EXPLANATORY NOTE

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

This Order, which comes into operation on 30th June, 1964, amends the Rope, Twine and Net Wages Regulation Order (Northern Ireland) 1961 (Order N.I.R. (78)), as amended by the Rope, Twine and Net Wages Regulation (Amendment) Order (Northern Ireland) 1963 (Order N.I.R. (82)) by increasing the statutory minimum remuneration fixed by those Orders.

Order N.I.R. (82) is revoked.

New provisions in the Schedule are printed in italics.

SR+O. 1965. No. 121. — ..... shall remain in force until 1/1/66 unless sooner revoked.

1964. No. 96 [C]

CRIMINAL PROCEDURE: POOR PERSONS' DEFENCE

RULES, DATED 17TH JUNE, 1964, MADE BY THE MINISTRY OF HOME AFFAIRS, WITH THE APPROVAL OF THE LORD CHIEF JUSTICE AND THE MINISTRY OF FINANCE, UNDER SECTION 43 OF THE CRIMINAL JUSTICE ACT (NORTHERN IRELAND) 1945, AS MODIFIED BY SECTION 4 OF THE SUMMARY JURISDICTION ACT (NORTHERN IRELAND) 1953.

The Ministry of Home Affairs (hereinafter referred to as "the Ministry") in exercise of the powers conferred on it by Section 43 of the Criminal Justice Act (Northern Ireland) 1945(**a**) (hereinafter referred to as "the Act"), as modified by Section 4 of the Summary Jurisdiction Act (Northern Ireland) 1953(**b**), and of all other powers in that behalf thereunto enabling it, hereby makes the following Rules: —

List of Solicitors willing to act

1.—(1) The Clerk of the Crown and Peace for each County shall keep a list of Solicitors practising in the County who are willing to undertake the defence of poor persons, and shall send a copy of such list to each Clerk of Petty Sessions in the County.

(2) The Clerk of the Crown and Peace shall remove the name of any Solicitor from the list, either on the application of the Solicitor himself or by direction of any Judge.

List of Counsel willing to act

2.—(1) The Clerk of the Crown and Peace for each County shall keep a list of members of the Bar who are willing to appear as Counsel for poor persons, and shall send a copy of such list to each Clerk of Petty Sessions in the County.

(2) The Clerk of the Crown and Peace shall remove the name of any member of the Bar from the list, either on the application of the member himself or by direction of any Judge.

(a) 1945. c. 15. **(b)** 1953. c. 3.

List of applications for Defence Certificates

3.—(1) Each Clerk of the Crown and Peace and each Clerk of Petty Sessions shall keep a list of all cases in which application for a Defence Certificate is made to a certifying authority for which he acts or in which such Certificate is offered by such a certifying authority and shall record therein for each case (*a*) the name of the person returned for trial, (*b*) in general terms the charge or charges preferred, and (*c*) the date and result of such application. Each Clerk of the Crown and Peace shall include in his list particulars of every case in which the defence of any person is undertaken at the request of a Judge in the circumstances described in sub-section (2) of Section 43 of the Act.

(2) Each Clerk of the Crown and Peace and each Clerk of Petty Sessions shall send to the Ministry a copy of the list specified in paragraph (1) at such times as the Ministry may from time to time direct.

Defence Certificates

4.—(1) A Defence Certificate granted by a Court of Summary Jurisdiction shall be in Form A(i) or A(ii) in the Schedule hereto, and the Clerk of Petty Sessions shall, as soon as a Certificate has been granted, send a copy thereof to the Clerk of the Crown and Peace.

(2) A Defence Certificate granted by a Judge shall be in Form B(i) or B(ii) in the Schedule hereto.

(3) A certifying authority shall, when granting a Defence Certificate, after taking into account any representations which the person charged may make, assign to him, from the list kept in pursuance of Rule 1 hereof, a Solicitor, to whose services the person shall be entitled.

(4) Where the charge is one of murder, or the case appears to present exceptional difficulties, a certifying authority may certify that in its opinion the interests of justice require that the person charged shall have the assistance of two Counsel.

(5) The Clerk of the Crown and Peace shall furnish to the Solicitor assigned as aforesaid a copy of the depositions in the case.

