

**LORD CHANCELLOR'S DIRECTION GIVEN UNDER
THE LEGAL AID FOR CROWN COURT PROCEEDINGS
(COSTS) RULES (NORTHERN IRELAND) 2005**

Direction No. 1

INTERIM PAYMENTS IN VERY HIGH COST CASES

1. The Lord Chancellor hereby directs under rule 17(1) of the Legal Aid for Crown Court Proceedings (Costs) Rules (Northern Ireland) 2005 ("the 2005 Rules") that, subject to paragraphs 2 to 9 below, the taxing master may assess a case in respect of which a Very High Cost Case Certificate has been granted under rule 16 of the 2005 Rules and authorise the Northern Ireland Legal Services Commission ("the Commission") to make an interim payment in that case in such amount as he may determine.
2. The taxing master may only assess and authorise an interim payment in a case under this direction if, upon receiving an application by the assisted person's representatives for such a payment, having considered representations from the representatives and consulted the trial judge, the master is satisfied:
 - (i) that an interim payment is required in the interests of justice; and
 - (ii) that, in the absence of such a payment, the representatives are likely to suffer severe financial hardship.
3. An assessment and authorisation by the taxing master under paragraph 1 above may be made in respect of:
 - (i) disbursements, where the solicitor has reasonably incurred a liability in respect of same; and / or
 - (ii) the representatives' fees.
4. Before the taxing master assesses a case for an interim payment under paragraph 1 above, the assisted person's representatives shall furnish him with:

- (i) a detailed report of the work done to date, together with a breakdown of the claimed value of that work and a projection as to the future costs of the case;
 - (ii) copies of the periodic reports and projections sent to the Commission under rule 16(4) of the 2005 Rules;
 - (iii) invoices or vouchers for the disbursements being claimed;
 - (iv) copies of counsel's directions and advices;
 - (v) an undertaking in writing, pursuant to paragraph 9 below, to refund to the Commission at the conclusion of the case any overpayment; and
 - (iv) such further particulars, information and documents as the taxing master may require to enable him to assess the application for an interim payment.
5. Any decision as to authorising the making of an interim payment, including the amount of any such payment, shall be in the discretion of the taxing master; and rules 13 to 15 (redetermination etc.) of the 2005 Rules shall not apply to such decision.
6. Unless there are wholly exceptional circumstances, the taxing master may only assess a case and authorise the making of an interim payment under this direction once in any twelve month period.
7. Nothing in this direction shall require the taxing master to assess a case for an interim payment if, once he has received all necessary material to enable him to consider the application, it appears to him that the case could be submitted for final assessment and determination within six months.
8. At the conclusion of a case in which an interim payment has been made to a representative under this direction, he shall submit a claim to the taxing master under rule 7 or 10 of the 2005 Rules, as applicable, for the determination of his overall costs, whether or not such a claim will result in any payment additional to that already made.

9. In the determination of the amount payable to a representative under rule 8, 9 or 11 of the 2005 Rules, as applicable, the taxing master shall deduct the amount of any interim payment made under this direction in respect of the same case from the amount that would otherwise be payable; and, if the amount of the interim payment is greater than the amount that would otherwise be payable, the Commission shall be entitled to recover the amount of the difference, at its election, either by way of repayment by the representative or by way of deduction from any other amount that may be due to him.
10. Expressions used in this direction shall have the same respective meanings as in the 2005 Rules.

Signed by authority of the Lord Chancellor

Dated

Bridget Rentice
10 / xi / 06