



STATUTORY INSTRUMENTS.

**S.I. No. 362 of 2011**



CRIMINAL JUSTICE (LEGAL AID) (AMENDMENT) REGULATIONS  
2011

**(Prn. A11/1215)**

CRIMINAL JUSTICE (LEGAL AID) (AMENDMENT) REGULATIONS  
2011

I, ALAN SHATTER, Minister for Justice and Equality, in exercise of the powers conferred on me by section 10(1)(b) of the Criminal Justice (Legal Aid) Act 1962 (No. 12 of 1962) (as adapted by the Justice and Law Reform (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 138 of 2011)), and with the consent of the Minister for Finance, make the following regulations:

1. (1) These Regulations may be cited as the Criminal Justice (Legal Aid) (Amendment) Regulations 2011.

(2) The Criminal Justice (Legal Aid) Regulations 1965 to 2000 and these Regulations may be cited together as the Criminal Justice (Legal Aid) Regulations 1965 to 2011.

(3) These Regulations shall come into operation on 13 July 2011.

2. In these Regulations—

“Regulations of 1965” means Criminal Justice (Legal Aid) Regulations 1965 (S.I. No. 12 of 1965);

“Regulations of 1970” means Criminal Justice (Legal Aid) (Amendment) Regulations 1970 (S.I. No. 240 of 1970);

“Regulations of 1975” means Criminal Justice (Legal Aid) (Amendment) Regulations 1975 (S.I. No. 100 of 1975);

“prison” means a place of custody administered by the Minister for Justice and Equality other than a Garda Síochána station.

3. (1) The scales of payment of fees payable to a solicitor assigned, pursuant to a legal aid certificate, to a person charged before the District Court or to an appellant in the Circuit Court shall, from 13 July 2011, be those specified in Part 1 of Schedule 1.

(2) The rate of payment of fee payable to a solicitor assigned, pursuant to a legal aid certificate, to a person before the Circuit Court or Special Criminal Court in relation to an application to be admitted to bail that is contested by the prosecution shall, from 13 July 2011, be that specified in Part 2 of Schedule 1.

(3) The rate of payment of fee payable to a solicitor assigned, pursuant to a legal aid certificate, to a person in respect of any visit to the person in prison

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 15th July, 2011.*

that is essential to the preparation and conduct of the person's defence, appeal or case stated, as the case may be, shall, from 13 July 2011, be that specified in Part 3 of Schedule 1.

4. (1) The rate of payment of fee payable to counsel assigned, pursuant to a legal aid certificate, to a person before the Circuit Court or Special Criminal Court in relation to an application to be admitted to bail that is contested by the prosecution, shall, from 13 July 2011, be that specified in Part 1 of Schedule 2.

(2) The rate of payment of fee payable to counsel assigned, pursuant to a legal aid certificate, to a person in respect of any visit to the person in prison that is essential to the preparation and conduct of the person's defence, appeal or case stated, as the case may be, shall, from 13 July 2011, be that specified in Part 2 of Schedule 2.

5. Regulation 11(2) of the Regulations of 1965 is amended by the substituting the following for subparagraph (a):

“(a) in case the solicitor makes the whole journey in his own motor-car, a sum calculated at the rate of 24 cent per kilometre of the journey shall be paid, and”.

6. Regulation 11(3) of the Regulations of 1965 is amended—

(a) by substituting the following for clause (i) of subparagraph (a):

“(i) in case the solicitor makes the whole journey in his own motor-car, a sum calculated at the rate of 24 cent per kilometre of the journey shall be paid, and”.

(b) by substituting the following for subparagraph (b):

“(b) in the case of subsistence allowances, on a scale corresponding to 50% of the scale for the time being at which the subsistence expenses of civil servants of the highest grade are paid.”.

