

## EXECUTIVE NOTE

### LEGAL AID REGULATIONS

#### **The Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2006 SSI/2006/178**

The above instrument will be made in exercise of the powers conferred on Scottish Ministers by sections 36(1) and (2)(b) of the Legal Aid (Scotland) Act 1986. The instrument is subject to the affirmative resolution procedure.

#### **Policy Objective**

##### Disposable Income Limits

The purpose of the instrument is to increase the disposable income limits for eligibility for civil legal aid under the Legal Aid (Scotland) Act 1986. The yearly disposable lower income limit for civil legal aid, below which no contribution is payable, is increased from £2,931 to **£2,995** and the yearly disposable upper income limit, above which civil legal aid is not available, is increased from £9,570 to **£9,781**. The uprating of the financial eligibility limits will take effect from Monday 10 April 2006, the date on which the benefit upratings come into force.

The annual uprating of the income limits for civil legal aid is directly linked to increases in the level of income-related social security benefits. As announced by the Secretary of State for Social Security on 6 December 2005, income-based social security benefits have been uprated by the Rossi Index which this year stood at 2.2%. The Rossi Index is based on the Retail Price Index less housing costs.

Civil legal aid applications are assessed by the Scottish Legal Aid Board and the means assessment in these cases enables allowance to be made for rent, council tax etc. It is, therefore, appropriate that disposable income limits for civil legal aid should be uprated by the Rossi Index, which excludes housing costs.

##### Disposable Capital Limits

This instrument will also increase the disposable capital limits for eligibility for civil legal aid. Both the upper and lower capital thresholds have been increased broadly in line with inflation and this means that the lower limit of £6,465 will increase to **£6,640** and the upper limit of £10,779 will increase to **£11,070**.

The instrument also provides that Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2005 are revoked except in relation to any case where an application for civil legal aid is made to the Scottish Legal Aid Board before 10<sup>th</sup> April 2006.

#### **Consultation**

The Scottish Executive does not normally conduct public consultation on detailed secondary legislation on legal aid.

## **Financial Implications**

The upratings are only keeping the disposable income and disposable capital limits up-to-date and therefore it is expected that the expenditure on the Legal Aid Fund will remain unchanged.

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