

2005 No.171

LEGAL AID AND ADVICE

**The Advice and Assistance (Scotland) Amendment (No. 2)
Regulations 2005**

<i>Made</i> - - - -	<i>22nd March 2005</i>
<i>Laid before the Scottish Parliament</i>	<i>22nd March 2005</i>
<i>Coming into force</i> - -	<i>30th April 2005</i>

The Scottish Ministers, in exercise of the powers conferred by section 33(2)(b) and (3) of the Legal Aid (Scotland) Act 1986(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Advice and Assistance (Scotland) Amendment (No. 2) Regulations 2005 and shall come into force on 30th April 2005.

Application

2. These Regulations shall apply only in relation to fees for work done or outlays incurred on or after 30th April 2005.

Amendment of the Advice and Assistance (Scotland) Regulations 1996

3.—(1) The Advice and Assistance (Scotland) Regulations 1996(b) are amended in accordance with the following paragraph.

(2) For Schedule 3 substitute the provisions set out in the Schedule to these Regulations.

HUGH HENRY

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
22nd March 2005

(a) 1986 c.47; section 33 was amended for purposes not relevant to these Regulations. 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. 1996/2447, as relevantly amended by S.I. 1997/726, and S.S.I. 2000/181, 2004/262 and 305.

SCHEDULE

Regulation 3

“SCHEDULE 3

Regulation 17

TABLE OF FEES ALLOWABLE TO SOLICITORS

PART I

TABLE OF FEES ALLOWABLE TO SOLICITORS FOR ASSISTANCE BY WAY OF REPRESENTATION

1. Subject to paragraph 3 of this Part, the fees allowable to a solicitor for providing assistance by way of representation shall be for criminal matters and civil matters as follows:—

	<i>Criminal</i>	<i>Civil</i>
(a) the fee for attendance at, and all work prior to—		
(i) any diet at which a plea to the competency or relevancy of the complaint or proceedings, or a plea in bar of trial, is tendered;		
(ii) any diet at which a question within the meaning of rule 31.1 of the Act of Adjournal (Criminal Procedure Rules) 1996(a) is raised;		
(iii) any diet at which there is tendered a plea of guilty;		
(iv) any diet at which the court is considering the accused's plea of guilty to the charges and where there has been no change of plea; and		
(v) any diet at which the court is considering the accused's changed plea of guilty to the charges, and where no application for criminal legal aid has been made;	£70.00	-
(b) fees, as undernoted, for work other than or subsequent to that described in (a) above—		

(a) S.I. 1996/513.

	<i>Criminal</i>	<i>Civil</i>
1. The fee for–		
(i) any time up to the first half hour spent by a solicitor appearing in court or conducting another hearing;	£27.40	£33.15
(ii) each quarter hour (or part thereof) subsequent to the first half hour spent in court or conducting another hearing.	£13.70	£16.60
2. The fee for–		
(i) each quarter hour (or part thereof) spent by a solicitor in carrying out work other than that prescribed in paragraphs 1 and 3 to 5 hereof, provided that any time is additional to the total time charged for under paragraph 1 above;	£10.55	£12.75
(ii) for each quarter hour (or part thereof) spent by a solicitor’s clerk in carrying out work other than that prescribed in paragraphs 3 to 5 hereof.	£5.25	£6.35
3. The fee for–		
(i) each citation of a witness including execution thereof;		
(ii) framing and drawing precognitions and other necessary papers, subject to paragraph 4(iii) below – per sheet (or part thereof);		
(iii) instructing messengers-at-arms and sheriff officers, including examining execution and settling fee;		
(iv) lengthy telephone calls (of over 4 and up to 10 minutes duration); and		
(v) letters, including instructions to counsel, subject to paragraph 4(ii) below - per page (or part thereof).	£6.00	£7.25

4. The fee for–

- (i) attendance at court offices for performance of formal work including each necessary lodging in or uplifting from court or each necessary enquiry for documents due to be lodged;
- (ii) short letters of a formal nature, intimations and letters confirming telephone calls;
- (iii) framing formal papers, including inventories and title pages – per sheet (or part thereof);
- (iv) revising papers drawn by counsel or where revisal ordered by court – per 5 sheets (or part thereof); and
- (v) short telephone calls (of up to 4 minutes duration).

