(ii) for "20% of Composite Fee – Case Withdrawn or Transferred" substitute "20% of Composite Fee – Case Withdrawn or Transferred (at first directions hearing)";

(d) in Tables 12 to 19—

(i) for " 35% Brief Fee – Case Withdrawn or Transferred" substitute "35% Brief Fee — Case Withdrawn or Transferred (following first directions hearing but before a final hearing date is set)";

(ii) for "20% Brief Fee — Case Withdrawn or Transferred" substitute "20% Brief Fee — Case Withdrawn or Transferred (at first directions hearing)";

(e) for the heading of Table 6, substitute "Appeals from the Family Proceedings Court and Domestic Proceedings Court – Re Other Proceedings";

(f) for the heading of Table 13, substitute "Appeals from the Family Proceedings Court and Domestic Proceedings Court – No New Evidence";

(g) for the heading of Table 14, substitute "Appeals from the Family Proceedings Court and Domestic Proceedings Court – New Evidence".

(4) in Part 3—

(a) for Table 1, substitute—

"Table 1:

Divorce, Nullity and other Matrimonial Suits – Matrimonial Causes (Northern Ireland) Order 1978 (Withdrawn/Abandoned/ Discontinued Proceedings) – Solicitor

Work Type	Rate
Consultation, Preparation, Travel and Waiting	£30 per hour
Letters and Telephone Calls	£3.35 per item
Non Standard telephone call (over 5 minutes)	£30 per hour"

(b) in footnote (1) referring to Table 2, for "£3.35" substitute "£3.35 per item, non-standard telephone calls (over 5 minutes)- £30 per hour".

(5) in Part 4 after Table 8, insert—

"Table 9:

Proceedings which have been withdrawn, abandoned or discontinued -Full certificates Solicitor

Work Type	Rate
Consultation, Preparation, Waiting and Attending Court	£30 per hour
Letters and Telephone Calls	£3.35 per item
Non Standard telephone call (over 5 minutes)	£30 per hour".

(6) in Part 5—

(a) under the cross heading omit "**High Court Bail Applications"**;

(b) for the heading of Table 1, substitute "High Court Bail Applications and Variation Applications – Standard Fees";

(c) for Table 3, substitute—

"Table 3:

Solicitor – Hourly Rates

Item of Work	Rate
Consultation, Preparation, Travel and Waiting	£94 per hour
Letters and Telephone Calls	£9.40 per item
Non Standard telephone call (over 5 minutes)	£94 per hour".

9. In Schedule 5, in paragraph 2 in Part 1, for “solicitor”, substitute “representative”.

Sealed with the Official Seal of the Department of Justice on 18th June 2019



Peter May
A senior officer of the Department of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Civil Legal Services (Remuneration) Order (Northern Ireland) 2015 ("the 2015 Order"). The primary purpose of this amending Order is to make technical amendments to correct a number of errors and omissions in the 2015 Order. These changes are of a minor nature, including amendments to table headings, extending the references to "letters" to include "emails" in appropriate contexts, and the corrections of a reference to paying letters and phone calls from a "per hour" basis to a "per item basis".

The 2015 Order does not make explicit references to all of the various rates of payment for travel, as applicable to the type of representative across the various types of proceedings. The amendments make provision for the payment of travel time and mileage in all relevant proceedings, replicating the payments currently made to representatives. In addition, starting points from which travel may be claimed by representatives are inserted into Part 1 of Schedules 3 and 4. Again this replicates how payments are currently made.

In addition to those amendments to clarify the current payments, a new Table 9 in Part 4 of Schedule 4 to the 2015 Order has been added. This is to highlight and reflect those payments that are currently being paid to a solicitor in certain County Court proceedings when proceedings have been withdrawn, abandoned or discontinued, where there is a full certificate in force.

The amending Order introduces two changes. This first intends to improve the arrangements for a solicitor claiming an interim disbursement payment for an expert witness report. The amendments are to Article 6. At present, one solicitor must firstly discharge a liability of over £500, before he or she can make a claim. The amendments make it so that when that a liability has been incurred as a result of a joint instruction of an expert and the total cost of those instructing exceeds £500, a solicitor may make a claim for an interim disbursement. The claim may be made when the liability has been incurred as opposed to it being discharged.

The second change is to facilitate the ability of counsel to submit their claim for costs and interim costs directly. These amendments are to Articles 6, 8 and 9.

The Order comes into operation on the 1st July 2019.

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