

2018 No. 220

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Criminal Legal Aid (Remuneration) (Amendment)
Regulations 2018**

<i>Made</i>	- - - -	<i>20th February 2018</i>
<i>Laid before Parliament</i>		<i>23rd February 2018</i>
<i>Coming into force</i>	- -	<i>1st April 2018</i>

The Lord Chancellor makes these Regulations in exercise of the powers conferred by sections 2(3) and 41(1) to (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(a).

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Criminal Legal Aid (Remuneration) (Amendment) Regulations 2018 and come into force on 1st April 2018.

PART 2

Amendment of the Criminal Legal Aid (Remuneration) Regulations 2013

Introductory

2. The Criminal Legal Aid (Remuneration) Regulations 2013(b) are amended in accordance with this Part.

Amendment of regulation 2 (interpretation)

3. In regulation 2(1), in the appropriate places, insert—

““AGFS Banding Document” means version 1.1 (February 2018) of the document called “Banding of Offences in the Advocates’ Graduated Fee Scheme (AGFS)”, published by the Ministry of Justice(c);”

(a) 2012 c.10.

(b) S.I. 2013/435, as amended by S.I. 2014/2422, 2015/325, 2015/882 and 2015/1678.

(c) A copy of the AGFS Banding Document can be obtained from the Legal Aid Policy Team, Access to Justice Directorate, Justice and Courts Policy Group, Ministry of Justice, 102 Petty France, London SW1H 9AJ.

“band” (in relation to a criminal offence) has the meaning given in paragraph 1(7) of Schedule 1;”;

“Class” (in relation to a criminal offence) has the meaning given in paragraph 1(7) of Schedule 2;”;

“LGFS Table of Offences” means the table in Part 7 of Schedule 2;”;

“restriction order” has the meaning given in section 41 (power of higher courts to restrict discharge from hospital) of the Mental Health Act 1983(a);”.

Amendment of regulation 21 (hardship payments)

4. In regulation 21(4)(a), for “Part 7 of Schedule 1” substitute “the LGFS Table of Offences”.

Amendment of regulation 28 (redetermination of fees by appropriate officer)

5.—(1) Regulation 28 is amended as follows.

(2) In paragraph (1)(b)(iii), omit “(reclassification of an offence not specifically listed in the relevant Table of Offences and so deemed to fall within Class H)”.

(3) In paragraph (1)(c)(ii), omit “(reclassification of an offence not specifically listed in the relevant Table of Offences and so deemed to fall within Class H)”.

(4) For paragraph (7)(b), substitute—

“(b) confirm—

(i) in the case of a redetermination requested by an advocate, the banding of the offence within band 17.1; or

(ii) in the case of a redetermination requested by a litigator, the classification of the offence within Class H; or”.

(5) In paragraph (7)(c), before “reclassify” insert “re-band or”.

Amendment of Schedule 1 (advocates’ graduated fee scheme)

6. Schedule 1 is amended as follows.

7. In paragraph 1 (interpretation)—

(a) in sub-paragraph (1), in the definition of “standard appearance”—

(i) omit paragraph (a);

(ii) omit paragraph (ba);

(iii) omit paragraph (h);

(b) for sub-paragraph (7), substitute—

“(7) A reference in this Schedule to a “band” is to the band of the offence concerned set out in Table B in the AGFS Banding Document, as read in conjunction with Table A in that document.

(8) Where the band within which an offence described in Table B in the AGFS Banding Document falls depends on the facts of the case, the band within which the offence falls is to be determined by reference to Table A in that document.”.

8.—(1) Paragraph 3 (class of offences) is amended as follows.

(2) For the heading, substitute “Bands of Offences”.

(3) In sub-paragraph (1)—

(a) 1983 c.20. Section 41 was amended by section 1 of, and Schedule 1 to, the Mental Health (Patients in the Community) Act 1995 (c.52); section 49 of the Crime (Sentences) Act 1997 (c.43); sections 10, 32, 40 and 55 of, and Schedules 3 and 11 to, the Mental Health Act 2007 (c.12); and S.I. 2008/2833.