7. The Regulations of 1970 are amended by substituting the following for Regulation 7:

“7. Where a solicitor assigned pursuant to a certificate for free legal aid in relation to a case does not attend the hearing or part of the hearing of the case, the fees and expenses payable under the Act in connection with the hearing shall be paid to the solicitor concerned if the person on whose behalf that solicitor stands assigned in the matter is represented at the hearing or part of the hearing of the case by—

(a) a solicitor who is a partner of the solicitor assigned,

(b) a solicitor who is a solicitor employed by the firm of solicitors in which the solicitor assigned is a partner or employee, or

- (c) counsel instructed by the solicitor or firm of solicitors in which the solicitor assigned is a partner or employee unless the case is one where counsel has been assigned in the case by or under the Criminal Justice (Legal Aid) Act 1962 (No. 12 of 1962) or the Enforcement of Court Orders Act 1940 (No. 23 of 1940).”.

8. The Regulations of 1975 are amended by substituting the following for Regulation 7:

“7. The travelling expenses actually and necessarily incurred by a solicitor in making an essential visit to a prison in connection with a case in relation to which he or she has been assigned pursuant to a certificate for free legal aid shall be payable under the Act as follows:

- (a) in case the solicitor makes the whole journey in his own motor-car, a sum calculated at the rate of 24 cent per kilometre of the journey shall be paid, and
- (b) in any other case, a sum equal to the lesser of the following shall be paid, namely:
  - (i) the actual cost of the journey,
  - (ii) the cost of the journey by public transport and (to the extent (if any) that public transport is not available) hired car, or if no public transport is available for the journey, hired car.”.

9. The Criminal Justice (Legal Aid) (Amendment) Regulations 2010 (S.I. No. 136 of 2010) are revoked.

SCHEDULE 1  
**SOLICITORS' FEES**

*Part 1*

DISTRICT COURT AND APPEALS TO CIRCUIT COURT

DEFENDANT/ APPELLANT  (1)	FIRST DAY OF HEARING  (2)		SUBSEQUENT DAYS OF HEARING  (3)
Fee in respect of defendant/appellant where only one defendant/appellant represented and in respect of first defendant/appellant where solicitor assigned in respect of more than one defendant/appellant.	€201.50 in relation to first 2 cases.	€120.88 in relation to each subsequent case.	€50.39
Fee in respect of second defendant/appellant where solicitor assigned in respect of more than one defendant/appellant.	€120.88 in relation to first 2 cases.	€72.20 in relation to each subsequent case.	€50.39
Fee in respect of each defendant/appellant (other than the first and second defendants/appellants) where solicitor assigned in respect of more than 2 defendants/appellants.	€80.64 in relation to first 2 cases.	€50.39 in relation to each subsequent case.	€50.39

*Part 2*

BAIL APPLICATIONS

Fee in respect of each contested bail application to Circuit Court or Special Criminal Court:

€91.52

*Part 3*

ESSENTIAL VISITS

Fee in respect of each essential visit to prison:

€97.22

SCHEDULE 2

**COUNSELS' FEES**

*Part 1*

BAIL APPLICATIONS

Fee in respect of each contested bail application to Circuit Court or Special Criminal Court:

€91.52

*Part 2*

ESSENTIAL VISITS

Fee in respect of each essential visit to prison:

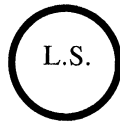
€97.22

The Minister for Finance consents to the making of the foregoing Regulations.



GIVEN under the Official Seal of the Minister for Finance,  
11 July 2011.

MICHAEL NOONAN,  
Minister for Finance.



GIVEN under my Official Seal,  
12 July 2011.

ALAN SHATTER,  
Minister for Justice and Equality.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations provide for:-

(1) a decrease in the fees payable under the Criminal Legal Aid Scheme to solicitors for attendance in the District Court and for appeals to the Circuit Court, and for a decrease in the fees paid to solicitors and counsel in respect of essential visits to prisons and other custodial centres (other than Garda Stations) and for certain bail applications, as follows:

10% with effect from 13th July, 2011;

(2) an amendment to the structure of the “First Day of Hearing Fee” where the full rate will apply to the first two cases represented by the solicitor on any one day and a reduced rate will apply for the third and subsequent cases on any one day;

(3) a reduction of 50% for payments in respect of travel and subsistence;

(4) clarification of the basis upon which the solicitor assigned in pursuance of a certificate for free legal aid may be represented by another individual and confirmation that the fees and expenses payable shall be made to the assigned solicitor only.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
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