1960 No. 261

The Poor Prisoners' Defence (Legal Aid Certificate) Regulations, 1960

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

In pursuance of the powers conferred upon me by sections twenty-one and twenty-two of the Legal Aid and Advice Act, 1949(a), I hereby make the following Regulations:—

1.—(1) There shall be allowed to the solicitor assigned under a legal aid certificate a fee of not less than £6 6s. 0d. and not exceeding £47 5s. 0d., and a further fee not exceeding £9 9s. 0d. in respect of every day on which an adjourned hearing takes place, or, in a case where counsel has been assigned under the certificate, such fee as appears to represent fair remuneration according to the work done.

(2) In addition to any fees payable under paragraph (1) of this Regulation, the solicitor shall be allowed—

(*a*) expenses actually and reasonably incurred by himself or his clerk in travelling to and from the court in which the hearing takes place and to and from any place visited for the purpose of preparing or conducting the defence;

(*b*) subject to taxation thereof, any other out-of-pocket expenses actually and reasonably incurred.

(3) In addition to any sums payable under the foregoing provisions of this Regulation, the solicitor may be allowed sums in respect of the employment by him of counsel to appear at the hearing in a case where counsel is not assigned under section two of the Poor Prisoners' Defence Act, 1930(b), so, however, that the total amount paid under this Regulation shall not exceed the amount which would have been paid if counsel had not been employed.

2.—(1) There shall be allowed to counsel assigned under a legal aid certificate such fee as appears to the Law Society to represent fair remuneration for the work actually and reasonably done.

(2) Where a hearing has not 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 Law Society may determine either generally or in relation to any particular hearing, any day on any part of which the hearing is going on or any period of five hours, whether continuous or not, during which the hearing 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) 12, 13 & 14 Geo. 6. c. 51. (b) 20 & 21 Geo. 5. c. 32.

(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.;

(*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 a case which is in a list of cases to be heard on any particular day not to be heard on that day, 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 Law Society it was reasonably necessary to obtain counsel's advice in writing, a fee not exceeding £11.

3. Where a solicitor or counsel assigned under a legal aid certificate represents two or more persons jointly charged with an offence, the amount to be allowed, whether one or more legal aid certificates have been given, to the solicitor or counsel under, as the case may be, paragraphs (1) and (3) of Regulation 1 or paragraphs (1) and (2) of Regulation 2 of these Regulations shall be increased, in respect of each such person other than the person charged first, by such amount as appears to the Law Society to be proper in all the circumstances of the case, but, save as aforesaid, no payment other than any payment allowed under paragraph (2) of Regulation 1, paragraph (3) of Regulation 2 or Regulation 6 of these Regulations shall be allowed to the solicitor or counsel under these Regulations in respect of any person jointly charged other than the person charged first:

Provided that any increase allowed by virtue of this Regulation shall not exceed—

(i) in respect of the person charged second, forty per cent. of the amount which would be payable but for the said increase,

(ii) in respect of any person charged other than the person charged first or second, twenty per cent. of the said amount.

4.—(1) Subject to the provisions of these Regulations, the Law Society in taxing or assessing in accordance with subsection (1) of section twenty-two of the Legal Aid and Advice Act, 1949, the sums payable to a solicitor or counsel 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 waiting for the case to be heard if the case was in that day's list, and shall allow such amounts as appear to them to represent fair remuneration for the work actually and reasonably done.

(2) In taxing or assessing as aforesaid, the Law Society shall not allow any sum in respect of any conference, consultation, attendance or visit unless the Law Society is satisfied that such conference, consultation, attendance or visit was reasonably necessary.

(3) In taxing and assessing as aforesaid the sums to be paid to a solicitor or to counsel in any case, the Law Society shall take into account any payment which has already been made to him in the same case under a defence certificate.

5. If it appears to the Law Society in taxing or assessing, in accordance with subsection (1) of section twenty-two of the Legal Aid and Advice Act, 1949, the sums payable to a solicitor or counsel that for any reason including the exceptional length, difficulty or complexity of the case in respect of which the legal aid certificate was granted 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, including in the case of a solicitor work done by counsel instructed by him in the circumstances mentioned in paragraph (3) of Regulation 1 of these Regulations, they shall certify accordingly, and where they so certify any limitation contained in these Regulations or, as the case may be, such Regulation as is mentioned in the certificate, on the amount of any fee payable shall not apply, and the Law Society shall, after taking into account all the relevant circumstances of the case and having regard to the considerations mentioned in Regulation 4 of these Regulations allow such fees in respect of the work to which the certificate relates as appear to them to represent fair remuneration according to the work actually and reasonably done.

6. Where a solicitor assigned under a legal aid certificate reasonably undertakes in connection therewith work in giving notice of appeal or applying for a case to be stated, and in matters preliminary thereto, being work done within the ordinary time for giving the notice or making the application, there shall, in addition to the fees which may be paid to him under the foregoing regulations and his disbursements on the said work, be allowed a fee not exceeding £10 10s. 0d. in respect of the said work.

7.—(1) In these Regulations the expressions "legal aid certificate" and "defence certificate" have the same meaning as in the Poor Prisoners' Defence Act, 1930.

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

8. These Regulations shall apply in respect of any legal aid certificate granted on or after the fourteenth day of March, 1960, and accordingly the Regulations shall come into operation on the said date.

9. These Regulations may be cited as the Poor Prisoners' Defence (Legal Aid Certificate) Regulations, 1960.

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

Home Office,
Whitehall.
12th February, 1960.

(a) 52 & 53 Vict. c. 63.

EXPLANATORY NOTE

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

These Regulations make provision as to amounts payable out of the Legal Aid Fund set up under Part I of the Legal Aid and Advice Act, 1949, to a solicitor or counsel assigned under a legal aid certificate granted under section two of the Poor Prisoners' Defence Act, 1930, by a magistrates' court. Regulation 1 relates to the fees and other sums to be allowed to a solicitor; Regulation 2 relates to the fees to be allowed to counsel; Regulation 3 makes special provision for a case where two or more persons jointly charged with an offence are represented by the same solicitor or counsel; Regulation 4 relates to the assessment by the Law Society of the sums to be allowed; Regulation 5 makes provision for the allowance of higher fees to be paid in cases where the fees otherwise payable would not represent fair remuneration for the work done; and Regulation 6 provides for the allowance to a solicitor of sums in respect of certain disbursements in connection with appeals and like matters.