

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 –
- Examination fee = hourly rate x 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 –

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

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

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

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)).

Examiner's 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)).