

SCHEDULE 3

Regulation 6

Proceedings in the Court of Appeal

General Provisions

- 1.—(1) The provisions of this Schedule apply to proceedings in the Court of Appeal.
- (2) In determining fees the appropriate officer must, subject to the provisions of this Schedule—
 - (a) take into account all the relevant circumstances of the case including the nature, importance, complexity or difficulty of the work and the time involved; and
 - (b) allow a reasonable amount in respect of all work actually and reasonably done.

Claims for fees and disbursements by litigators

2.—(1) Subject to regulation 31, no claim by a litigator for fees and disbursements in respect of work done in proceedings in the Court of Appeal pursuant to a section 16 determination must be entertained unless the litigator submits it within three months of the conclusion of the proceedings to which it relates.

(2) Subject to sub-paragraph (3), a claim for fees in proceedings in the Court of Appeal must be submitted to the appropriate officer in such form and manner as the appropriate officer may direct and must be accompanied by the representation order and any receipts or other documents in support of any disbursement claimed.

- (3) A claim must—
 - (a) summarise the items of work done by a fee earner in respect of which fees are claimed according to the classes specified in paragraph 3(1);
 - (b) state, where appropriate, the dates on which the items of work were done, the time taken, the sums claimed and whether the work was done for more than one assisted person;
 - (c) specify, where appropriate, the level of fee earner who undertook each of the items of work claimed;
 - (d) give particulars of any work done in relation to more than one indictment or a retrial; and
 - (e) specify any disbursements claimed, the circumstances in which they were incurred and the amounts claimed in respect of them.

(4) Where the litigator claims that paragraph 8(1) applies in relation to an item of work, the litigator must give full particulars in support of the claim.

(5) The litigator must specify any special circumstances which the litigator considers should be drawn to the attention of the appropriate officer.

(6) The litigator must supply such further information and documents as the appropriate officer may require.

(7) Where a retrospective section 16 determination has been made under regulations made under section 19 of the Act in respect of any proceedings where an appellant has been successful on appeal and granted a defendant's costs order under section 16(4) of the Prosecution of Offences Act 1985(1) (defence costs), the litigator must certify that no claim for fees incurred before the retrospective section 16 determination was made has been or will be made from central funds in relation to that work.

(1) 1985 c. 23.

Determination of litigators' fees

- 3.—(1) The appropriate officer may allow work done in the following classes by fee earners—
- (a) preparation, including taking instructions, interviewing witnesses, ascertaining the prosecution case, advising on plea and mode of trial, preparing and perusing documents, dealing with letters and telephone calls which are not routine, preparing for advocacy, instructing an advocate and expert witnesses, conferences, consultations, views and work done in connection with advice on appeal;
 - (b) advocacy, including applications for bail and other applications to the court;
 - (c) attending at court where an advocate is assigned, including conferences with the advocate at court;
 - (d) travelling and waiting; and
 - (e) writing routine letters and dealing with routine telephone calls.
- (2) The appropriate officer must consider the claim, any further information or documents submitted by the fee earner under paragraph 2 and any other relevant information and must allow—
- (a) such work as appears to the appropriate officer to have been reasonably done pursuant to the section 16 determination (including any representation or advice which is deemed to be work done pursuant to that determination) by a fee earner, classifying such work according to the classes specified in sub-paragraph (1) as the appropriate officer considers appropriate; and
 - (b) such time in each class of work allowed by him (other than routine letters written and routine telephone calls) as the appropriate officer considers reasonable.
- (3) The fees allowed in accordance with this Schedule are those appropriate to such of the following grades of litigator as the appropriate officer considers reasonable—
- (a) senior solicitor;
 - (b) solicitor, legal executive or fee earner of equivalent experience; or
 - (c) trainee or fee earner of equivalent experience.

Determination of litigators' disbursements

4. The appropriate officer must allow such disbursements claimed under paragraph 2 as appear to the appropriate officer to have been reasonably incurred, provided that—
- (a) if they are abnormally large by reason of the distance of the court or the assisted person's residence or both from the litigator's place of business, the appropriate officer may limit reimbursement of the disbursements to what otherwise would, having regard to all the circumstances, be a reasonable amount; and
 - (b) the cost of a transcript, or any part thereof, of the proceedings in the court from which the appeal lies obtained otherwise than through the registrar must not be allowed except where the appropriate officer considers that it is reasonable in all the circumstances for such disbursement to be allowed.

Claims for fees by advocates

5.—(1) Subject to regulation 31, a claim by an advocate for fees for work done in proceedings in the Court of Appeal pursuant to a section 16 determination must not be entertained unless the advocate submits it within three months of the conclusion of the proceedings to which the section 16 determination relates.