- (a) in paragraph (a)—
 - (i) for “Class under which it is listed in the Table of Offences” substitute “band of that offence set out in the AGFS Banding Document”;
 - (ii) for “Class H” substitute “band 17.1”;
 - (b) in paragraph (b), for “Class” substitute “band”;
 - (c) in paragraph (c)—
 - (i) for “Table of Offences” substitute “AGFS Banding Document”;
 - (ii) for “Class” substitute “band”;
 - (iii) after “value”, in both places where the word occurs, insert “, amount or weight”;
 - (d) in paragraph (d)—
 - (i) for “Class” substitute “band”;
 - (ii) after “value”, in each place where the word occurs, insert “, amount or weight”;
 - (e) in paragraph (e), for “Table of Offences” substitute “AGFS Banding Document”;
 - (f) in paragraph (f)—
 - (i) for the first mention of “Class” substitute “band”;
 - (ii) for “Class D” substitute “band 5.3”;
 - (g) for paragraph (g), substitute—
 - “(g) where in a case on indictment a restriction order is made, the offence is to be treated as if it falls within band 1.3, regardless of the band within which the offence would fall within the AGFS Banding Document but for this paragraph.”.
- (4) In sub-paragraph (2), for—
- (a) “classification within Class H” substitute “banding within band 17.1”;
 - (b) for “Table of Offences” substitute “AGFS Banding Document”;
 - (c) “reclassify” substitute “re-band”.
- (5) In sub-paragraph (3), for—
- (a) “classification” substitute “banding”;
 - (b) “Class H” substitute “band 17.1”;
 - (c) “reclassify” substitute “re-band”.
- 9.** In paragraph 4 (calculation of graduated fees)—
- (a) omit “lasting one to 40 days”;
 - (b) for the formula to the end of that paragraph, substitute—
 - “ $GF = BF + (D \times DAF)$ ”
 - where—
 - GF is the amount of the graduated fee;
 - BF is the basic fee specified as appropriate to the band of the offence for which the assisted person is tried and the category of trial advocate (see paragraph 5);
 - D is the number of days or parts of a day on which the advocate attends at court by which the trial exceeds 1 day;
 - DAF is the fee payable in respect of daily attendance at court for the number of days by which the trial exceeds 1 day, as appropriate to the band of the offence for which the assisted person is tried and the category of trial advocate (see paragraph 5A).”.
- 10.** For paragraph 5 (table of fees), substitute—

“Basic fees

5. For the purposes of paragraph 4, in relation to the offence concerned, the basic fee is the amount set out in the table following this paragraph which corresponds with the band within which that offence falls (as set out in column (1) of the table) and the category of the advocate concerned (as set out in columns (2) to (4) of the table).

<i>(1) Band of offence</i>	<i>Amount of basic fee per category of trial advocate</i>		
	<i>(2) Junior Alone or Led Junior</i>	<i>(3) Leading Junior</i>	<i>(4) Queen’s Counsel</i>
1.1	£8,500	£12,750	£17,000
1.2	£4,250	£6,375	£8,500
1.3	£2,550	£3,825	£5,100
1.4	£2,125	£3,190	£4,250
2.1	£8,500	£12,750	£17,000
2.2	£2,550	£3,825	£5,100
3.1	£3,500	£5,250	£7,000
3.2	£2,000	£3,000	£4,000
3.3	£1,000	£1,500	£2,000
3.4	£750	£1,125	£1,500
3.5	£600	£900	£1,200
4.1	£2,000	£3,000	£4,000
4.2	£1,400	£2,100	£2,800
4.3	£1,000	£1,500	£2,000
5.1	£1,800	£2,700	£3,600
5.2	£1,400	£2,100	£2,800
5.3	£1,000	£1,500	£2,000
6.1	£8,000	£12,000	£16,000
6.2	£5,000	£7,500	£10,000
6.3	£2,000	£3,000	£4,000
6.4	£750	£1,125	£1,500
6.5	£650	£975	£1,300
7.1	£1,400	£2,100	£2,800
7.2	£800	£1,200	£1,600
7.3	£750	£1,125	£1,500
8.1	£1,200	£1,800	£2,400
9.1	£5,000	£7,500	£10,000
9.2	£4,000	£6,000	£8,000
9.3	£3,000	£4,500	£6,000
9.4	£2,000	£3,000	£4,000
9.5	£1,600	£2,400	£3,200
9.6	£1,200	£1,800	£2,400
9.7	£800	£1,200	£1,600
10.1	£2,200	£3,300	£4,400
11.1	£1,200	£1,800	£2,400
11.2	£675	£1,015	£1,350
12.1	£2,000	£3,000	£4,000
12.2	£1,200	£1,800	£2,400
12.3	£800	£1,200	£1,600
13.1	£1,300	£1,950	£2,600
14.1	£1,500	£2,250	£3,000
15.1	£1,400	£2,100	£2,800
15.2	£750	£1,125	£1,500
15.3	£600	£900	£1,200

