
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

LEGAL AID AND ADVICE

**The Advice and Assistance (Financial Limit) (Scotland)
Amendment Regulations 2007**

Made - - - - - *2007*

Coming into force *1st May 2007*

The Scottish Ministers, in exercise of the powers conferred by sections 9(1), 9(2)(e), 36(1) and 36(2)(b) of the Legal Aid (Scotland) Act 1986(a) and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 37(2) of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation and commencement

1. These Regulations may be cited as the Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2007 and shall come into force on 1st May 2007.

Amendment of the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993

2. The Advice and Assistance (Financial Limit) (Scotland) Regulations 1993(b) are amended in accordance with the following regulations.

3. In regulation 2 (interpretation)–

(a) after the definition of “the Act”, insert–

““distinct matter” shall be construed in accordance with regulation 8A(2) of the Advice and Assistance (Scotland) Regulations 1996(c)”; and

(b) for “1993”, on each occasion it occurs, substitute “2001”.

4. For regulation 3 (financial limit) substitute–

“There is substituted in the place of the sum of £50 specified in section 10(2) of the Act as originally enacted–

(a) in a case to which regulation 4 of these Regulations applies–

(a) 1986 c.47. Section 9 was amended for purposes not relevant to these Regulations. Section 36(2)(b) was amended by the Legal Aid Act 1988 (c.34), Schedule 4, paragraph 6. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.I. 1993/3187, as amended by S.S.I. 2004/308.

(c) S.I. 1996/2447, as relevantly amended by S.S.I. 2007/60.

- (i) where the advice and assistance or assistance by way of representation relates to a civil matter which is a distinct matter or to a civil matter which is not distinct but following application to the Scottish Legal Aid Board is to be treated as if it were so, the sum of £180; and
 - (ii) in any other case, the sum of £150; and
- (b) in a case to which regulation 4 of these Regulations does not apply–
- (i) where the advice and assistance or assistance by way of representation relates to a children’s matter, a civil matter which is a distinct matter or a civil matter which is not distinct but following application to the Scottish Legal Aid Board is to be treated as if it were so, the sum of £95;
 - (ii) where the advice and assistance or assistance by way of representation relates to a civil matter not falling within sub-paragraph (i), the sum of £35; and
 - (iii) in any other case, the sum of £80.”.

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh

2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993 (“the principal Regulations”). They provide that the financial limit for advice and assistance specified in section 10(2) of the Legal Aid (Scotland) Act 1986 beyond which solicitors are required to seek prior approval of the Scottish Legal Aid Board (“the Board”) before providing further advice and assistance is amended as follows (regulation 4):–

- (a) where regulation 4 of the principal Regulations applies and where the subject matter of a civil case is a distinct matter (under regulation 8A(2) of the Advice and Assistance (Scotland) Regulations 1996 – S.S.I. 1996/2447, as relevantly amended by S.S.I. 2007/60), or where the subject matter of the case is civil and not distinct but following application to the Board is to be treated as if it were so, the financial limit is increased from £160 to £180;
- (b) where regulation 4 of the principal Regulations does not apply and where the subject matter of a civil case is a distinct matter (as above) or is not distinct but following application to the Board is to be treated as if it were so, the financial limit is increased from £85 to £95. The financial limit for cases relating to children’s matters is increased from £80 to £95;
- (c) where the subject matter of a civil case is not determined by the Board to be a distinct matter the financial limit is £35 (there is no previous figure as this is a new limit); and
- (d) for cases other than civil and children’s cases, the financial limit remains £80.

The principal Regulations are also amended, at regulation 2, where references to the Parole Board (Scotland) Rules are updated (regulation 3).

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.

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