COURTS-MARTIAL (APPEALS)

1960 No. 1227 (L. 9)

The Courts-Martial Appeal Court (Fees and Expenses) Regulations, 1960

Made - - - -	*20th July*, 1960
Laid before Parliament	*27th July*, 1960
Coming into Operation	*1st September*, 1960

I, David Viscount Kilmuir, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by section 10 (5) of the Courts-Martial (Appeals) Act, 1951(a), do hereby make the following Regulations:—

1.—(1) There shall be allowed to the solicitor assigned to an appellant by the Court a fee of not less than £8 8s. 0d., and not exceeding £78 15s. 0d. or, in a case where two counsel have been assigned, not exceeding £89 5s. 0d.

(2) Where the hearing of an appeal has not been concluded on the day on which it started, there shall be allowed to the solicitor, in addition to the fee allowed under the foregoing paragraph, a daily fee in respect of the second and every subsequent day not exceeding £15 15s. 0d.

(3) In addition to the fees payable under the foregoing provisions of this Regulation, the solicitor shall be allowed—

(*a*) expenses actually and reasonably incurred by himself or his clerk in travelling to or from the Court and to and from any place visited for the purpose of preparing or conducting the appeal;

(*b*) subject to taxation thereof, any other out-of-pocket expenses actually and reasonably incurred.

2.—(1) There shall be allowed to counsel assigned to an appellant by the Court a fee of not less than £8 13s. 0d., and not exceeding £64 10s. 0d. or, in the case of two counsel being so assigned, to the leading counsel a fee not exceeding £107 10s. 0d.

(2) Where the hearing of an appeal has not been concluded at the end of the first relevant period thereof, there shall be allowed to counsel in respect of each relevant period or, in the case of an incomplete period, part thereof, after the first, a refresher fee.

In this paragraph—

(*a*) "relevant period" means, as the Court may determine, whether generally or in relation to a particular appeal, either any day on any part of which the hearing of the appeal is going on or any period of five hours, whether continuous or not, during which the hearing of the appeal is going on;

(*b*) "refresher fee" means a fee in addition to the fee under the foregoing paragraph, not exceeding half the fee allowed as aforesaid.

(a) 14 & 15 Geo. 6. c. 46.

(3) There shall be allowed to counsel, in addition to any fees allowed under the foregoing paragraphs—

(*a*) in respect of any conference or consultation in chambers or elsewhere lasting not more than half an hour, a fee not exceeding £2 7s. 0d. or, in the case of two counsel being assigned, to the leading counsel a fee not exceeding £7 12s. 0d.;

(*b*) in respect of any conference or consultation in chambers or elsewhere lasting more than half an hour, a fee not exceeding £4 9s. 0d. or, in the case of two counsel being assigned, to the leading counsel a fee not exceeding £13 2s. 0d.;

(*c*) in respect of any application to the Court for the appeal to stand out of the list, a fee not exceeding £11 0s. 0d.;

(*d*) for advice in writing, if in the opinion of the Court it was reasonably necessary to obtain counsel's advice in writing, a fee not exceeding £11 0s. 0d. or, in the case of two counsel being assigned, to the leading counsel a fee not exceeding £21 15s. 0d.

3. Where a solicitor or counsel represents two or more appellants to whom he has been assigned by the Court, and whose appeals are heard together, the maximum amount to be allowed to the solicitor or counsel under, as the case may be, paragraphs (1) and (2) of Regulation 1 or paragraphs (1) and (2) of Regulation 2 of these Regulations shall be increased above the amount which might have been allowed to him if he had been representing only one such appellant (which amount is hereafter in this Regulation referred to as " the normal amount ") by the following amounts:—

(*a*) in any case where the number of appellants is two, forty per cent. of the normal amount,

(*b*) in any case where the number of appellants is three, sixty per cent. thereof, and

(*c*) in any case where the number of appellants exceeds three, a percentage thereof equal to the sum of forty per cent. and a percentage obtained by multiplying twenty by the number by which the number of appellants exceeds two.