16.1	£2,200	£3,300	£4,400
16.2	£1,600	£2,400	£3,200
16.3	£1,000	£1,500	£2,000
17.1	£550	£825	£1,100

Daily attendance fees

5A. For the purposes of paragraph 4, in relation to the offence concerned, the daily attendance fee is the amount set out in the table following this paragraph which corresponds with the band within which that offence falls (as set out in column (1) of the table) and the category of the advocate concerned (as set out in columns (2) to (4) of the table).

(1) Band of offence	Amount of daily attendance fee per category of trial advocate		
	(2) Junior Alone or Led Junior	(3) Leading Junior	(4) Queen's Counsel
1.1	£575	£865	£1,150
1.2	£575	£865	£1,150
1.3	£575	£865	£1,150
1.4	£575	£865	£1,150
2.1	£575	£865	£1,150
2.2	£575	£865	£1,150
3.1	£500	£750	£1,000
3.2	£500	£750	£1,000
3.3	£500	£750	£1,000
3.4	£500	£750	£1,000
3.5	£325	£490	£650
4.1	£525	£790	£1,050
4.2	£500	£750	£1,000
4.3	£475	£715	£950
5.1	£525	£790	£1,050
5.2	£500	£750	£1,000
5.3	£475	£715	£950
6.1	£525	£790	£1,050
6.2	£500	£750	£1,000
6.3	£400	£600	£800
6.4	£350	£525	£700
6.5	£325	£490	£650
7.1	£500	£750	£1,000
7.2	£450	£675	£900
7.3	£400	£600	£800
8.1	£500	£750	£1,000
9.1	£525	£790	£1,050
9.2	£525	£790	£1,050
9.3	£450	£675	£900
9.4	£450	£675	£900
9.5	£450	£675	£900
9.6	£400	£600	£800
9.7	£350	£525	£700
10.1	£525	£790	£1,050
11.1	£450	£675	£900
11.2	£360	£540	£720
12.1	£500	£750	£1,000
12.2	£500	£750	£1,000

12.3	£500	£750	£1,000
13.1	£500	£750	£1,000
14.1	£550	£825	£1,100
15.1	£500	£750	£1,000
15.2	£400	£600	£800
15.3	£325	£490	£650
16.1	£550	£825	£1,100
16.2	£500	£750	£1,000
16.3	£500	£750	£1,000
17.1	£300	£450	£600”.

11. For paragraph 6(2) (scope of Part 3), substitute—

“(2) This Part applies in all cases where the trial is a cracked trial because—

- (a) the prosecution offer no evidence on all counts against the defendant and the judge directs that a not guilty verdict be entered; or
- (b) after the election by the defendant mentioned in sub-paragraph (1)—
 - (i) there is a substantive change to a count on the indictment and the defendant pleads guilty; or
 - (ii) the prosecution offer no evidence on a count against the defendant and the defendant subsequently pleads guilty.”.

12.—(1) Paragraph 7 (calculation of graduated fees in guilty pleas and cracked trials) is amended as follows.

(2) In sub-paragraph (1)(a)—

- (a) after “the first third” insert “or the second third”;
- (b) in sub-paragraph (i), omit the “and” at the end;
- (c) omit sub-paragraph (ii).

(3) In sub-paragraph (1)(b)—

- (a) omit “second or”;
- (b) in sub-paragraph (i), omit the “and” at the end;
- (c) omit sub-paragraph (ii).

(4) In sub-paragraph (2), for “and evidence uplift for the offence are those” substitute “is that”.

13. For paragraph 8 (tables of fees), substitute—

“Basic fees for guilty pleas and cracked trials

8. Subject to, and for the purposes of, paragraph 7, in relation to the offence concerned, the basic fee—

- (a) where there is a guilty plea, or where the trial cracks in the first third or the second third, is the amount set out in Table A following this paragraph; or
- (b) where the trial cracks in the final third, is the amount set out in Table B following this paragraph,

which corresponds with the band within which the offence falls (as set out in column (1) of the relevant table) and the category of the advocate concerned (as set out in columns (2) to (4) of the relevant table).