(6) Any member of the Bar whose name appears in the list kept in pursuance of Rule 2 hereof may be instructed, on behalf of the person charged, by the Solicitor assigned as aforesaid, and, in any case in which a certifying authority has given a certificate as provided for in paragraph (4) of this Rule, one such member of the Bar and a member of the Bar, being one of Her Majesty's Counsel who has expressed his willingness to undertake the defence, may be so instructed. Any member of the Bar instructed as aforesaid shall, for the purposes of these Rules, be regarded as having been assigned in pursuance of a Defence Certificate.

Fees for Solicitors

5.—(1) Subject to the provisions of Rule 8 hereof, there shall be allowed to a Solicitor assigned in pursuance of a Defence Certificate on the trial or re-trial of a case other than a case of murder a fee of an amount, not being less than £8 8s. 0d. nor more than £36 15s. 0d., to be determined in accordance with the provisions of Rule 7.

(2) Where the trial or re-trial of a case other than a case of murder has lasted more than one full day there shall be allowed to the Solicitor, in addition

to the fee allowed under paragraph (1) of this Rule, a daily fee, in respect of the second and every subsequent day, of one quarter of the fee allowed under paragraph (1) of this Rule.

(3) Subject to the provisions of Rule 8 hereof there shall be allowed to a Solicitor assigned in pursuance of a Defence Certificate on the trial or re-trial of a case of murder a fee of £42 where one Counsel has been assigned or a fee of £52 10s. 0d. where two Counsel have been assigned.

(4) Where the trial or re-trial of a case of murder has lasted more than one full day there shall be allowed to the Solicitor, in addition to the fee allowed under paragraph (3) of this Rule, a daily fee, in respect of the second and every subsequent day, of £12 12s. 0d.

(5) Notwithstanding the foregoing provisions of this Rule, the Judge may, if he thinks fit, within seven days following the conclusion of the trial or re-trial, certify that the case was one of exceptional length or difficulty, and thereupon the fees payable to the Solicitor may be increased to such sum as the Judge may direct, together with such daily fee as he may direct in respect of each day for which the trial or re-trial has lasted, other than the first day.

(6) In addition to any fees payable under the foregoing provisions of this Rule, the Solicitor may be allowed travelling expenses actually and necessarily incurred by himself and his Clerk on the scale applicable to the travelling expenses of witnesses for the prosecution, and also, subject to taxation thereof if the Ministry so directs, any other out-of-pocket expenses which he has actually and reasonably incurred.

Fees for Counsel

6.—(1) Subject to the provisions of Rule 8 hereof, there shall be allowed to any Counsel assigned in pursuance of a Defence Certificate on the trial or re-trial of a case other than a case of murder a fee of an amount, not being less than £8 8s. 0d. nor more than £36 15s. 0d., to be determined in accordance with the provisions of Rule 7.

(2) Where the trial or re-trial of a case other than a case of murder has lasted more than one full day there shall be allowed to Counsel, in addition to the fee allowed under paragraph (1) of this Rule, a daily fee, in respect of the second and every subsequent day, of one third of the fee allowed to such Counsel under paragraph (1) of this Rule.

(3) Subject to the provisions of Rule 8 hereof there shall be allowed to Counsel assigned in pursuance of a Defence Certificate on the trial or re-trial of a case of murder a fee of £52 10s. 0d. or, if two Counsel have been assigned, a fee of £63 for Senior Counsel and £42 for Junior Counsel.

(4) Where a trial or re-trial of a case of murder has lasted for more than one full day there shall be allowed to Counsel, in addition to the fee allowed under paragraph (3) of this Rule, a daily fee, in respect of the second and every subsequent day, of one third of the fee allowed under the said paragraph.

(5) Notwithstanding the foregoing provisions of this Rule, the Judge may, if he thinks fit, within seven days following the conclusion of the trial or re-trial, certify that the case was one of exceptional length or difficulty, and thereupon the fees payable to Counsel may be increased to such sum as the Judge may direct, together with such daily fee as he may direct in respect of each day for which the trial or re-trial has lasted, other than the first day.

7. The amount of the fees to be paid to Solicitor and Counsel under Rules 5(1) and 6(1), as the case may be, shall be determined by the Attorney General on application being made to him by the Solicitor for the accused person and in default of such application being made before the trial the fees to be paid to Solicitor and Counsel under Rules 5(1) and 6(1) shall be the minimum fees respectively provided for in the said Rules.

