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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 449**

**LEGAL AID AND ADVICE**

**The Civil Legal Aid (Scotland)  
(Fees) Amendment Regulations 2005**

*Made* - - - - 13th September 2005  
*Laid before the Scottish  
Parliament* - - - - 13th September 2005  
*Coming into force* - - 5th October 2005

The Scottish Ministers, in exercise of the powers conferred by sections 33(2)(a) and (3)(f) and 36(1) and (2)(a) of the Legal Aid (Scotland) Act 1986<sup>(1)</sup> 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 Civil Legal Aid (Scotland) (Fees) Amendment Regulations 2005 and shall come into force on 5th October 2005.

**Application**

2. These Regulations shall apply only to fees for work done and outlays incurred on or after 5th October 2005.

**Amendment of the Civil Legal Aid (Scotland) (Fees) Regulations 1989**

3. The Civil Legal Aid (Scotland) (Fees) Regulations 1989<sup>(2)</sup> are amended in accordance with the following regulations.

4. In paragraph 2 of Chapter III of Schedule 6—

- (a) substitute “from” where it first occurs with “for”; and
- (b) for “section 1 of the Mental Health (Scotland) Act 1984<sup>(3)</sup>” substitute “section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003<sup>(4)</sup>”.

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(1) 1986 c. 47; section 36 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).  
(2) S.I. 1989/1490, to which there are amendments not relevant to these Regulations.  
(3) 1984 c. 36.  
(4) 2003 asp 13.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **Saving**

5. Notwithstanding regulation 4(b) above, in proceedings raised before 5th October 2005 by an assisted person who suffered for a significant period of the case from a mental disorder either within the meaning of section 1 of the Mental Health (Scotland) Act 1984 or section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003, the Civil Legal Aid (Scotland) (Fees) Regulations 1989 shall continue to have effect as if the amendments made by these Regulations had not been made.

St Andrew's House, Edinburgh  
13th September 2005

*CATHY JAMIESON*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Civil Legal Aid (Scotland) (Fees) Regulations 1989 as follows:—

- (a) the reference to the Mental Health (Scotland) Act 1984 is omitted and substituted with a reference to the Mental Health (Care and Treatment) (Scotland) Act 2003;
- (b) a savings provision is included so that solicitors' accounts for cases existing as at 5th October 2005 can continue to be paid in accordance with the regulatory regime existing immediately prior to the coming into force of these Regulations.

The Mental Health (Scotland) Act 1984 is replaced and repealed by the Mental Health (Care and Treatment) (Scotland) Act 2003.