STATUTORY RULES OF NORTHERN IRELAND

2014 No. 178

LEGAL AID AND ADVICE

The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) (Amendment) Rules (Northern Ireland) 2014

Made - - - -	*17th June 2014*
Coming into operation -	*26th June 2014*

The Department of Justice makes the following Rules in exercise of the powers conferred by Article 36(3) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(**a**), and now vested in it(**b**).

In accordance with Article 36(3) of that Order, the Department has consulted with the Lord Chief Justice, the Attorney General, the County Court Rules Committee and the Magistrates' Courts Rules Committee and it has obtained the approval of the Department of Finance and Personnel.

In accordance with Article 37 of that Order, the Department has had regard to the matters specified in that Article.

Citation, commencement and application

1. These Rules may be cited as the Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) (Amendment) Rules (Northern Ireland) 2014 and shall come into operation on 26th June 2014.

2. In these Rules a reference to a rule or Schedule by number alone is a reference to the rule or Schedule so numbered in or to the Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009(**c**).

3. These Rules apply for the determination of costs which are payable in respect of work done under a criminal aid certificate granted under Article 28, 28A or 30 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 on or after 26th June 2014.

Amendments to the Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009

4. The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009 are amended as follows.

(**a**) S.I. 1981/228 (N.I. 8)
(**b**) S.I. 1982/159 and S.I. 2010/976
(**c**) S.R. 2009 No. 313

5. In each place where it appears, for the term "Guilty Plea 1 Fee" substitute the term "Guilty Plea Fee".

6. In rule 2—

(a) omit the definition of "the Court Service";

(b) after the definition of "court-ordered youth conference", insert—

""the Department" means the Department of Justice established by the Department of Justice Act (Northern Ireland) 2010(**a**);";

(c) omit the definition of "Guilty Plea 2 Fee";

(d) after the definition of "meeting", insert—

""Newton hearing" means a hearing at which evidence is heard for the purpose of determining the sentence of a convicted person in accordance with the principles of R v Newton (1982) 77 Cr App R 13;";

(e) omit the definition of "a Very High Cost Case".

7. Omit rule 5(2).

8. In rule 6(1) omit "Subject to rules 9 and 10,".

9. In rule 6(4) omit "Subject to paragraph (5),".

10. Omit rule 6(5).

11. In rule 8(1) omit "Subject to rules 9 and 10,".

12. In rule 8(3) omit "Subject to paragraph (4),".

13. Omit rule 8(4).

14. Omit rules 9 and 10.

15. Omit rule 12(1)(c).

16. In rule 12(3) omit "or the determination of fees under rule 10".

17. In rule 13(14) omit "or 10".

18. In rule 16—

(a) in each place where it appears, for the term "the Court Service" substitute the term "the Department";

(b) in paragraph (4)(a), after "the Lord Chief Justice," insert "the Attorney-General,";

(c) for paragraph (5), substitute—

"In paragraph (2) "review period" means the period of three years beginning with 26th June 2014 and each subsequent period of three years.".

19. In Schedule 1—

(a) in paragraph 1(1), omit "Subject to sub-paragraph (2),";

(b) omit paragraph 1(2);

(c) in paragraph 3(2), omit the words "Subject to sub-paragraph (3),";

(d) omit paragraph 3(3);

(e) after paragraph 6(1)(b), insert—

(**a**) 2010 c. 3 (N.I.)

"(bb) where there was an application by the assisted person to the magistrates' court for compassionate bail under section 91 of the Justice Act (Northern Ireland) 2011(**a**);";

(f) in paragraph 6(2), after "as appropriate to the representative" insert "and the nature of the bail application";

(g) after paragraph 8, insert—

"**8A.**—(1) This paragraph applies to a case in the magistrates' court which was listed for, but did not proceed as, a contest because the assisted person pleaded guilty to one or more charges.

(2) Subject to sub-paragraph (3), the additional fee set out in the Table following paragraph 9 shall be payable, as appropriate to the representative and the offence with which the assisted person was charged.

(3) Where the court assigned counsel under Article 28 of the 1981 Order, the additional fee shall be payable to counsel but not to the solicitor.

8B.—(1) This paragraph applies to a case which was listed for committal to the Crown Court, whether or not the assisted person was in fact returned for trial.

(2) Where the number of pages of prosecution evidence forming part of the committal bundle exceeds 750 pages, the additional fee set out in the Table following paragraph 9 shall be payable as appropriate to the representative.

(3) For the purposes of this paragraph the pages of prosecution evidence forming part of the committal bundle includes all witness statements, documentary and pictorial exhibits, records of interviews with the assisted person and records of interviews with other defendants.";

(h) following paragraph 9, for the Table of Standard Fees, substitute the following Table—

"(1)	*Paragraph providing for fee (2)*	*Solicitor's Fee (3)*	*Counsel's Fee (4)*
Cases heard in the magistrates' court			
Category of offence and nature of disposal of the case			
Summary offence			
-Guilty Plea Fee	4	£260	N/A
-Contest Fee		£470	N/A
Hybrid or I/TS offence			
-Guilty Plea Fee	4	£275	£275
-Contest Fee		£590	£550
Indictable only offence			
-Guilty Plea Fee	4	£300	£300
-Contest Fee		£600	£600
Hybrid, I/TS or indictable only offence			
-Committal Fee	4	£820	£800

(**a**) 2011 c. 24 (N.I.)