More than one Defence Certificate granted

8. Where more than one charge is brought at the same Court against any person in respect of whom more than one Defence Certificate has been granted, fees shall be allowed to the Solicitor and Counsel assigned as aforesaid as if only one Defence Certificate had been granted in respect of that person, unless the Judge order otherwise.

Revocation

9. The Poor Persons (Defence Certificates) Rules (Northern Ireland) 1956(a) are hereby revoked, but without prejudice to the validity of any Defence Certificates granted under those Rules, which Defence Certificates shall, in relation to any trial commencing on or after the date from which these Rules take effect, be deemed to have been granted under these Rules.

SR&O. 1965 No. 121

Citation, Commencement and Duration

10. These Rules may be cited as the Poor Persons (Defence Certificates) Rules (Northern Ireland) 1964, and shall have effect ~~as from the first day of July, 1964, for a period not exceeding one year~~ until the first day of January 1966, unless sooner revoked.

shall remain in force until

unless sooner revoked.

Sealed with the Official Seal of the Ministry of Home Affairs for Northern Ireland this 17th day of June, 1964, in the presence of

(L.S.)

J. G. Hill,
Assistant Secretary.

I hereby approve of the foregoing Rules.

Given under my hand at Belfast this 18th day of June, 1964.

MacDermott,
Lord Chief Justice of Northern Ireland.

The Ministry of Finance for Northern Ireland hereby approves of the foregoing Rules.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 19th day of June, 1964, in the presence of

(L.S.)

W. W. Arthur,
Assistant Secretary.

(a) S.R. & O. (N.I.) 1956, No. 1.

SCHEDULE

FORM A(i)

Defence Certificate of Court of Summary Jurisdiction where the charge is one of Murder

I, **A.B.,** being a Resident Magistrate (or Justice of the Peace), having committed for trial on a charge of murder and being satisfied that his means are insufficient to enable him to obtain legal aid in the preparation and conduct of his defence at the trial, do hereby grant in respect of him this Defence Certificate and assign to him as solicitor

(And I certify that in my opinion the interests of justice require that he shall have the assistance of two Counsel.)

(Signed) **A.B.**
Resident Magistrate or
Justice of the Peace
for the County of

Date

FORM A(ii)

Defence Certificate of Court of Summary Jurisdiction where the charge is other than Murder

I, **A.B.,** being a Resident Magistrate (or Justice of the Peace), having committed for trial on a charge (charges) of and being satisfied, having regard to all the circumstances of the case (including the nature of such defence, if any, as may have been set up by him), that it is desirable in the interests of justice that he should have legal aid in the preparation and conduct of his defence at the trial and that his means are insufficient to enable him to obtain such aid, do hereby grant in respect of him this Defence Certificate and assign to him as solicitor

(And I certify that in my opinion, by reason of the case appearing to present exceptional difficulty, the interests of justice require that he shall have the assistance of two Counsel.)

(Signed) **A.B.**
Resident Magistrate or
Justice of the Peace
for the County of

Date

FORM B(i)

Defence Certificate of Judge where the charge is one of Murder

I, **A.B.,** having regard to the fact that
is committed for trial on the charge of murder and being satisfied that his means are insufficient to enable him to obtain legal aid in the preparation and conduct of his defence at the trial, do hereby grant in respect of him this Defence Certificate and assign to him as solicitor

(And I certify that in my opinion the interests of justice require that he shall have the assistance of two Counsel.)

(Signed) **A.B.**
One of Her Majesty's Judges of the High Court

Date

FORM B(ii)

Defence Certificate of Judge where the charge is other than Murder

I, **A.B.,** being satisfied, having regard to all the circumstances of the case (including the nature of the defence, if any, set up by), that it is desirable in the interests of justice that he should have legal aid in the preparation and conduct of his defence at the trial and that his means are insufficient to enable him to obtain such aid, do hereby grant him this Defence Certificate and assign to him as solicitor

(And I certify that in my opinion, by reason of the case appearing to present exceptional difficulty, the interests of justice require that he shall have the assistance of two Counsel.)

(Signed) **A.B.**
One of Her Majesty's Judges of the High Court or Recorder (or Deputy Recorder) of
or County Court Judge (or Deputy County Court Judge) of

Date

1964. No. 97

This Order has been exempted from printing by the Statutory Rules Act (Northern Ireland) 1958. A summary is given in the List of Statutory Rules and Orders of a Local Character under the heading LOCAL GOVERNMENT.