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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 180**

**LEGAL AID AND ADVICE**

**The Criminal Legal Aid (Scotland)  
(Fees) Amendment Regulations 2007**

<i>Made</i>	- - - -	<i>6th March 2007</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>7th March 2007</i>
<i>Coming into force</i>	- -	<i>29th March 2007</i>

The Scottish Ministers, in exercise of the powers conferred by sections 33(2)(a), (3)(a), (b), (c), (d) and (f) and 36(1) and (2)(a) of the Legal Aid (Scotland) Act 1986(1), 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 Criminal Legal Aid (Scotland) (Fees) Amendment Regulations 2007 and shall come into force on 29th March 2007.

**Application**

2.—(1) Subject to paragraphs (2) to (4), these Regulations shall apply only to fees for work done and outlays incurred on or after 2nd October 2006.

(2) Regulation 5 shall apply in respect of proceedings concluded before 29th March 2007 which are referred for taxation after that date and proceedings concluded on or after 29th March 2007.

(3) Regulations 4 and 8 shall apply only in respect of proceedings commenced on or after 29th March 2007.

(4) Regulation 9 shall apply in respect of proceedings commenced before 29th March 2007 and not concluded before that date.

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

3. The Criminal Legal Aid (Scotland) (Fees) Regulations 1989(2) are amended in accordance with the following regulations.

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(1) 1986 c. 47. Sections 33 and 36 were 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.1989/1491, relevantly amended by S.S.I. 2005/113, 584 and 656.

4. In regulation 10 after “Schedule 2”, insert “or 3”.

5. For regulation 11, substitute—

“**11.**—(1) If any question or dispute arises between the Board and a solicitor or counsel as to the amount of fees or outlays allowable to the solicitor, or as to the amount of fees allowable to counsel, from the Fund in respect of legal aid in criminal proceedings in—

- (a) the High Court, including appeals, the matter shall be referred for taxation to the Auditor of the Court of Session;
- (b) the Judicial Committee of the Privy Council, the matter shall be referred for taxation to the Registrar of the Judicial Committee of the Privy Council; or
- (c) the sheriff or district court, the matter shall be referred for taxation to the auditor of the sheriff court for the district in which those proceedings took place.

(2) A reference to an auditor under this regulation may be made at the instance of the solicitor concerned or, where the question in dispute affects the fees allowable to counsel, of the counsel concerned, or of the Board and the auditor concerned shall give reasonable notice of the diet of taxation to the solicitor or counsel as appropriate and the Board.

(3) The Board and any other party to a reference under paragraph (1)(a) or (c) shall have the right to state written objections to the High Court or, as the case may be, the sheriff in relation to the report of the auditor within 14 days of issue of such report and the Board and any such other party may be heard thereon.

**11A.**—(1) In relation to proceedings in the Judicial Committee of the Privy Council, the Board and any other party to a reference to the auditor who is dissatisfied with all or part of a taxation shall have the right to lodge a petition to the Judicial Committee of the Privy Council within 14 days of the taxation setting out the items objected to and the nature and grounds of the objections.

(2) The petition shall be served on the Board, any such other party who attended the taxation and any other party to whom the auditor directs that a copy should be delivered.

(3) Any party upon whom such a petition is delivered may within 14 days after such delivery lodge a response to the petition which shall be served on the Board, any such other party who attended the taxation and any other party to whom the auditor directs that a copy should be delivered.

(4) The petition and responses, if any, shall be considered by a Board of the Judicial Committee of the Privy Council which may allow or dismiss the petition without a hearing, invite any or all of the parties to lodge submissions or further submissions in writing or direct that an oral hearing be held.”.

