
STATUTORY INSTRUMENTS

2009 No. 2086

**LEGAL SERVICES COMMISSION,
ENGLAND AND WALES**

**The Criminal Defence Service (Funding)
(Amendment No. 2) Order 2009**

<i>Made</i>	- - - -	<i>28th July 2009</i>
<i>Laid before Parliament</i>		<i>29th July 2009</i>
<i>Coming into force</i>	- -	<i>21st August 2009</i>

The Lord Chancellor makes this Order in exercise of the powers conferred by section 14(3) of the Access to Justice Act 1999⁽¹⁾.

He has had regard to the matters specified in section 25(3) of that Act and has consulted the General Council of the Bar and the Law Society in accordance with section 25(2) of that Act.

Citation, commencement, interpretation and application

1.—(1) This Order may be cited as the Criminal Defence Service (Funding) (Amendment No. 2) Order 2009 and comes into force on 21st August 2009.

(2) In this Order “the 2007 Order” means the Criminal Defence Service (Funding) Order 2007⁽²⁾.

(3) This Order applies to hearings to which paragraph 11 of Schedule 1 to the 2007 Order applies and which are concluded on or after 21st August 2009.

Amendment to the Criminal Defence Service (Funding) Order 2007

2. Schedule 1 to the 2007 Order is amended as follows.

3. In paragraph 11(2), for the words from “for attendance” to the end substitute—

“in respect of such a hearing—

(a) where the number of pages of evidence is fewer than 51, for attendance—

(1) 1999 c.22. The reference to the Lord Chancellor was changed to the Secretary of State by S.I. 2003/1887 and changed back by S.I. 2005/3429.

(2) S.I. 2007/1174; there is one relevant amending instrument, S.I. 2007/3552.

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- (i) in respect of any day when the hearing begins before and ends after the luncheon adjournment, at the daily rate set out in the first section of the table following this sub-paragraph; or
- (ii) in respect of any day when the hearing begins and ends before the luncheon adjournment, or begins after the luncheon adjournment, at the half-daily rate set out in the first section of that table,
- as appropriate to the category of trial advocate or substitute advocate;
- (b) where the number of pages of evidence is between 51 and 1000—
- (i) at the rates for the relevant number of pages set out in the second section of the table following this sub-paragraph; and
- (ii) where the hearing lasts for more than one day, for attendance on subsequent days or half-days at the daily rate or half-daily rate set out in the first section of that table,
- as appropriate to the category of trial advocate or substitute advocate; or
- (c) where the number of pages of evidence exceeds 1000—
- (i) at the rates for 751 to 1000 pages set out in the second section of the table following this sub-paragraph;
- (ii) with such fee as the appropriate officer considers reasonable for preparation in respect of the pages in excess of 1000, at the hourly rates for preparation set out in the third section of that table; and
- (iii) where the hearing lasts for more than one day, for attendance on subsequent days or half-days at the daily rate or half-daily rate set out in the first section of that table,
- as appropriate to the category of trial advocate or substitute advocate.

**Fees for
confiscation
hearings**

	Fee for QC	Fee for leading junior	Fee for junior alone	Fee for led junior
<i>1 - Daily and half-daily rates</i>				
Half-daily rate	£300	£225	£150	£150
Daily rate	£575	£400	£275	£275
<i>2 - Pages of evidence</i>				
51-250	£750	£625	£500	£375
251-500	£1,125	£938	£750	£562
501-750	£1,500	£1,250	£1,000	£750
751-1000	£2,250	£1,875	£1,500	£1,125
<i>3 - Preparation</i>				
Hourly rates	£85	£65	£45	£45"

4. After paragraph 11(2) insert—

- “(3) In sub-paragraph (2) “evidence” means—
- (a) the statement of information served under section 16 of the Proceeds of Crime Act 2002 and relied on by the prosecution for the purposes of a hearing under Part 2 of that Act, or a similar statement served and so relied on for the purposes of a hearing under section 2 of the Drug Trafficking Act 1994 or under section 71 of the Criminal Justice Act 1988 and, in each case, any attached annexes and exhibits;
 - (b) any other document which—
 - (i) is served as a statement or an exhibit for the purposes of the trial;
 - (ii) is specifically referred to in, but not served with, a statement mentioned in paragraph (a); and
 - (iii) the prosecution state that they intend to rely on in the hearing; and
 - (c) any written report of an expert obtained with the prior authority of the Commission under CDS Regulations or allowed by the appropriate officer under this Order, and any attached annexes and exhibits, other than documents contained in such annexes or exhibits which have also been served under paragraph (a) or (b) or which consist of financial records or similar data.”.

5. In the table after paragraph 19 omit the entry relating to confiscation hearings.

Signed by authority of the Lord Chancellor

28th July 2009

Claire M Ward
Parliamentary Under Secretary of State
Ministry of Justice

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Criminal Defence Service (Funding) Order 2007, which makes provision for the funding and remuneration of services provided as part of the Criminal Defence Service. The Order increases the fees payable to advocates in confiscation proceedings.