4. Where notice of abandonment of an appeal has been received by the Registrar, there shall be allowed to the solicitor and to counsel previously assigned to the appellant such fees, not exceeding the sums mentioned in the foregoing Regulations, as the Registrar may direct.

5. The expenses of any witness attending on the order of the Court or examined in any proceedings incidental to the appeal shall be allowed on the appropriate scale prescribed for witnesses by the Witnesses' Allowances Regulations.

6. The expenses of the appearance of an appellant not in custody on the hearing of his appeal to the Court or on any proceedings preliminary or incidental to his appeal may be allowed on the scale prescribed for an ordinary witness by the Witnesses' Allowances Regulations.

7.—(1) Subject to the provisions of these Regulations, the sum to be paid to a solicitor or to counsel assigned to an appellant shall be determined by the Registrar who shall take into account all the relevant circumstances, including the nature, importance, complexity or difficulty of the work and the time involved, including time spent at the Court on any day in waiting for the appeal to be heard if the appeal was in that day's list, and shall allow such amounts as appear to him to represent fair remuneration for the work actually and reasonably done.

(2) In determining as aforesaid the sums to be paid to a solicitor or to counsel the Registrar shall not allow any payment in respect of any conference, consultation, attendance or visit unless he is satisfied that such conference, consultation, attendance or visit was reasonably necessary.

8. Any maximum fee prescribed by these Regulations shall be increased by fifty per cent. if the Registrar certifies at any time after the conclusion of any appeal that for any reason, including the exceptional length, complexity or difficulty of the case, the sums payable by virtue of these Regulations or any of them would not provide fair remuneration according to the work actually and reasonably done by the solicitor or, as the case may be, by counsel.

9.—(1) In these Regulations—

"appeal" includes application for leave to appeal and "appellant" shall be construed accordingly;

"Court" means the Courts-Martial Appeal Court;

"registrar" means the Registrar of the Courts-Martial Appeal Court;

"Witnesses' Allowances Regulations" means The Courts-Martial Appeal Court (Witnesses' Allowances, etc.) Regulations, 1953(a), as amended(b).

(2) The Interpretation Act, 1889(c), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

10. The Courts-Martial Appeal Court (Fees and Expenses) Regulations, 1954(d), are hereby revoked.

11. These Regulations may be cited as the Courts-Martial Appeal Court (Fees and Expenses) Regulations, 1960.

12. These Regulations shall apply in respect of any sums paid to any solicitor or counsel assigned on or after the first day of September, 1960, to an appellant under section 10 of the Courts-Martial (Appeals) Act, 1951, and accordingly these Regulations shall come into operation on the said date.

Dated the 20th day of July, 1960.

Kilmuir, C.

(a) S.I. 1953/574 (1953 I, p. 412).
(b) S.I. 1953/811 (1953 I, p. 413).
(c) 52 & 53 Vict. c. 63.
(d) S.I. 1954/21 (1954 I, p. 546).

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations make provision as to the costs payable under the Courts-Martial (Appeals) Act, 1951, in cases of appeal to the Courts-Martial Appeal Court. Regulation 1 relates to the fees and other sums payable to a solicitor assigned to an appellant by the Court; Regulation 2 relates to the fees to be allowed to counsel so assigned; Regulation 3 makes special provision for a case where two or more appellants whose appeals are heard together are represented by the same solicitor or counsel; Regulation 4 relates to the payment of fees in cases where an appeal is abandoned; Regulation 5 relates to the payment of witnesses' allowances; Regulation 6 relates to the expenses of the appearance of an appellant not in custody; Regulation 7 relates to the assessment of the sums to be allowed to a solicitor or counsel assigned to an appellant; and Regulation 8 makes provision for the allowance of higher fees to be paid in a case where the fees otherwise payable would not represent fair remuneration for the work done.