

**SCOTTISH LEGAL AID BOARD
MEMORANDUM**

Copy

Date: 23 February 2001

Ref: JDH/SMcS

TAXATION NOTE

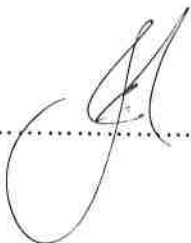
H.M.A. -v- [REDACTED]

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This was a taxation before the auditor of the Court of Session. A copy of the brief report is enclosed. The Auditor's report is surprisingly short. This is the sort of note which was expressly struck at in HMA -v- Uisdean McKay where the court made it clear that the Auditor should give clear reasons for his decision. I do not think that we are unhappy with the decision but I think we would have preferred to have had some explanation as to how the Auditor arrived at the figure. For example, did the Auditor allow Mr Kerrigan separate preparation and, if so, at what rates. Alternatively, did the Auditor not allow any of the preparation and simply allow an enhanced daily rate (the trial lasted some 38 days). The decision itself is satisfactory. The Auditor had two fee notes before him; one for £39,125 which included all the preliminary work preparation and the first 18 days of trial. The second amounted to £20,300 dealt with the last 20 days of trial (£1,000 a day) and a £300 consultation. The total fee was £59,425 ex VAT. The Auditor has allowed Mr Kerrigan £33,450 (which I presume to be ex VAT). This amounts to a total abatement on the fee notes lodged of £25,975.

I understand fairly substantial payments to account have been made to Mr Kerrigan and the net result of the taxation may be a repayment by Mr Kerrigan to the Board or, at least, the basis for a deduction from the fee notes which are presently under consideration.

There is nothing that can be learnt from this taxation given the lack of any detail although Mr Kerrigan may take a note of objections. He is aware of the Uisdean McKay case. Generally speaking, however, the decision does tend to support the Board's approach to Mr Kerrigan's cases whereby it considers them to be generally overstated by way of separate charges for preparation and significantly enhanced daily rates which tendencies were very much magnified in the scale of this case.

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HMA v. [REDACTED]

EDINBURGH. 13th February 2001. The Auditor has been asked to tax Counsel's fees in this case and at a diet of taxation held on 5th January 2001, he heard representations made by [REDACTED] Law Accountant, on behalf of Counsel, and the Scottish Legal Aid Board's comments thereon. Having considered the papers submitted to him, the Auditor now taxes Counsel's fees at the sum of THIRTY THREE THOUSAND FOUR HUNDRED AND FIFTY POUNDS (£33,450.00).

In addition, [REDACTED] submitted that his fees for the work carried out and his attendance at the taxation should be allowed. The Auditor found his presentation of the case for Counsel to be very helpful and is prepared to allow him a fee of £500 with VAT in addition.

AUDITOR OF THE COURT OF SESSION

The Auditor
Neil J. Crichton, W.S.

Principal Clerk
Mrs. Cynthia Cameron