

FEES BULLETIN No. 2 of 2012

GRADUATED FEE SCHEME C

**Clarification of the Manual of Guidance (MoG) in relation to:
Paragraph 94(a) Mixed Pleas, Multiple Main Hearings, concurrent & consecutive hearings
and
Paragraphs 208 and 209 in so far as payment is concerned**

This document is intended to clarify two issues concerning the application of Graduated Fee Scheme C.

Paragraph 94(a) Mixed Pleas, Multiple Main Hearings, concurrent and consecutive hearings

The Court Business Unit has presented a number of seminars to Bar Clerks since the implementation of Scheme C. Representations have been made by Bar Clerks in relation to the interpretation of Paragraph 94(a) of the MoG which presently states that:

A case with two defendants is listed for trial. On day one, one of the defendants pleads guilty (cracked trial). The following day, the jury is sworn for the second defendant and evidence is subsequently called. The trial lasts four days. In this scenario, there are two main hearings (a cracked trial and an effective trial). The main hearing date for the effective trial falls within the two day period covered by the cracked trial main hearing fee. The advocate must therefore elect to be paid one main hearing fee for either a cracked trial with two defendants or a four day trial with two defendants.

To clarify the position, if the advocate elects the effective trial as the principal case, the main hearing date will be the date the jury was sworn. The MoG is silent on the question of how the date the first defendant pleaded guilty should be remunerated if the advocate elects the effective trial main hearing as the principal case in this scenario. For clarification, the advocate should receive an FNR fixed fee for the first day. As there are two defendants having main hearings at the same time, the number of defendants in the main hearing (the effective trial) would be two.

If, however, the advocate elects the cracked trial main hearing as the principal case there will be no payment for any of the days of the trial. As there are two defendants having main hearings at the same time, the number of defendants in the main hearing (the cracked trial) would be two.

Paragraphs 208 & 209 in so far as payment is concerned

Paragraphs 208 and 209 of the Scheme C MoG state:

208. Should the advocate consider that, due to the exceptional circumstances of the case, the graduated fixed fee does not provide fair and reasonable remuneration in a committal for sentence or an appeal against conviction and/or sentence he can apply in writing for the hours of preparation to be paid using the GFS hourly rate. The GFS hourly rate applicable to the advocate instructed will be applied to any reasonable hours of preparation. The GFS fixed fee will be applied to the main hearing. Payment for hours of preparation will only be made upon production of detailed work records.

209. In a committal for sentence, where a Newton Hearing is heard in the Crown Court, the case cannot be paid under GFS and the fees will be assessed as at paragraph 208 above.

For clarification, these fees must now be paid through the GFS payment system (on a FIST or by way of a Zanzibar Purchase order) and not on a NoFF.

Court Business Unit
Operations Directorate
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This document can be shared with the Bar