
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 267

**The Legal Aid for Crown Court Proceedings (Costs)
(Amendment) Rules (Northern Ireland) 2009**

Amendments to the Legal Aid for Crown Court Proceedings (Costs) Rules (Northern Ireland) 2005

7. For rule 16, substitute—

“**16.**—(1) Where a representative of an assisted person considers—

- (a) that a case is likely to proceed to trial, and
- (b) that owing to the circumstances of the case, if it proceeds to trial, that trial would be likely to exceed 25 days,

he may apply to the Commission for a Very High Cost Case Certificate.

(2) An application under paragraph (1) may be made by a representative on his own behalf or on behalf of himself and another representative of the assisted person.

(3) Subject to paragraph (4) and to rule 19, an application under paragraph (1) shall be made within 14 days after the assisted person has been committed for trial, and shall be submitted to the Commission in such form and manner as it may direct, and in accordance with such guidance as the Commission may from time to time issue.

(4) Where there has been a change in the assisted person’s representatives after the period stipulated in paragraph (3), subject to rule 19, an application by the new representative under paragraph (1) shall be made within 14 days of the transfer of the criminal aid certificate to the new solicitor or the instruction of the new advocate, as applicable.

16A.—(1) The Commission may grant an application for a Very High Cost Case Certificate only if it is satisfied that both of the grounds referred to in rule 16(1) are met.

(2) Subject to paragraph (1), the Commission shall grant a Very High Cost Case Certificate to each representative on whose behalf the application was made.

(3) If it is not satisfied that both of the grounds referred to in rule 16(1) are met, the Commission shall refuse the application or, if it considers it appropriate to do so, it may defer its decision on the application.

(4) The Commission shall communicate its decision made under this rule, together with its reasons for refusing the application or deferring its decision, as applicable, in writing to the representative (or each representative, as applicable).

16B.—(1) Where the Commission certifies a case as being a Very High Cost Case, it shall require the representative (or each representative, as applicable)—

- (a) to record contemporaneously the number of hours he spends in preparation work on the case, together with a short description of the nature of the work performed on each occasion and a note of the fee-earner performing that work, as applicable;
- (b) to maintain such records in a permanently accessible format; and

(c) to provide periodic reports and projections as to the future costs of the case to the Commission at such times and in such a form as the Commission shall direct.

(2) The periodic reports provided to the Commission under paragraph (1)(c) shall, if so directed by the Commission, include copies of the records maintained by the representative under paragraph (1)(b).

(3) If a representative fails to comply with paragraph (1) without good reason, the Commission may revoke the Certificate granted to that representative, provided that the Certificate shall not be revoked unless the representative has been permitted a reasonable opportunity to show cause orally or in writing why the Certificate should not be revoked.

(4) Where a Very High Cost Case Certificate granted to a representative has been revoked under paragraph (3), that representative's fees shall be determined under rule 8 or 11, as appropriate, as if the Certificate had never been granted unless the actual duration of the trial exceeded 25 days.

16C.—(1) A representative may appeal to the taxing master against a decision made by the Commission under rule 16A or 16B and, subject to rule 19, such an appeal shall be instituted within 21 days of receiving notification of the decision by giving notice in writing to the taxing master.

(2) The provisions of rule 14(3) to (13) shall apply with the necessary modifications to an appeal brought under paragraph (1).

(3) The decision of the taxing master on an appeal under paragraph (2) shall be final.”.