6. In Schedule 2—

- (a) in paragraph 2, after “any item of work”, insert “or category of proceedings”;
- (b) in paragraph 3, for “In the taxation”, substitute “In the assessment and taxation”;
- (c) in paragraph 15—
  - (i) omit sub paragraph (c)(iv);
  - (ii) in sub paragraph (d), for “10,001-12,500” substitute “7,500-10,000”;
  - (iii) in sub paragraph (e), for “12,500” substitute “10,000”; and
  - (iv) in sub paragraph (f)(i), for “10,000” substitute “7,500”;
- (d) in paragraph 16, for “paragraph 1(c)”, substitute “paragraph 1B(c)”;
- (e) in paragraph 17—

- (i) in sub-paragraph (f), omit “and”; and
  - (ii) at the end, insert–
    - “(h) where the trial of an accused person proceeds in respect of the offence of attempting to pervert the course of justice, the fee payable in terms of paragraph 3 of Chapter 1 or 2 of Part I and paragraph 2 of Chapter 1 or 2 of Part III shall be that for the offence to which the charge of attempting to pervert the course of justice relates. Where the offence to which the charge relates is not prescribed in Schedule 2, the fee payable shall be in terms of paragraph 3(b) of Chapter 1 or 2 of Part I and paragraph 2(b) of Chapter 1 or 2 of Part III; and
    - (i) where an accused person pleads guilty at a hearing fixed for trial before the jury is empanelled, or where the case is brought to an end by the Crown’s acceptance of a plea of not guilty, or where, following the court deserting the trial simpliciter or pro loco et tempore, the indictment falls or, for any other reason, is not brought to trial and where no order is made by the court to postpone or appoint a further trial diet, the fee payable shall be two-thirds of the fee payable in terms of paragraph 3 of Chapter 1 or 2 of Part I and paragraph 2 of Chapter 1 or 2 of Part III.”;
  - (f) after paragraph 17, insert–

“**17A.** Where counsel claims a fee in respect of the first diet under paragraph 3(u) of Chapter 1 or 2 of Part III of the Table of Fees, the fee shall only be payable where a plea of guilty is tendered at that hearing or where the case is brought to an end by the Crown’s acceptance of a plea of not guilty, withdrawal of the libel, desertion of the diet or by other means.”;
  - (g) in paragraph 19, for “paragraph 1”, where it twice occurs, substitute “paragraph 1B”;
  - (h) in paragraph 20–
    - (i) in sub-paragraph (a), for “90” and “180”, substitute “60” and “120” respectively; and
    - (ii) in sub-paragraph (b), omit “which shall be a chargeable outlay”;
  - (i) after paragraph 20, insert–

“**20A.** Travel costs are chargeable as an outlay only in circumstances where a supplementary fee for travel is chargeable under paragraph 20.”; and
  - (j) in paragraph 22–
    - (i) before the definition of “documentation” insert–

““consultation” means a formal meeting with counsel on the instructions of the solicitor concerning a significant issue which advances the cause taking place usually, but not always, in the presence of the accused or an expert witness, including formal meetings with Crown Counsel taking place following the first preliminary hearing;”; and
    - (ii) in the definition of documentation after “productions”, insert “, including defence productions.”.
7. In the Table of Fees in Schedule 2–
- (a) in Chapters 1 and 2 of Part I–
    - (i) for paragraph 1, substitute–

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“ 1A.

*Written work*

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- |     |  |         |
|-----|--|---------|
| (a) | petition to Nobile Officium  | £225.00 |
| (b) | drafting devolution minute   | £150.00 |
| (c) | drafting section 275 application under the 1995 Act <sup>(3)</sup> | £150.00 |
| (d) | drafting specification of documents                                | £125.00 |
| (e) | drafting interrogatories   | £125.00 |

1B.

