



**THE OFFENDERS LEGAL AID REGULATIONS 1972,
AMENDMENT NO. 4**

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 10th day of December
1984

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 3 of the Offenders Legal Aid Act 1954, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Offenders Legal Aid Regulations 1972, Amendment No. 4, and shall be read together with and deemed part of the Offenders Legal Aid Regulations 1972* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of January 1985.

2. Application—These regulations shall apply in respect of payments to be made on or after the 1st day of January 1985 in respect of work done on or after the 1st day of December 1984.

3. List of practitioners—(1) Regulation 3 of the principal regulations is hereby amended by inserting, after subclause (1), the following subclause:

“(1A) Any list kept for the purposes of subclause (1) of this regulation may be subdivided according to such classes of criminal proceedings as

*S.R. 1972/176
Amendment No. 1: S.R. 1976/269
Amendment No. 2: S.R. 1978/118
Amendment No. 3: S.R. 1982/3

the District Law Society may from time to time determine, so that each subdivision shows the name and address of every practitioner who in the opinion of the Society is a fit and proper person to be assigned and is willing to accept assignment in accordance with these regulations in respect of proceedings of the class to which that subdivision relates.”

(2) Regulation 2 of the principal regulations is hereby further amended by adding to subclause (2), and to subclause (3), and to subclause (4), the words “or any subdivision of the list”.

4. Grant of legal aid by District Court where committal for trial or sentence, or appeal to High Court—The principal regulations are hereby amended by revoking regulation 6, and substituting the following regulation:

“6. Where a District Court commits any person for trial or sentence, or where any person appeals to the High Court against a conviction or sentence of a District Court, the District Court may direct that legal aid be granted in respect of the proceedings relating to the trial, sentence, or appeal.”

5. Assignment of practitioner—Regulation 8(1) of the principal regulations is hereby amended—

(a) By inserting, after the words “from the list”, the words “or (as the case may require) the appropriate subdivision of the list”:

(b) By omitting the word “therein”, and substituting the words “in the list or (as the case may require) the appropriate subdivision of the list”.

6. New scale of fees and expenses—The principal regulations are hereby amended by revoking the Second Schedule (as substituted by regulation 2(1) of the Offenders Legal Aid Regulations 1972, Amendment No. 2), and substituting the Second Schedule set out in the Schedule to these regulations.

7. Revocations—The Offenders Legal Aid Regulations 1972, Amendment No. 2, and the Offenders Legal Aid Regulations 1972, Amendment No. 3 are hereby consequentially revoked.

Reg. 6

SCHEDULE

NEW SECOND SCHEDULE SUBSTITUTED

Reg. 12 (1)

“SECOND SCHEDULE

FEES AND EXPENSES OF ASSIGNED PRACTITIONERS

**PART I—FEES IN PROCEEDINGS UNDER THE SUMMARY PROCEEDINGS ACT
1957**

A. Hearings

	Scale I \$	Scale II \$
For conducting the defence in cases that are dealt with before a District Court Judge or before one or more Justices (including the preliminary hearing of an indictable offence), one of the following scales shall apply:		
(a) For receiving instructions and advising generally, irrespective of the number of charges	32.00	43.00
(b) For appearance on a plea of guilty or where the information is withdrawn, irrespective of the number of charges	15.00	21.00
(c) On a plea of not guilty; for preparation, for each hour occupied (excluding the first hour)	32.00	43.00
with a maximum of	96.00	129.00
For appearance conducting defence, irrespective of the number of charges or persons charged, each half day or part half day	105.00	140.00

B. Appeals and Other Proceedings

	Scale I \$	Scale II \$
1. In proceedings in the High Court under or relating to the Summary Proceedings Act 1957, whether by way of appeal against conviction or order, application for review, or otherwise (except appeals against sentence), one of the following scales shall apply:		
For preparation, including all matters connected with or incidental to the proceedings, for each hour occupied	36.00	48.00
with a maximum of	180.00	240.00
For appearance; for each half day or part half day	105.00	140.00
2. On an appeal against sentence only before the High Court the fee for preparation and appearance, including all matters and proceedings, shall be ..	56.00	75.00
Provided that, if more than one appearance is necessary, there shall be allowed for each additional appearance a further fee of	32.00	43.00

SCHEDULE—*continued*

PART II—FEES IN PROCEEDINGS UNDER THE CRIMES ACT 1961

A. *Trials*

	Scale I \$	Scale II \$
In proceedings on trials of indictable offences, one of the following scales shall apply:		
(a) Preparing for trial with all matters incidental thereto—		
(i) Indictments for murder and treason, for each hour	36.00	48.00
(ii) Other cases, for each hour	36.00	48.00
with a maximum in these other cases of	219.00	292.00
(b) Appearance—		
(i) On defence of indictments (including interlocutory proceedings at trial, or ancillary proceedings or matters), for each half day or part half day	137.00	183.00
(ii) On arraignment, where for any reason the trial does not proceed further	36.00	48.00
(iii) On interlocutory proceedings before trial, for each hour	40.00	54.00

B. *Sentences*

	Scale I \$	Scale II \$
For appearances upon the sentencing of prisoners, in respect of each indictment or information or as the result of one preliminary hearing, irrespective of the number of charges	36.00	48.00

Provided that no fee shall be payable in respect of appearance upon the sentencing of a prisoner where the sentence is pronounced on the same day as the verdict unless that appearance alone necessitates a separate attendance of counsel.