Table A

Basic fees where there is a guilty plea or where the trial cracks in the first third or the second third

<i>(1) Band of offence</i>	<i>Amount of basic fee per category of trial advocate</i>
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	<i>(2) Junior Alone or Led Junior</i>	<i>(3) Leading Junior</i>	<i>(4) Queen's Counsel</i>
1.1	£4,250	£6,375	£8,500
1.2	£2,125	£3,190	£4,250
1.3	£1,275	£1,915	£2,550
1.4	£1,065	£1,595	£2,125
2.1	£4,250	£6,375	£8,500
2.2	£1,275	£1,915	£2,550
3.1	£1,750	£2,625	£3,500
3.2	£1,000	£1,500	£2,000
3.3	£500	£750	£1,000
3.4	£375	£565	£750
3.5	£300	£450	£600
4.1	£1,000	£1,500	£2,000
4.2	£700	£1,050	£1,400
4.3	£500	£750	£1,000
5.1	£900	£1,350	£1,800
5.2	£700	£1,050	£1,400
5.3	£500	£750	£1,000
6.1	£4,000	£6,000	£8,000
6.2	£2,500	£3,750	£5,000
6.3	£1,000	£1,500	£2,000
6.4	£375	£565	£750
6.5	£325	£490	£650
7.1	£700	£1,050	£1,400
7.2	£400	£600	£800
7.3	£375	£565	£750
8.1	£600	£900	£1,200
9.1	£2,500	£3,750	£5,000
9.2	£2,000	£3,000	£4,000
9.3	£1,500	£2,250	£3,000
9.4	£1,000	£1,500	£2,000
9.5	£800	£1,200	£1,600
9.6	£600	£900	£1,200
9.7	£400	£600	£800
10.1	£1,100	£1,650	£2,200
11.1	£600	£900	£1,200
11.2	£340	£505	£675
12.1	£1,000	£1,500	£2,000
12.2	£600	£900	£1,200
12.3	£400	£600	£800
13.1	£650	£975	£1,300
14.1	£750	£1,125	£1,500
15.1	£700	£1,050	£1,400
15.2	£375	£565	£750
15.3	£300	£450	£600
16.1	£1,100	£1,650	£2,200
16.2	£800	£1,200	£1,600
16.3	£500	£750	£1,000
17.1	£275	£415	£550

Table B

Basic fees where the trial cracks in the final third

<i>(1) Band of offence</i>	<i>Amount of basic fee per category of trial advocate</i>		
	<i>(2) Junior Alone or Led Junior</i>	<i>(3) Leading Junior</i>	<i>(4) Queen's Counsel</i>
1.1	£7,225	£10,840	£14,450
1.2	£3,615	£5,420	£7,225
1.3	£2,170	£3,250	£4,335
1.4	£1,805	£2,710	£3,615
2.1	£7,225	£10,840	£14,450
2.2	£2,170	£3,250	£4,335
3.1	£2,975	£4,465	£5,950
3.2	£1,700	£2,550	£3,400
3.3	£850	£1,275	£1,700
3.4	£640	£955	£1,275
3.5	£510	£765	£1,020
4.1	£1,700	£2,550	£3,400
4.2	£1,190	£1,785	£2,380
4.3	£850	£1,275	£1,700
5.1	£1,530	£2,295	£3,060
5.2	£1,190	£1,785	£2,380
5.3	£850	£1,275	£1,700
6.1	£6,800	£10,200	£13,600
6.2	£4,250	£6,375	£8,500
6.3	£1,700	£2,550	£3,400
6.4	£640	£955	£1,275
6.5	£555	£830	£1,105
7.1	£1,190	£1,785	£2,380
7.2	£680	£1,020	£1,360
7.3	£640	£955	£1,275
8.1	£1,020	£1,530	£2,040
9.1	£4,250	£6,375	£8,500
9.2	£3,400	£5,100	£6,800
9.3	£2,550	£3,825	£5,100
9.4	£1,700	£2,550	£3,400
9.5	£1,360	£2,040	£2,720
9.6	£1,020	£1,530	£2,040
9.7	£680	£1,020	£1,360
10.1	£1,870	£2,805	£3,740
11.1	£1,020	£1,530	£2,040
11.2	£575	£860	£1,150
12.1	£1,700	£2,550	£3,400
12.2	£1,020	£1,530	£2,040
12.3	£680	£1,020	£1,360
13.1	£1,105	£1,660	£2,210
14.1	£1,275	£1,915	£2,550
15.1	£1,190	£1,785	£2,380
15.2	£640	£955	£1,275
15.3	£510	£765	£1,020
16.1	£1,870	£2,805	£3,740
16.2	£1,360	£2,040	£2,720
16.3	£850	£1,275	£1,700
17.1	£470	£705	£940".

