

LEGAL AID ACT 1986

CRIMINAL LEGAL AID ORDER 2010

Approved by Tynwald

16 April 2010

Coming into operation

1 April 2010

The Treasury after consultation with the Deemsters, makes this Order under section 19(3) and Schedule 2 of the Legal Aid Act 1986(a), and of all other enabling powers:-

Title

1. This is the Criminal Legal Aid Order 2010.

Commencement

2. If approved by Tynwald this Order, shall come into operation on the 1st April 2010.

Advocates' Fees and Expenses

3. (1) The sums (other than sums in respect of disbursements) allowed to an advocate assigned under a legal aid certificate granted under Parts 1 and 2 of the Act shall be-
 - (a) such sums as appear to the Chief Registrar to be fair remuneration based on the appropriate hourly rates specified in Schedule 1 for work actually and reasonably done and time reasonably spent for or in connection with the proceedings in question;
 - (b) travelling expenses at the rates payable to members of the Isle of Man Civil Service engaged on Government business.
- (2) Without prejudice to the generality of paragraph (1)(a), the Chief Registrar may determine such remuneration-
 - (a) based on a rate or rates higher than those specified in Schedule 1 where he is satisfied that it is required in the exceptional circumstances of the case;

(a) 1986 c.23

Price 85 pence

- (b) based on a rate or rates lower than those so specified where he is satisfied that the advocate has failed to carry out the work with reasonable competence and dispatch.
- (3) The conditions format and content of bills submitted for assessment pursuant to Parts 1 and 2 of the Legal Aid Act 1986 shall be such as specified in Schedule 2 of this Order

Revocation

- 4. The Criminal Legal Aid Order 2008(b) is hereby revoked.

Saving

- 5. Nothing in this Order applies to:-
 - (a) any proceedings referred to in section 29(4) of the Act; or
 - (b) any proceedings in respect of which a legal aid certificate is given before the coming into operation of this Order.

MADE

22nd January



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Minister for the Treasury

SCHEDULE 1

[Article 2(1)(a)]

SCALES OF REMUNERATION

The following Table sets out the hourly rates mentioned in Article 2, for work undertaken in the prescribed period:-

| | £ | £ |
|---|-----------------|-----------------|
| | Junior Advocate | Senior Advocate |
| 1 st April 2010 and thereafter until further order | 115.00 | 135.00 |

SCHEDULE 2

[Article 2(3)]

FORM AND CONTENT – LEGAL AID BILL OF COSTS

1. Pursuant to the powers contained in section 19(3) and Schedule 2 of the Legal Aid Act 1986, to the content of this Order and to all other enabling powers, the following shall, subject to any subsequent practice directions issued by the Legal Aid Office, constitute as a condition under which costs may be allowed the format and content of all bills submitted for assessment pursuant to Part 2 and Schedule 2 of that Act:

(1) Title Page

This must include:

- (a) the full title of the proceedings
- (b) the full name of the assisted person
- (c) the full name, and address of the nominated Advocate
- (d) the nominated Advocates firm and VAT registration certificate number
- (e) details of the legal aid certificate and any subsequent amendment certificates (date and reference)
- (f) description of the extent of the legal aid certificate (including limitations)
- (g) where appropriate the date of the court order which contains authority for legal aid assessment
- (h) where appropriate details of any court order which contains an order for the costs of the assisted person (either in full or part) to be paid by another party

(2) Summary Page

This must include:

- (a) the hourly rate claimed
- (b) total claim for all work undertaken
- (c) disbursements (subject to Vat) – net claim
- (d) VAT total
- (e) disbursements (not subject to VAT)
- (f) details of any payments that have been received in advance of assessment

Where the bill covers a period pertaining to more than one legal aid rate, then separate totals should be included for each period within the summary.

(3) Chronological list

This must include:

A full list of all work undertaken (including preparation, appearance and travelling and waiting time) between the date of the legal aid certificate and receipt of the discharge/revocation certificate.

The list should contain the following headings:

| Date | Description of Work Done | C - Claim, D = Deduction, A = Allowed | | | | | |
|------|--------------------------|---------------------------------------|---|---|-----------------|---|---|
| | | Junior Advocate | | | Senior Advocate | | |
| | | C | D | A | C | D | A |

Interpretation

In these Schedules-

“appeal proceedings” means any proceedings mentioned in item 6, 7, 8, 9, 10 or 11 of Schedule 3 to the Act;

“appearance time” means time spent in conducting the case for the assisted person;

“junior advocate” means an advocate who has been in practice in the Island for less than 5 years;

“preparation time” means time spent in preparing to conduct the case for the assisted person and includes all conferences, consultations, views, attendances, visits, advice given, documents settled or perused and letters written and (in the case of conviction) time spent in advising the assisted person whether or not to appeal against conviction or sentence;

“senior advocate” means an advocate who has been in practice in the Island for not less than 5 years;

“travelling and waiting time” means reasonable time spent travelling or waiting in the course of representation, pursuant to any limitation prescribed by Rules of Court.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies the scales of costs and expenses payable under Part I and II and Schedule 2 of the Legal Aid Act 1986 in Civil, Criminal and Appeal proceedings, together with required miscellaneous arrangements thereto.