Child charged with indictable only offence			
-Guilty Plea Fee	5	£820	£800
-Contest Fee		£1,000	£1,000
Compassionate Bail Application Fee	6(1)(bb)	£180	£180
Other Bail Application Fee	6	£75	£120
Additional Hearing Fee	8	£200 per day	£200 per day
Additional Contest Preparation Fee	8A		
-Summary offence		£75	N/A
-Hybrid or I/TS offence		£100	£100
-Indictable only offence		£100	£100
Additional Committal Preparation Fee	8B	£410	£400
Cases appealed to the county court			
Nature of disposal of the appeal			
Appeal against sentence fee	7(1)	£265	£115
Appeal against conviction fee	7(1)	£355	£350
Withdrawn appeal	7(2)	£145	£50
Additional Hearing Fee	8	£200 per day	£200 per day
Diversionary youth conferences (Preparation and Attendance)	9(1)(a)		
Lower standard fee			
-Conferences lasting up to and including one hour		£112	£84
Principal standard fee			
-Conferences lasting more than one hour but not exceeding two hours		£180	£135
Court-ordered youth conferences (Attendance only)	9(1)(b)		
Lower standard fee			
-Conferences lasting up to and including one hour		£70	£70
Principal standard fee			
-Conferences lasting more than one hour but not exceeding two hours		£112.50	£112.50”

(i) in paragraph 12(5), after “Subject to sub-paragraphs” insert “(5A),”;

(j) after paragraph 12(5), insert—

“(5A) Where, after the arrest warrant is executed, the case is disposed of as a contest, the fee payable to the representative shall be the difference between the Contest Fee provided

for under paragraph 4 or 5, as applicable, and the fee (if any) paid under sub-paragraph (2).
";

(k) after paragraph 12, insert—

"**12A.**—(1) This paragraph applies where the assisted person failed to appear in court, the case proceeded as a contest and, upon conviction, an arrest warrant was issued.

(2) Without prejudice to any fee which may be payable under paragraph 4 or 5, as applicable, when the arrest warrant is executed and the assisted person is produced again in court, an additional fee shall be payable.

(3) Subject to sub-paragraph (4), the additional fee payable under sub-paragraph (2) shall be fifty per cent of the standard Guilty Plea Fee provided for in Part 2 as appropriate to the representative and the offence with which the assisted person was charged.

(4) Where a significant period of time had elapsed since the issuing of the arrest warrant, the Commission may, at its discretion, allow up to one hundred per cent of the standard Guilty Plea Fee.";

(l) after paragraph 14(1)(e), insert—

"(f) the hearing of an application for a witness anonymity order under section 87 of the Coroners and Justice Act 2009(**a**);

(g) the hearing of an application for severance under Article 155 of the Magistrates' Courts (Northern Ireland) Order 1981(**b**); or

(h) the hearing of an application under Article 118A of the Magistrates' Courts (Northern Ireland) Order 1981 for disclosure of material held by third parties.";

(m) after paragraph 15(2)(b), insert—

"(c) in any other circumstances, fifty per cent of the standard Guilty Plea Fee provided for in Part 2 as appropriate to the representative and the offence with which the assisted person was charged.";

(n) after paragraph 15, insert—

"**15A.**—(1) This paragraph applies where, following the conviction of the assisted person, there is a change of representative in the magistrates' court and the court grants a fresh criminal aid certificate for the purposes of the sentencing hearing.

(2) The fee payable to the new representative shall be fifty per cent of the standard Guilty Plea Fee provided for in Part 2 as appropriate to the representative and the offence with which the assisted person was charged.";

(o) after paragraph 18, insert—

"Fine default Hearings

18A.—(1) This paragraph applies where a criminal aid certificate was granted for a Fine Default Hearing at which the court will consider the exercise of its powers under Article 92 of the Magistrates' Courts (Northern Ireland) Order 1981 in respect of the enforcement of a sum adjudged to be paid on conviction.

(2) The fixed fee of £75 shall be payable to the assigned solicitor for attending at the Fine Default Hearing.

Newton Hearings

18B.—(1) This paragraph applies where a Newton hearing took place in the magistrates' court.

(**a**) 2009 c. 25
(**b**) S.I. 1981/1675 (N.I. 26)

(2) An uplift of fifty per cent shall be payable on the standard Guilty Plea Fee provided for in Part 2 as appropriate to the representative and the offence with which the assisted person was charged.".

20. Omit Schedule 2.

Sealed with the Official Seal of the Department of Justice on 17th June 2014



David Ford
Minister of Justice

The Department of Finance and Personnel hereby approves the foregoing Rules

Sealed with the Official Seal of the Department of Finance and Personnel on 18th June 2014



Joanne McBurney
A senior officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009, which prescribe the remuneration for solicitors and counsel assigned under Articles 28, 28A or 30 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.

The Rules—

- revoke the separate provision made for the payment of Guilty Plea 2 Fees (rules 5, 6(c) and 19(h));
- revoke the separate provision made for special hourly rates of payment in Very High Cost Cases (rules 6(e), 14 and 20);
- make provision for the fees payable in respect of compassionate bail hearings under section 91 of the Justice Act (Northern Ireland) 2011 (rule 19(e), (f) and (h));
- make provision for the payment of an additional fee in respect of preparation work in magistrates' courts cases which are listed for, but do not proceed as, a contest (rule 19(g) and (h));
- make provision for the payment of an additional fee in respect of preparation work in committal cases where the number of pages of prosecution evidence exceeds 750 pages (rule 19(g) and (h));
- introduce new provisions for the payment of additional fees in respect of arrest warrants, applications for witness anonymity orders, severance orders and third party disclosure, and cases involving the dismissal or withdrawal of the representative (rule 19(j) to (m));
- introduce a new provision for the payment of a fee in respect of a sentencing hearing, where there is a change of representative following the conviction of the assisted person (rule 19(n));
- introduce new provisions for the payment of a fixed fee in respect of Fine Default Hearings and for additional fees in respect of Newton hearings (rule 19(o));
- make other minor and consequential amendments.

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