14. For paragraph 9(2) (scope of Part 4), substitute—

- “(2) This Part does not apply where the trial is a cracked trial because—
- (a) the prosecution offer no evidence on all counts against the defendant and the judge directs that a not guilty verdict be entered; or
 - (b) after the election by the defendant mentioned in sub-paragraph (1)—
 - (i) there is a substantive change to a count on the indictment and the defendant pleads guilty; or
 - (ii) the prosecution offer no evidence on a count against the defendant and the defendant subsequently pleads guilty.”.

15. In paragraph 11(2) (general provisions)—

- (a) omit “(B)”;
- (b) for “that” substitute “the basic fee specified in the tables”.

16. In paragraph 12 (fees for standard appearances)—

- (a) omit sub-paragraph (1);
- (b) in sub-paragraph (2), omit “not included in sub-paragraph (1)”.

17. In paragraph 13(1) (fees for abuse of process, etc.)—

- (a) in paragraph (d), omit the “and” at the end;
- (b) after paragraph (d), insert—
 - “(da) a ground rules hearing ordered in a case in which a special measures direction provides for a recording to be admitted under section 28 (video recorded cross-examination or re-examination) of the Youth Justice and Criminal Evidence Act 1999(a), and for this purpose “special measures direction” has the meaning given in section 33(1) (interpretation etc. of Chapter I) of that Act; and”.

18. For paragraph 15 (fees for sentencing hearings), substitute—

“Fees for sentencing hearings

15.—(1) Subject to sub-paragraphs (2) to (4), the fee payable to an advocate for appearing at a sentencing hearing is the fixed sentencing hearing fee.

(2) Where sentence has been deferred under section 1 (deferment of sentence) of the Powers of Criminal Courts (Sentencing) Act 2000(b), the fee payable to an advocate for appearing at a sentencing hearing is the fee for a deferred sentencing hearing for the category of the advocate concerned which is set out in the fixed fees table.

(3) Subject to sub-paragraph (4), where a hospital direction, a hospital order or a restriction order is in force in respect of an assisted person in a sentencing hearing, the fee payable to an advocate for appearing at the sentencing hearing is a fee (the “DAF equivalent fee”) which is equal to the daily attendance fee under paragraph 5A which relates to the category of the advocate concerned and the band within which the offence for which the assisted person is to be sentenced falls.

(4) Where the sentencing hearing takes place on a day, or at a time, in respect of which an advocate receives, or is to receive, a banded fee—

- (a) no fixed sentencing hearing fee is payable to the advocate for appearing at the sentencing hearing under sub-paragraph (1);
- (b) no DAF equivalent fee is payable to the advocate for appearing at the sentencing hearing under sub-paragraph (3).

(5) In this paragraph—

(a) 1999 c.23. Section 28 was amended by section 109 of, and Schedule 8 to, the Courts Act 2003 (c.39).
 (b) 2000 c.6. Section 1 was substituted by section 278 of, and Schedule 23 to, the Criminal Justice Act 2003 (c.44) and amended by S.I. 2008/912 and section 44 of, and Schedule 16 to, the Crime and Courts Act 2013 (c.22).

“banded fee” means a basic fee under paragraph 5, a daily attendance fee under paragraph 5A or a basic fee (in respect of a guilty plea or a cracked trial) under paragraph 8;

“fixed fees table” means the table following paragraph 24;

“fixed sentencing hearing fee” means the fee for a sentencing hearing for the category of the advocate concerned which is set out in fixed fees table;

“hospital direction” has the meaning given in section 45A (power of higher courts to direct hospital admission) of the Mental Health Act 1983(a);

“hospital order” has the meaning given in section 37 (powers of courts to order hospital admission or guardianship) of the Mental Health Act 1983(b);

“sentencing hearing” means a sentencing hearing following a case on indictment to which this Schedule applies.”.

