1960 No. 259

The Criminal Appeal (Fees and Expenses) Regulations, 1960

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

In pursuance of the powers conferred upon me by section twelve of the Costs in Criminal Cases Act, 1952(a), as read with section twenty-one of the Legal Aid and Advice Act, 1949(b), I hereby make the following Regulations:—

1.—(1) There shall be allowed to the solicitor assigned to an appellant by the court a fee of not less than £8 8s. 0d. and not exceeding £78 15s. 0d., or, in a case where two counsel have been assigned, such fee as appears to represent fair remuneration according to the work done.

(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 not exceeding £15 15s. 0d.

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

(*a*) expenses actually and reasonably incurred by himself or his clerk in travelling to or from the court and 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 to an appellant by the court a fee of not less than £8 13s. 0d. and not exceeding £64 10s. 0d., or, in the case of two counsel being so assigned, such fees as appear to be proper in all the circumstances of the case.

(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) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 48. (b) 12, 13 & 14 Geo. 6. c. 51.

(3) There shall be allowed to counsel, in addition to any fees 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., or in the case of two counsel being assigned, such fees as appear proper in all the circumstances of the case;

(*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., or, in the case of two counsel being assigned, such fees as appear proper in all the circumstances of the case.

3. Where a solicitor or counsel represents two or more appellants to whom he has been assigned by the court, 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 Regulation 1 or paragraphs (1) and (2) of Regulation 2 of these Regulations 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 Regulation 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 fee, other than any fee allowed under paragraph (3) of Regulation 1 or paragraph (3) of Regulation 2 of these Regulations, shall be allowed to the solicitor or counsel under the said Regulations in respect of more than one of the appellants:

Provided that any increase allowed by virtue of this Regulation 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 Registrar, there shall be allowed to the solicitor and to counsel previously assigned to the appellant such fees not exceeding the sums mentioned in the foregoing Regulations as the Registrar may direct.

5. The expenses of any witness attending on the order of the court or examined in any proceedings incidental to the appeal shall be allowed on the appropriate scale prescribed for witnesses by the Witnesses' Allowances Regulations.

6. The expenses of the appearance of an appellant not in custody on the hearing of his appeal to the court or on any proceedings preliminary or incidental to his appeal, may be allowed on the scale prescribed for an ordinary witness by the Witnesses' Allowances Regulations.

7.—(1) Subject to the provisions of these Regulations, the sum to be paid to a solicitor or to counsel assigned to an appellant shall be determined by the Registrar who 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 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 him to represent 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 Registrar shall not allow any payment in respect of any conference, consultation, attendance or visit unless he is satisfied that such conference, consultation, attendance or visit was reasonably necessary.

8. If it appears to the Registrar at any time after the conclusion of an appeal that for any reason, including the exceptional length, complexity or difficulty of the case, the sums payable by virtue of these Regulations 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, he shall certify accordingly, and where he so certifies any limitation contained in these Regulations or, as the case may be, in such Regulation as is mentioned in the certificate, on the amount of any fee payable shall not apply, and the Registrar shall, after taking into account all the relevant circumstances of the case, and having regard to the considerations mentioned in Regulation 7 of these Regulations, allow such fees in respect of the work to which the certificate relates as appear to him to represent fair remuneration according to the work actually and reasonably done.

9.—(1) In these Regulations—

"appeal" includes application for leave to appeal and "appellant" shall be construed accordingly;

"court" means the Court of Criminal Appeal;

"Registrar" means the Registrar of the Court of Criminal Appeal;

"Witnesses' Allowances Regulations" means the Witnesses' Allowances Regulations, 1955(a), as amended by any other Regulations, or any Regulations made under section twelve of the Costs in Criminal Cases Act, 1952, replacing those Regulations.

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

10. The Criminal Appeal (Fees and Expenses) Regulations, 1953(c), are hereby revoked.

11. These Regulations may be cited as the Criminal Appeal (Fees and Expenses) Regulations, 1960.

12. These Regulations shall apply in respect of any sums paid to any solicitor or counsel assigned on or after the fourteenth day of March, 1960, to an appellant under section ten of the Criminal Appeal Act, 1907(d), and accordingly these Regulations shall come into operation on the said date.

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

Home Office,
Whitehall.
12th February, 1960.

(a) S.I. 1955/1655 (1955 I, p. 555)
(b) 52 & 53 Vict. c. 63.
(c) S.I. 1953/1430 (1953 I, p. 416).
(d) 7 Edw. 7. c. 23.

EXPLANATORY NOTE

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

These Regulations make provision as to the costs payable under the Costs in Criminal Cases Act, 1952, in cases of appeal to the Court of Criminal Appeal. Regulation 1 relates to the fees and other sums payable to a solicitor assigned to an appellant by the court; Regulation 2 relates to the fees to be allowed to counsel so assigned; Regulation 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; Regulation 4 relates to the payment of fees in cases where an appeal is abandoned; Regulation 5 relates to the payment of witnesses' allowances; Regulation 6 relates to the expenses of the appearance of an appellant not in custody; Regulation 7 relates to the assessment of the sums to be allowed to a solicitor or counsel assigned to an appellant; and Regulation 8 makes provision for the allowance of higher fees to be paid in a case where the fees otherwise payable would not represent fair remuneration for the work done.