PART III—FEES IN PROCEEDINGS UNDER THE FAMILY PROCEEDINGS ACT 1980

A. *Hearings*

	Scale I \$	Scale II \$
For representing a party who is summoned or brought before a District Court under section 124 or section 130 of the Family Proceedings Act 1980, one of the following scales shall apply:		
(a) For receiving instructions and advising generally	32.00	43.00
(b) For preparation for appearance, for each hour excluding the first	32.00	43.00
with a maximum of	96.00	129.00
(c) For appearance, each half day or part half day	105.00	140.00

SCHEDULE—*continued*

B. *Appeals*

	Scale I \$	Scale II \$
In proceedings in the High Court on appeal under section 130 (9) of the Family Proceedings Act 1980, one of the following scales shall apply:		
(a) For preparation, including all matters connected with or incidental to the proceedings, for each hour	36.00	48.00
with a maximum of	180.00	240.00
(b) For appearance, for each half day or part half day	105.00	140.00

PART IV—FEES IN PROCEEDINGS BEFORE THE COURT OF APPEAL

	Scale I \$	Scale II \$
In any appeal to or review of proceedings by the Court of Appeal, one of the following scales shall apply:		
(a) For preparation and appearance on application to a Judge for a certificate that the case is a fit case for appeal (but excluding cases arising under rule 9 of the Criminal Appeal Rules 1946 [#])	36.00	48.00
(b) For preparation on appeal against conviction or sentence or both or against any interlocutory order or any other matter not otherwise provided for; for each hour	36.00	48.00
(c) For appearance on appeal against conviction or sentence or both, or reference of an application for the exercise of the mercy of the Crown; for each half day or part half day	137.00	183.00
(d) For appearance on appeal against any interlocutory order, for each half day or part half day	137.00	183.00
(e) For appearance on any matter not otherwise provided for other than the making of fixtures; for each half day or part half day	137.00	183.00

SCHEDULE—*continued*

PART V—PROVISIONS OF GENERAL APPLICATION

A. *Second Counsel*

Where second counsel is assigned, the fees payable to second counsel shall, if second counsel is from the same office as first counsel, be at the rates above prescribed, reduced by half. If second counsel is from another office the fees payable shall be at rates not exceeding two-thirds of the rates above prescribed.

B. *Travelling Expenses and Allowances*

1. Where a practitioner is required in pursuance of an assignment to travel more than 5 kilometres from the place where he carries on business, travelling expenses will be allowed as follows:

- (a) Fares paid for public transport, subject to the production of receipts for fares exceeding \$2 and not fixed by law or readily ascertainable:
- (b) Car allowance at 10c a kilometre each way where a private car is used:
- (c) Subsistence expenses reasonably incurred by him during the period of his absence from his residence, subject to the production of a receipt for any item in excess of \$2, plus a sum of 50c per day or part of a day:
- (d) The cost paid for hiring a rental car if that cost together with subsistence expenses under paragraph (c) of this clause and the special allowance provided for in clause 2 hereof does not exceed the total of the fares, subsistence expenses, and special allowance that would have been payable if public transport had been used.

2. A special allowance at the rate of up to but not exceeding \$9 for each hour occupied on any day between the hours of 8 a.m. and 6 p.m. in travelling on business related to the assignment will be paid in addition to the travelling expenses provided under clause 1 hereof:

Provided that such special allowance shall not be payable in addition to any other payment for preparation or otherwise in respect of the same time:

Provided also that where there is a transfer of the proceedings for which a practitioner was assigned to a court other than that whereby legal aid was granted, the practitioner shall not incur travelling expenses without the consent of the Registrar who assigned him to the case.

C. *Bail*

	Scale I \$	Scale II \$
For arranging bail, one of the following scales shall apply:		
For the time actually involved, per hour . . .	24.00	33.00."

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

The principal purpose of these regulations is to prescribe new scales of fees and expenses payable to assigned practitioners under the Offenders Legal Aid Regulations 1972. The new scales will apply to payments to be made on or after 1 January 1985 for work done on or after 1 December 1984.

Regulations 3 and 5 relate to the list of available practitioners able and willing to undertake work under the Act, kept by each District Law Society. These regulations allow any such list to be subdivided into different classes of criminal proceedings, so that the list will indicate if a practitioner is able and willing to act only in a particular class of proceedings (for example, summary hearings in a District Court, or trials on indictment in the High Court).

Regulation 4 gives better recognition to the fact that some trials on indictment now take place in a District Court. The amendment of regulation 6 of the principal regulations made in 1982 in consequence of this change did not go quite far enough.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 13 December 1984.

These regulations are administered in the Department of Justice.