19. In paragraph 17 (fees for special preparation)—

(a) in sub-paragraph (1)(a)—

(i) omit “very unusual or”;

(ii) for “or factual issue;” substitute “; or”;

(b) for sub-paragraph (1)(b), substitute—

“(b) the number of pages of prosecution evidence, as defined and determined in accordance with paragraph 1(2) to (5), exceeds—

(i) in cases falling within bands 6.1 to 6.5 (dishonesty offences, including proceeds of crime and money laundering), 30,000;

(ii) in cases falling within bands 9.1 to 9.7 (drugs offences), 15,000; or

(iii) in all other cases, 10,000,

and the appropriate officer considers it reasonable to make a payment in excess of the graduated fee payable under this Schedule.”;

(c) omit sub-paragraph (1)(c);

(d) in sub-paragraph (3)(b), omit the “and” at the end;

(e) omit sub-paragraph (3)(c).

20. In paragraph 19(2) (fees for conferences and views)—

(a) omit “(B)”;

(b) for “that following” substitute “the basic fee specified in the tables following”.

21. After paragraph 19, insert—

“Fees for further case management hearings and plea and trial preparation hearings

19A. The fee payable to a trial advocate for a further case management hearing or a plea and trial preparation hearing held at court is the fee which corresponds with a hearing of that description, and the category of the advocate concerned, which is set out in the table following paragraph 24.”.

(a) 1983 c.20. Section 45A was inserted by section 46 of the Crime (Sentences) Act 1997 (c.43) and amended by sections 304 and 332 of, and Schedules 32 and 37 to, the Criminal Justice Act 2003, and by sections 1, 4, 10 and 55 of, and Schedules 1 and 11 to, the Mental Health Act 2007 (c.12).

(b) Section 37 was amended by sections 55 and 56 of, and Schedules 4 and 6 to, the Crime (Sentences) Act 1997; section 67 of, and Schedule 4 to, the Youth Justice and Criminal Evidence Act 1999; section 165 of, and Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000; section 304 of, and Schedule 32 to, the Criminal Justice Act 2003; sections 49 and 65 of, and Schedules 1 and 5 to, the Violent Crime Reduction Act 2006 (c.38); sections 1, 4, 10 and 55 of, and Schedules 1 and 11 to, the Mental Health Act 2007; sections 6, 148 and 149 of, and Schedules 4, 26 and 28 to, the Criminal Justice and Immigration Act 2008 (c.4); sections 122 and 142 of, and Schedules 19 and 26 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10); and by section 28 of, and Schedule 5 to, the Criminal Justice and Courts Act 2015 (c.2).

22. In paragraph 20 (fees for appeals, committals for sentence and breach hearings)—

- (a) in sub-paragraph (1), for “(4) and (5)” substitute “(4) to (7)”;
- (b) after sub-paragraph (5), insert—
 - “(6) Sub-paragraph (7) applies where the hearing—
 - (a) is an appeal from a magistrates’ court;
 - (b) is heard in the Crown Court; and
 - (c) lasts for more than one day.
 - (7) Where this sub-paragraph applies, the fee payable to the advocate—
 - (a) for the first day of the hearing, is the basic fee for band 17.1, set out in the table following paragraph 5, for the category of the advocate concerned;
 - (b) for the second day, and any subsequent days, of the hearing, is the daily attendance fee for band 17.1, set out in the table following paragraph 5A, for the category of the advocate concerned.”.

23. In paragraph 22 (discontinuance or dismissal of proceedings)—

- (a) in sub-paragraph (2)—
 - (i) omit “(B)”;
 - (ii) for “the table” substitute “Table A”;
- (b) in sub-paragraph (8)(b)—
 - (i) omit “(B)”;
 - (ii) for “table” substitute “tables”.

