1963 No. 36

CRIMINAL PROCEDURE, ENGLAND AND WALES

The Poor Prisoners' Defence (Defence Certificate) Regulations 1963

Made - - - -	10*th January* 1963
Coming into Operation	1*st February* 1963

In pursuance of the power conferred upon me by section 12 of the Costs in Criminal Cases Act 1952(a), as that section applies in relation to costs directed by virtue of section 3 of the Poor Prisoners' Defence Act 1930(b), to be paid out of local funds, and as read with section 21 of the Legal Aid and Advice Act 1949(c), I hereby make the following Regulations:—

1. For paragraph (2) of Regulation 2 of the Poor Prisoners' Defence (Defence Certificate) Regulations 1960(d) (which makes provision for the payment to counsel assigned under a defence certificate of a refresher fee in certain circumstances), there shall be substituted the following paragraph, that is to say:—

"(2) Where a trial has not concluded at the end of the first relevant period thereof there shall, in addition to the fee allowed under the foregoing paragraph, 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.

A refresher fee allowed under this paragraph shall, subject to the limits hereinafter specified, be such as appears to be proper in all the circumstances of the case.

Such a refresher fee as aforesaid shall not exceed one half of the fee allowed under the foregoing paragraph unless the proportion borne by any refresher fee payable to counsel for the prosecution in the case to the basic fee exceeds one half, in which case the refresher fee allowed under this paragraph shall not exceed such amount as bears the like proportion to the fee allowed under the foregoing paragraph.

In this paragraph 'basic fee' means the fee payable in respect of the actual conduct of the prosecution in court at the trial exclusive of any refresher fee, and 'relevant period' means either, as the court may determine, either generally or in relation to any particular trial, any day on any part of which the trial is going on or any period of five hours, whether continuous or not, during which the trial is going on.".

2. In sub-paragraph (*a*) of paragraph (3) of the said Regulation 2 (which makes provision for the payment to such counsel as aforesaid in respect of any conference or consultation not lasting more than half an hour of a fee not exceeding £2 7s. 0d.), for the words "not exceeding" there shall be substituted the word "of".

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 48.
(b) 20 & 21 Geo. 5. c. 32.
(c) 12, 13 & 14 Geo. 6. c. 51
(d) S.I. 1960/260 (1960 I, p. 845).

3. In sub-paragraph (*c*) of the said paragraph (3) (which makes provision for the payment to such counsel in respect of any application to the court for a case to be stood out of the list of such fee as appears to be proper in all the circumstances), after the words " in respect of " there shall be inserted the words " any appearance on ".

4. After paragraph (1) of Regulation 4 of the said Regulations (which relates to the matters to be taken into consideration by the court in determining the sum to be paid to a solicitor or counsel assigned under a defence certificate or to counsel who has undertaken a defence under section 3 (3) of the Poor Prisoners' Defence Act 1930), there shall be inserted the following paragraph, that is to say:—

" (1A) If the work done by a solicitor or counsel assigned as aforesaid or by counsel who has undertaken a defence under the said subsection (3) includes work done in relation to more than one indictment, or in relation to a retrial, the court shall take account thereof in determining as aforesaid the sum to be paid to him.".

5. These Regulations may be cited as the Poor Prisoners' Defence (Defence Certificate) Regulations 1963 and shall come into operation on 1st February 1963.

Henry Brooke,
One of Her Majesty's Principal Secretaries of State.

Home Office,
Whitehall.

10th January 1963.

EXPLANATORY NOTE

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

These Regulations amend the Poor Prisoners' Defence (Defence Certificate) Regulations 1960 in relation to the fees payable to counsel and solicitors assigned under a defence certificate granted under section 1 of the Poor Prisoners' Defence Act 1930 or to counsel who undertakes a defence at the request of the presiding judge. Under Regulation 1, the maximum refresher fee payable to counsel in certain circumstances is raised in cases where the refresher fee of prosecuting counsel is determined by reference to a higher rate. Under Regulation 2, the former maximum fee payable to counsel for a short conference is made the standard fee. Regulation 3 removes a doubt whether the fee payable to counsel in respect of an application for a case to stand out of the list is payable where counsel appears on such an application made by counsel for the prosecution. Regulation 4 requires the court, in determining the sum payable to solicitors or counsel in cases where one defence certificate covers more than one indictment, or a retrial, to take account of that fact.