(2) Where the advocate claims that paragraph 9(4) applies in relation to an item of work the advocate must give full particulars in support of his claim.

(3) Subject to sub-paragraph (4), a claim for fees by an advocate in proceedings in the Court of Appeal must be submitted to the appropriate officer in such form and manner as the appropriate officer may direct.

(4) A claim must—

- (a) summarise the items of work done by an advocate in respect of which fees are claimed according to the classes specified in paragraph 6(2);
- (b) state, where appropriate, the dates on which the items of work were done, the time taken, the sums claimed and whether the work was done for more than one assisted person; and
- (c) give particulars of any work done in relation to more than one indictment or a retrial.

(5) The advocate must specify any special circumstances which the advocate considers should be drawn to the attention of the appropriate officer.

(6) The advocate must supply such further information and documents as the appropriate officer may require.

Determination of advocates' fees

6.—(1) The appropriate officer must consider the claim, any further particulars and information submitted by an advocate under paragraph 5 and any other relevant information and must allow such work as appears to the appropriate officer to have been reasonably done.

(2) The appropriate officer may allow any of the following classes of fee to an advocate in respect of work allowed by him under this paragraph—

- (a) a basic fee for preparation including preparation for a pre-trial review and, where appropriate, the first day's hearing including, where they took place on that day, short conferences, consultations, applications and appearances (including bail applications), views and any other preparation;
- (b) a refresher fee for any day or part of a day during which a hearing continued, including, where they took place on that day, short conferences, consultations, applications and appearances (including bail applications), views at the scene of the alleged offence and any other preparation;
- (c) subsidiary fees for—
 - (i) attendance at conferences, consultations and views at the scene of the alleged offence not covered by paragraph (a) or (b);
 - (ii) written advice on evidence, plea or appeal or other written work; and
 - (iii) attendance at pre-trial reviews, applications and appearances (including bail applications and adjournments for sentence) not covered by paragraph (a) or (b).

(3) Where a section 16 determination provides for representation by—

- (a) a single advocate other than a QC; or
- (b) two advocates other than QC,

and a QC agrees to appear as the single advocate or as a leading junior, that QC must be treated for all the purposes of this Schedule as having been instructed pursuant to that section 16 determination, and the remuneration of the QC must be determined as if the advocate were not a QC.

Litigators' fees for proceedings in the Court of Appeal

7.—(1) For proceedings in the Court of Appeal the appropriate officer must allow fees for work by litigators at the following prescribed rates—

Status: This is the original version (as it was originally made).

<i>Class of work</i>	<i>Grade of fee earner</i>	<i>Rate</i>	<i>Variations</i>
Preparation	Senior solicitor	£53 per hour	£55.75 per hour for a litigator whose office is situated within the City of London or a London borough
	Solicitor, legal executive or fee earner of equivalent experience	£45 per hour	£47.25 per hour for a litigator whose office is situated within the City of London or a London borough
	Trainee or fee earner of equivalent experience	£29.75 per hour	£34 per hour for a litigator whose office is situated within the City of London or a London borough
Advocacy	Senior Solicitor	£64 per hour	
	Solicitor	£56 per hour	
Attendance at court where more than one representative assigned	Senior Solicitor	£42.25 per hour	
	Solicitor, legal executive or fee earner of equivalent experience	£34 per hour	
	Trainee or fee earner of equivalent experience	£20.50 per hour	
Travelling and waiting	Senior Solicitor	£24.75 per hour	
	Solicitor, legal executive or fee earner of equivalent experience	£24.75 per hour	
	Trainee or fee earner of equivalent experience	£12.50 per hour	
Routine letters written and routine telephone calls		£3.45 per item	£3.60 per item for a litigator whose office is situated within the City of London or a London borough

(2) In respect of any item of work, the appropriate officer may allow fees at less than the relevant prescribed rate specified in the table following sub-paragraph (1) where it appears to the appropriate officer reasonable to do so having regard to the competence and despatch with which the work was done.

Allowance of litigators' fees at more than the prescribed rate

8.—(1) Upon a determination of fees the appropriate officer may, subject to the provisions of this paragraph, allow fees at more than the relevant prescribed rate specified in paragraph 7 for

preparation, advocacy, attendance at court where more than one representative is assigned, routine letters written and routine telephone calls, in respect of offences in Class A, B, C, D, G, I, J or K in the Table of Offences in Part 7 of Schedule 1.