24. In paragraph 24 (fixed fees), for the table following that paragraph substitute—

“Fixed fees

<i>Category of work</i>	<i>Paragraph providing for fee</i>	<i>Junior Alone or Led Junior</i>	<i>Leading Junior</i>	<i>Queen’s Counsel</i>
Standard Appearance	12(2)	£90 per day	£135 per day	£180 per day
Abuse of process hearing	13(1)(a) and (3)	£238 full day £130 half day	£346 full day £195 half day	£497 full day £260 half day
Hearings relating to disclosure	13(1)(b), (c) and (3)	£238 full day £130 half day	£346 full day £195 half day	£497 full day £260 half day
Hearings relating to the admissibility of evidence	13(1)(d) and (3)	£238 full day £130 half day	£346 full day £195 half day	£497 full day £260 half day
Ground rules hearings	13(1)(da) and (3)	£238 full day £130 half day	£346 full day £195 half day	£497 full day £260 half day
Hearings on withdrawal of guilty plea	13(1)(e) and (3)	£238 full day £130 half day	£346 full day £195 half day	£497 full day £260 half day
Sentencing hearing	15	£125 per day	£190 per day	£250 per day
Deferred sentencing hearing	15(2)	£173 per day	£238 per day	£324 per day
Ineffective trial hearing	16	£300 per day	£300 per day	£300 per day
Special preparation	17	£39 per hour	£56 per hour	£74 per hour

Wasted preparation	18	£39 per hour	£56 per hour	£74 per hour
Conferences and views	19	£40 per hour	£60 per hour	£80 per hour
Further case management hearing	19A	£100 per day	£150 per day	£200 per day
Plea and trial preparation hearing	19A	£125 per day	£190 per day	£250 per day
Appeals to the Crown Court against sentence	20	£150 per day	£225 per day	£300 per day
Appeals to the Crown Court against conviction	20	£250 per day	£375 per day	£500 per day
Proceedings relating to the breach of an order of the Crown Court	20(1)	£108 per day	£151 per day	£216 per day
Committal for sentence	20(1) and (2)	£150 per day	£225 per day	£300 per day
Adjourned appeals, committals for sentence and breach hearings	20(2)	£87 per day	£130 per day	£173 per day
Bail applications, mentions and other applications in appeal, committals for sentence and breach hearings	20(3)	£87 per day	£130 per day	£173 per day
Second and subsequent days of an application to dismiss	22(6)	£238 full day £130 half day	£346 full day £195 half day	£497 full day £260 half day
Noting brief	23	£108 per day	£108 per day	£108 per day
Hearing for mitigation of sentence	34	£108 per day	£173 per day	£260 per day ^(a)

25. After paragraph 24 (and within Part 5 (fixed fees)), insert—

“Warrant for arrest

24A.—(1) This paragraph applies where—

- (a) the assisted person fails to attend a hearing;
- (b) at that hearing the court issues a warrant for the arrest of the assisted person under section 7(1) (liability to arrest for absconding or breaking conditions of bail) of the Bail Act 1976^(a) (“the warrant”); and

(a) 1976 c.63.

(c) the case does not proceed in the absence of the assisted person.

(2) Where in a case on indictment the warrant is not executed within three months of the date on which it was issued, the fee payable to the advocate is the fee for a guilty plea set out in Table A following paragraph 8 which corresponds with the band within which the offence concerned falls and the category of the advocate concerned.

(3) Where the warrant is issued during the course of proceedings referred to in paragraph 20, the fee payable to the advocate is the fee which corresponds with the category of work, and the category of the advocate concerned, which is set out in the table following paragraph 24.

(4) Sub-paragraph (5) applies where—

- (a) a fee has been paid, or is payable, to the advocate in accordance with sub-paragraph (2);
- (b) the warrant is executed within 15 months of the date on which it was issued;
- (c) the case proceeds after the warrant has been executed; and
- (d) the advocate submits a claim for fees for the determination of the advocate's overall remuneration in the case, in accordance with regulation 4.

(5) Where this sub-paragraph applies—

- (a) the appropriate officer must deduct the amount paid or payable in accordance with sub-paragraph (2) from the amount payable to the advocate on the final determination of fees in the case; and
- (b) if the fee paid or payable in accordance with sub-paragraph (2) is greater than the amount payable to the advocate on the final determination of fees in the case, the appropriate officer may recover the amount of the difference by way of repayment by the advocate.”.

26. In paragraph 27 (additional charges and additional cases), for sub-paragraph (2)(b)(i) substitute—

“(i) where the principal case is a case on indictment, the basic fee specified in the table following paragraph 5 or, where there is a guilty plea or a cracked trial, the basic fee specified in the tables following paragraph 8, which corresponds with the band within which the offence concerned falls and the category of the advocate concerned; or”.

