

PRACTICE DIRECTION - FEES FOR EXAMINERS OF THE COURT

THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 34

Scope

- 1.1 This practice direction sets out-
 - (1) how to calculate the fees an examiner of the court (“an examiner”) may charge; and
 - (2) the expenses he may recover.

(CPR Rule 34.8 (3) (b) provides that the court may make an order for evidence to be obtained by the examination of a witness before an examiner of the court).
- 1.2 The party who obtained the order for the examination must pay the fees and expenses of the examiner.

(CPR rule 34.14 permits an examiner to charge a fee for the examination and contains other provisions about his fees and expenses, and rule 34.15 provides who may be appointed as an examiner of the court).

The examination fee

- 2.1 An examiner may charge an hourly rate for each hour (or part of an hour) that he is engaged in examining the witness.
- 2.2 The hourly rate is to be calculated by reference to the formula set out in paragraph 3.
- 2.3 The examination fee will be the hourly rate multiplied by the number of hours the examination has taken. For example-
$$\text{Examination fee} = \text{hourly rate} \times \text{number of hours}.$$

How to calculate the hourly rate - the formula

- 3.1 Divide the amount of the minimum annual salary of a post within Group 7 of the judicial salary structure as designated by the Review Body on Senior Salaries¹, by 220 to give ‘x’; and then divide ‘x’ by 6 to give the hourly rate.

For example-

$$\frac{\text{minimum annual salary}}{220} = x$$

¹ The Report of the Review Body on Senior Salaries is published annually by the Stationery Office.

$$\frac{x}{6} = \text{hourly rate}$$

Single fee chargeable on making the appointment for examination

- 4.1 An examiner of court is also entitled to charge a single fee of twice the hourly rate (calculated in accordance with paragraph 3 above) as “the appointment fee” when the appointment for the examination is made.
- 4.2 The examiner is entitled to retain the appointment fee where the witness fails to attend on the date and time arranged.
- 4.3 Where the examiner fails to attend on the date and time arranged he may not charge a further appointment fee for arranging a subsequent appointment.

(The examiner need not send the deposition to the court until his fees are paid - see CPR rule 34.14 (2)).

Examiners' expenses

- 5.1 The examiner of court is also entitled to recover the following expenses-
 - (1) all reasonable travelling expenses;
 - (2) any other expenses reasonably incurred; and
 - (3) subject to paragraph 5.2, any reasonable charge for the room where the examination takes place.
- 5.2 No expenses may be recovered under sub-paragraph (3) above if the examination takes place at the examiner's usual business address.

(If the examiner's fees and expenses are not paid within a reasonable time he may report the fact to the court, see CPR Rule 34.14 (4) and (5)).