

AUDITOR OF THE COURT OF SESSION

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[REDACTED]

Dispute re Duplicating Charges

EDINBURGH. 21st January 2000.

This dispute has arisen in terms of the Criminal Legal Aid (Scotland) (Fees) Regulations, Reg. 11(1). At the taxation on 12th October 1999 the Board was represented by [REDACTED] and Messrs. Anderson Strathern, Solicitors, were represented by Mr. MacNeil and Ms. Cameron.

The entries to which objection was taken are:

[REDACTED]

(a) 09.05.99 – in respect of duplicating charges for printing the Stated Case, £684.00 - page 4.

[REDACTED]

(a) 04.05.99 – In relation to the outlay incurred of £96.00 to Broughton Law Printers - page 4.

Mr. MacNeil stated that:

In terms of the Act of Adjournment (Criminal Procedure Rules) 1996 Section 19.12 the Appellant's Solicitor shall produce prints of documents. This responsibility carries consequences and the Court may dismiss the Appeal in the absence of the correct documentation. The documentation is, therefore, of primary importance and failure to lodge it may involve the Appellant's loss of liberty. The Solicitor must ensure that the/

the appropriate documentation is included in the prints. It was not a question of receiving a bundle of documents from the Justiciary Office and passing them to a member of staff. The Solicitor had to satisfy himself that the correct documentation was included in the prints, that it was properly referenced and paginated and conformed entirely with the Clerk of Justiciary and the Court's requirements. Any outlays to be incurred had to have due regard to economy and be actually and reasonably incurred. If the Solicitor thought it appropriate to instruct an outside agency, he would instruct an agency that was experienced, would respect confidentiality and with a knowledge of the complexity of the documents. In instructing such an agency, the Solicitor would expect to pay the going rate, which is from time to time prescribed by the Auditor and approved by the Lord President.

The Board argued that the work done was, in effect, a photocopying exercise. The Solicitor should be allowed a charge for framing any new documentation and for revisal of same on completion. The remainder was precisely a photocopying exercise and bearing in mind the "due regard to economy" test, photocopying should be allowed at the rate prescribed by the Board. The Solicitor's responsibilities to the Clerk of Justiciary and the Court were covered by the allowance of framing and revisal charges. The Board did not consider it reasonable nor in line with the standard of taxation to instruct an outside agency at a rate higher than would have been remunerated under the contemporaneous Legal Aid Fees Regulations.

In the light of the submissions made and consideration of the documents produced the Auditor determines that in satisfying the test of "due regard being had to economy" the Solicitor should be entitled to remuneration in accordance with Schedule 1 of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989. He, therefore, allows fees as follows:-



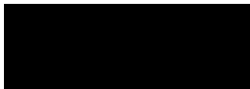


30 minutes collation of Stated Case (in terms of Schedule 1, paragraph 2 (a) or (b)).

Copying (in terms of Schedule 1, paragraph 5).

15 minutes revisal charge (in terms of Schedule 1 paragraph 2 (a) or (b)).

N.B. The Auditor believes it is reasonable that the Solicitors in this case are allowed a revisal charge.



30 minutes for collation of the Bill of suspension (in terms of Schedule 1 paragraph 2 (a) or (b)).

Copying (in terms of Schedule 1 paragraph 5)

15 minutes revisal charge (in terms of Schedule 1 paragraph 2 (a) or (b)).

N.B. The Auditor believes it is reasonable that the Solicitors in this case are allowed a revisal charge.

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