27. In paragraph 29 (non-local appearances), omit “or the nearest advocate's office (whichever is the nearer)”.

28. Omit paragraph 30 (trials lasting over 40 days) and the table following that paragraph.

29. In paragraph 32(2) (cross examination of witness)—

- (a) omit “(D)”;
- (b) for “5” substitute “5A”.

30. Part 7 (table of offences) becomes Part 7 of Schedule 2 (litigators' graduated fee scheme).

Amendment of Schedule 2 (litigators' graduated fee scheme)

31.—(1) Schedule 2 is amended as follows.

(2) For paragraph 1(7) (interpretation), substitute—

“(7) A reference in this Schedule to a “Class” is to the Class for the offence concerned set out in the LGFS Table of Offences.”.

(3) In paragraph 3 (class of offences)—

- (a) before “Table of Offences”, in each place where the words occur, insert “LGFS”;

(b) in paragraph (g), omit “under section 41 of the Mental Health Act 1983 (power of higher courts to restrict discharge from hospital)”.

(4) In paragraph 29(1) (allowing fees at more than the prescribed rates), before “Table of Offences” insert “LGFS”.

(5) In Part 7 (see regulation 30), in the heading to that Part, before “Table of Offences” insert “LGFS”.

Amendment of Schedule 3 (proceedings in the Court of Appeal)

32. In paragraph 8(1) (allowance of litigators’ fees at more than the prescribed rate), for “Table of Offences in Part 7 of Schedule 1” substitute “LGFS Table of Offences”.

PART 3

Consequential amendment

Amendment of the Criminal Legal Aid (Contribution Orders) Regulations 2013

33. In regulation 15(2) (specified maximum amount for class of offence) of the Criminal Legal Aid (Contribution Orders) Regulations 2013(a)—

- (a) for “Table of Offences” substitute “LGFS Table of Offences (the “Table of Offences”);
- (b) for “Schedule 1” substitute “Schedule 2”.

PART 4

Savings

Savings

34. The amendments made by these Regulations have no effect in relation to proceedings in respect of which a determination under section 16 (representation for criminal proceedings) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 has been made before 1st April 2018.

Lucy Frazer
Parliamentary Under Secretary of State
Ministry of Justice

20th February 2018

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Criminal Legal Aid (Remuneration) Regulations 2013 (S.I. 2013/435; the “2013 Regulations”). The Regulations amend the legal aid fees that are payable to advocates in criminal proceedings under the advocates’ graduated fee scheme (“AGFS”), as set out in Schedule 1 to the 2013 Regulations. The Regulations make provision for advocates’ fees to be determined according to a new banding structure for criminal offences.

Part 2 sets out the amendments to the 2013 Regulations. The principal amendments are summarised as follows.

(a) S.I. 2013/483.

Regulations 3 and 7 refer to the AGFS Banding Document, which sets out the bands within which criminal offences fall. The AGFS Banding Document replaces the table of offences that was in Part 7 of Schedule 1 (also see regulation 30).

Regulations 9 and 10 amend the basic fees and the daily attendance fees that are payable to advocates to reflect the new banding structure; regulation 9 also amends the formula for the purposes of calculating advocates' graduated fees. Regulation 13 amends the fees that apply where there is a cracked trial or a guilty plea. Regulation 18 makes further provision as to the fees that apply for sentencing hearings. Regulation 24 amends the fixed fees that apply for particular types of hearings. Regulation 25 makes provision as to the fees that apply where a defendant is absent.

Under regulation 30, Part 7 of Schedule 1 to the 2013 Regulations becomes Part 7 of Schedule 2. That Part contains the table of offences which sets out the Classes of Offences that continue to apply for the purposes of the litigators' graduated fee scheme under Schedule 2.

Part 3 (regulation 33) contains a minor consequential amendment to the Criminal Legal Aid (Contribution Orders) Regulations 2013 (S.I. 2013/483).

Part 4 (regulation 34) contains a savings provision.

An impact assessment on the effect that these Regulations will have on the costs of business and the voluntary sector is available from the Legal Aid Policy Team, Access to Justice Directorate, Justice and Courts Policy Group, Ministry of Justice, 102 Petty France, London SW1H 9AJ (telephone 0203 334 4334). The impact assessment is annexed to the Explanatory Memorandum which is available alongside these Regulations on the UK legislation website at <http://www.legislation.gov.uk>.

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