

Draft Regulations laid before the Scottish Parliament under section 37(2) of the Legal Aid (Scotland) Act 1986 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

LEGAL AID AND ADVICE

**The Legal Aid and Advice and Assistance (Financial
Limit) (Scotland) Amendment Regulations 2022**

Made - - - - 2022
Coming into force - - 1st April 2022

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 9(2)(e) and 33(2), (3)(b) and (f) of the Legal Aid (Scotland) Act 1986(1) and all other powers enabling them to do so.

In accordance with section 37(2) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Legal Aid and Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2022 and come into force on 1 April 2022.

Amendments to the Criminal Legal Aid (Scotland) (Fees) Regulations 1989

2. In regulation 6 (duty solicitors' fees) of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989(2)—

- (a) in paragraph (1)(a), for “£140” substitute “£165”,
- (b) in paragraph (1)(b), for “£93” substitute “£115”, and
- (c) in paragraph (2), for “£150” substitute “£250”.

(1) 1986 c. 47 (“the Act”). The functions of the Secretary of State under the Act were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(2) S.I. 1989/1491. Relevant amending instruments are S.S.I. 2008/240 and S.S.I. 2021/56.

Amendments to the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993

3.—(1) The Advice and Assistance (Financial Limit) (Scotland) Regulations 1993⁽³⁾ are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation)—

(a) after the entry for “the Act” insert—

““court holiday” means a day prescribed as such (including an additional court holiday) in accordance with section 8(2) of the Criminal Procedure (Scotland) Act 1995⁽⁴⁾,” and

(b) after the entry for “distinct matter” insert—

““holiday court sitting” means a sitting of a sheriff court on a court holiday, a Saturday or a Sunday by virtue of an order under section 28 or 29 of the Courts Reform (Scotland) Act 2014⁽⁵⁾.”

(3) In regulation 3 (financial limit)—

(a) in paragraph (b)(i), for “£95” substitute “£120”,

(b) in paragraph (b)(ii), for “£35” substitute “£45”,

(c) in paragraph (c)(i) and (ii), for “£90” substitute “£105”,

(d) in paragraph (c)(iii), for “£35” substitute “£45”,

(e) in paragraph (c)(iv), for “£550” substitute “£705”,

(f) in paragraph (c)(v), for “£185” substitute “£330”,

(g) in paragraph (c)(vi), for “, the sum of £90” substitute “£195”,

(h) in paragraph (c)(vii), for “, the sum of £90” substitute “£195”,

(i) in paragraph (c)(viii), for “, the sum of £165” substitute “£265”,

(j) in paragraph (c)(ix), for “£165” substitute “£185”, and

(k) in paragraph (c)(xii), (xiii) and (xiv), for “£200” substitute “£350”.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

⁽³⁾ S.I. 1993/3187. Relevant amending instruments are S.S.I. 2007/248, S.S.I. 2008/251 and S.S.I. 2017/466.

⁽⁴⁾ 1995 c. 46. Section 8(2) was amended by section 59(2) of the Judiciary and Courts (Scotland) Act 2008 (asp 6) and S.S.I. 2015/150.

⁽⁵⁾ 2014 asp 18.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend two sets of Regulations made under the Legal Aid (Scotland) Act 1986 (“the 1986 Act”).

Regulation 2 amends the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 to substitute the maximum total fees allowable to duty solicitors representing accused persons in the sheriff or district court where the accused person pleads not guilty or where the case is adjourned under section 145 of the Criminal Procedure (Scotland) Act 1995.

Regulation 3 amends the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993 to substitute the financial limit amounts for advice and assistance specified in section 10(2) of the 1986 Act beyond which solicitors are required to seek prior approval of the Scottish Legal Aid Board before providing further advice and assistance.

A business and regulatory impact assessment has not been prepared in relation to these Regulations as no, or no significant impact upon business, charities or voluntary bodies is foreseen.