

Authorised Version

**Supreme Court (Chapter I Recovery of Pro Bono
Costs Amendment) Rules 2017**

S.R. No. 14/2017

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Authorised Version

STATUTORY RULES 2017

S.R. No. 14/2017

Supreme Court Act 1986

Supreme Court (Chapter I Recovery of Pro Bono Costs Amendment) Rules 2017

The Judges of the Supreme Court make the following Rules:

1 Object

The object of these Rules is to amend Order 63 of Chapter I of the Rules of the Supreme Court to provide for the recovery of costs in cases where legal practitioners are acting pro bono.

2 Authorising provisions

These Rules are made under section 25 of the **Supreme Court Act 1986** and all other enabling powers.

3 Commencement

These Rules come into operation on 1 April 2017.

4 New Part 3A of Order 63 inserted

After Part 3 of Order 63 of the Supreme Court (General Civil Procedure) Rules 2015¹ **insert—**

"Part 3A—Costs for pro bono representation

63.34.1 Definitions for this Part

- (1) In this Part, unless the context otherwise requires—

assisted party means a party receiving legal assistance provided by a legal practitioner on a pro bono basis;

legal assistance means any legal services provided in connection with a proceeding in the Court;

pro bono costs order means an order made under Rule 63.34.2(1).

- (2) For the purposes of this Part, a legal practitioner provides legal assistance on a ***pro bono basis*** when the legal practitioner provides legal assistance on the basis that—
- (a) the legal practitioner is to receive no professional fees from or on behalf of the person to or for whom the legal assistance is provided;
 - (b) the legal practitioner is to receive such professional fees only to the extent that an order for costs covering such professional fees is made in favour of the assisted party; or
 - (c) the legal practitioner is to receive such professional fees only to the extent that payment is made in satisfaction or part satisfaction of such an order for costs.

63.34.2 Orders for legal costs

- (1) If a legal practitioner provides legal assistance to an assisted party in a proceeding on a pro bono basis, the Court may make, in favour of the assisted party, any order for the recovery of the costs of the legal assistance that the Court might have made had the legal assistance been provided not on a pro bono basis but on the basis that the assisted party was under an obligation to pay for the legal assistance in the ordinary way.

- (2) When making a pro bono costs order, the Court may order that a party or other person against whom the pro bono costs order is made pay the costs, including any disbursements incurred by the legal practitioner acting on a pro bono basis, directly to the legal practitioner instead of to the assisted party.
- (3) A payment made to a legal practitioner acting on a pro bono basis pursuant to an order made under paragraph (2) satisfies the pro bono costs order in favour of the assisted party to the extent of that payment.

63.34.3 Taxation or assessment and recovery of legal costs

- (1) On the taxation or assessment of costs payable to or in favour of an assisted party, the Costs Court shall not disallow an item merely because—
 - (a) the assisted party is, by reason of being an assisted party, under no obligation to pay, in whole or in part, for the service to which the item relates; or
 - (b) in the case of a disbursement (whether for counsel's fees or otherwise) the amount of the disbursement has not been paid prior to the taxation or assessment.
- (2) Rule 63.43 does not apply to the taxation or assessment of costs payable to or in favour of an assisted party."

Dated: 30 March 2017

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Endnotes

- ¹ Rule 4: S.R. No. 103/2015. Reprint No. 1 as at 1 October 2016. Reprinted to S.R. No. 109/2016. Subsequently amended by S.R. Nos 138/2016 and 139/2016.