£2.40

£2.90

5. Where a document is copied and it is necessary to take a copy of more than 20 sheets (whether 20 of 1 sheet, 5 of 4 sheets or whatever), a fee of 8 pence shall be paid for each sheet copied.

Interpretation**2.** In this table–

- a “sheet” shall consist of 250 words or numbers;
- a “page” shall consist of 125 words or numbers.

Petition by debtor for sequestration

3. The fees allowable to a solicitor for providing assistance by way of representation in relation to a petition by a debtor for the sequestration of his estate under section 5(2)(a) of the Bankruptcy (Scotland) Act 1985(a) shall be–

- (a) £33.15 for any time spent by a solicitor appearing in court in connection with the petition; and
- (b) £54.45 for all other work in connection with the petition.

(a) 1985 c.66.

PART II

TABLE OF FEES ALLOWED TO SOLICITORS FOR ADVICE AND ASSISTANCE OTHER THAN ASSISTANCE BY WAY OF REPRESENTATION

1. Subject to paragraph 2 of this Part, the fees allowable to a solicitor shall be calculated for criminal matters and for civil matters and for children's matters arising out of Part II of the Children (Scotland) Act 1995(a) as follows:–

	<i>Criminal</i>	<i>Civil</i>	<i>Children</i>
A. Time occupied in carrying out work for the client other than work described in paragraphs B to E below.			
(i) Solicitor – per quarter hour (or part thereof)	£10.55	£12.75	£12.75
(ii) Solicitor's clerk – per quarter hour (or part thereof)	£5.25	£6.35	£6.35
B. For short letters of a formal nature, short telephone calls (of up to 4 minutes duration), framing formal documents such as inventories and engrossing formal documents for signature – per sheet (or part thereof)	£2.40	£2.90	£2.90
C. For letters other than B above – per page (or part thereof), framing non-formal documents other than precognitions – per sheet of 250 words (or part thereof) and lengthy telephone calls (of over 4 and up to 10 minutes duration)	£6.00	£7.25	£7.25
D. For taking and drawing precognitions - for the first sheet of 250 words or less	£21.05	£25.50	£25.50
for each subsequent sheet of 250 words	£21.05	£25.50	£25.50
for each subsequent sheet of less than 250 words	£10.55	£12.75	£12.75
E. Where a document is copied and it is necessary to take a copy of more than 20 sheets (whether 20 of 1 sheet, 5 of 4 sheets or whatever), a fee of 8 pence shall be paid for each sheet copies.			

2. Where the fees which would be allowable to a solicitor in respect of the matter in respect of which advice and assistance was given, calculated in accordance with paragraph 1 above, would amount to less than £25.00 or where a solicitor elects to claim only the fee provided for in this paragraph, a fee of £25.00 shall be allowable in place of the fees so calculated.

(a) 1995 c.36.

Interpretation

3. In this Table—

a “sheet” shall consist of 250 words or numbers; and

a “page” shall consist of 125 words or numbers.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Scotland) Regulations 1996 so as to provide for increased fees for solicitors for work done in civil matters where advice and assistance or assistance by way of representation has been given. An increase in fees for solicitors is further provided for advice and assistance given in respect of matters which are the subject of Part II of the Children (Scotland) Act 1995 (regulation 3 and the Schedule).

These Regulations provide that in respect of existing cases where advice and assistance was granted prior to 30th April 2005 the fee increases will apply to work done or outlays incurred on or after that date. In respect of new cases where advice and assistance is granted on or after 30th April 2005 the new fees will also apply.

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