(2) The appropriate officer may allow fees at more than the prescribed rate where it appears to the appropriate officer, taking into account all the relevant circumstances of the case, that—

- (a) the work was done with exceptional competence, skill or expertise;
- (b) the work was done with exceptional despatch; or
- (c) the case involved exceptional complexity or other exceptional circumstances.

(3) Paragraph 3 of Schedule 1 applies to litigators in respect of proceedings in the Court of Appeal as it applies to advocates.

(4) Where the appropriate officer considers that any item or class of work should be allowed at more than the prescribed rate, the appropriate officer must apply to that item or class of work a percentage enhancement in accordance with the following provisions of this paragraph.

(5) In determining the percentage by which fees should be enhanced above the prescribed rate the appropriate officer may have regard to—

- (a) the degree of responsibility accepted by the fee earner;
- (b) the care, speed and economy with which the case was prepared; and
- (c) the novelty, weight and complexity of the case.

(6) The percentage above the relevant prescribed rate by which fees for work may be enhanced must not exceed 100%.

(7) The appropriate officer may have regard to the generality of proceedings to which these Regulations apply in determining what is exceptional within the meaning of this paragraph.

Advocates' fees for proceedings in the Court of Appeal

9.—(1) Subject to sub-paragraph 9(4), for proceedings in the Court of Appeal the appropriate officer must allow fees for work by advocates at the following prescribed rates—

Junior Counsel

<i>Types of proceedings</i>	<i>Basic fee</i>	<i>Full day refresher</i>	<i>Subsidiary fees</i>		
			<i>Attendance at consultation, conferences and views</i>	<i>Written work</i>	<i>Attendance at pre-trial reviews, applications and other appearances</i>
All appeals	Maximum amount: £545 per case	Maximum amount: £178.75 per day	£33.50 per hour, minimum amount: £16.75	Maximum amount: £58.25 per item	Maximum amount: £110 per appearance

Status: This is the original version (as it was originally made).

QC

<i>Types of proceedings</i>	<i>Basic fee</i>	<i>Full day refresher</i>	<i>Subsidiary fees</i>		
			<i>Attendance at consultation, conferences and views</i>	<i>Written work</i>	<i>Attendance at pre-trial reviews, applications and other appearances</i>
All appeals	Maximum amount: £5,400 per case	Maximum amount: £330.50 per day	£62.50 per hour, minimum amount: £32	Maximum amount: £119.50 per item	Maximum amount: £257.50 per appearance

(2) Where an hourly rate is specified in the table following sub-paragraph (1), the appropriate officer must determine any fee for such work in accordance with that hourly rate, provided that the fee determined must not be less than the minimum amount specified.

(3) Where a refresher fee is claimed in respect of less than a full day, the appropriate officer must allow such fee as appears to the appropriate officer reasonable having regard to the fee which would be allowable for a full day.

(4) Where it appears to the appropriate officer, taking into account all the relevant circumstances of the case, that owing to the exceptional circumstances of the case the amount payable by way of fees in accordance with the table following sub-paragraph (1) would not provide reasonable remuneration for some or all of the work the appropriate officer has allowed, the appropriate officer may allow such amounts as appear to the appropriate officer to be reasonable remuneration for the relevant work.

Payment of fees

10.—(1) Having determined the fees payable to a representative in accordance with the terms of this Schedule, the appropriate officer must notify the representative of the fees payable and authorise payment accordingly.

(2) Where, as a result of any redetermination or appeal made or brought pursuant to paragraph 11, the fees payable under paragraph (1) are altered—

- (a) if they are increased, the appropriate officer must authorise payment of the increase; and
- (b) if they are decreased, the representative must repay the amount of such decrease.

(3) Where the payment of any fees of the representative is ordered under regulation 29(12) or regulation 30(8), the appropriate officer must authorise payment.

Redeterminations and appeals

11.—(1) Where a representative is dissatisfied with—

- (a) the fees determined in accordance with the provisions of this Schedule; or
- (b) the decision of the appropriate officer under paragraph 3(3) of Schedule 1,

he may apply to the appropriate officer to redetermine those fees or reclassify the offence, in accordance with the provisions of regulation 28(3) to (9).

(2) Where—

- (a) a representative has made an application to the appropriate officer under sub-paragraph (1); and

(b) the appropriate officer has given his reasons for a decision under regulation 28(7), a representative who is dissatisfied with that decision may appeal to a Costs Judge, in accordance with the provisions of regulation 29(2) to (14).

(3) A representative who is dissatisfied with the decision of a Costs Judge on an appeal under sub-paragraph (2) may apply to a Costs Judge to certify a point of principle of general importance, and the provisions of regulation 30(2) to (8) apply.