*Preliminary hearing*

- |     |   |  |
|-----|---|--|
| (a) | Preliminary hearing including managed meeting or equivalent communication with the Crown by whatever means and including any note on the line of evidence   | Payable at one and a half times the full rate for a trial (paragraph 3 below) depending on category of case and status of counsel. |
| (b) | further diet under section 72(9) of the 1995 Act  | Payable at two thirds of the full rate for a trial (paragraph 3 below) depending on category of case and status of counsel.        |
| (c) | adjourned diet under section 75A of the 1995 Act, or continued diet   | Payable at one-half of the full rate for a trial (paragraph 3 below) depending on category of case and status of counsel.          |
| (d) | attendance at managed meeting or work in connection with equivalent communication with the Crown by whatever means and including any note on the line of evidence where counsel does not attend preliminary hearing | Payable at one-half of the fee prescribed at paragraph 1B(a) above.  |
| (e) | conduct of preliminary hearing on receipt of detailed instructions not having been involved in pre hearing communication with the Crown   | Payable at one-half of the fee prescribed at paragraph 1B(a) above.”;  |

- 
- (ii) in paragraph 3(a), at the end, insert “, Offences under the Explosive Substances Act 1883<sup>(4)</sup>, Sections 327 to 333 and 339(1A) of the Proceeds of Crime Act 2002<sup>(5)</sup> (Money Laundering), Firearms offences, Incest, Sodomy, Embezzlement, Lewd and libidinous behaviour against children under the age of 12”;
- (iii) in paragraph 3(b), omit “Incest, Sodomy,”, after “Lewd and libidinous behaviour”, insert “(other than under category (a) above)” and, at the end, insert “, Offences

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(3) Criminal Procedure (Scotland) Act 1995 c. 46; see definition in regulation 2(1) of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989, S.I 1989/1491.

(4) 1883 c. 3 (46 and 47 Vict.).

(5) 2002 c. 29.

under the Immigration Act 1971<sup>(6)</sup>, Offences under section 52 or 52A of the Civic Government (Scotland) Act 1982<sup>(7)</sup>; and

(iv) omit paragraph 4(j)(iv);

(b) in Chapter 1 of Part I–

(i) for paragraph 3(c) and (d), substitute–

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“(c) Possession £495.00                      £430.00                      £305.00”;

with intent  
to supply  
or being  
concerned  
in the  
supply of  
a class B  
or class  
C drug,  
Assault to  
severe  
injury,  
Assault  
and  
robbery,  
Mobbing,  
Wilful fire  
raising,  
Housebreaking,  
Opening  
lockfast  
places,  
Bigamy,  
Contempt  
of Court,  
Perjury,  
Theft,  
Forgery,  
Uttering,  
Reset,  
Concealing  
a  
pregnancy,  
Deforcement  
of Sheriff’s  
Officers,  
Malicious  
mischief,  
Brothel  
keeping,  
Public  
order

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<sup>(6)</sup> 1971 c. 77.  
<sup>(7)</sup> 1982 c. 45.

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offences  
 (stirring of  
 racial  
 hatred,  
 wearing of  
 uniforms,  
 disrupting  
 lawful  
 meetings),  
 Harassment,  
 Road  
 traffic  
 offences  
 (other than  
 section 1  
 or 3A of  
 the 1998  
 Act(8)),  
 Possession  
 of  
 offensive  
 weapons,  
 Violation  
 of  
 sepulchres

(ii) in paragraph 4, at the end, insert—

“(q) trial within a trial	Payable at the full rate for a trial (paragraph 3 above) depending on category of case and status of counsel.
(r) examination of the facts in a case of insanity or diminished responsibility	Payable at the full rate for a trial (paragraph 3 above) depending on category of case and status of counsel.
(s) proof in mitigation	Payable at the full rate for a trial (paragraph 3 above) depending on category of case and status of counsel.
(t) deferred sentence in which evidence is taken from an expert witness	Payable at the full rate for a trial (paragraph 3 above) depending on category of case and status of counsel.”;

(iii) in paragraph 5, for “£177.00 £154.00 £108.00” substitute “£210.00 £184.00 £135.00”; and

(iv) in paragraph 8, for “£75.00”, on each occasion it occurs, substitute “£100.00”;

(c) in Chapter 2 of Part I—

(i) for paragraph 3(c) and (d), substitute—

(8) Road Traffic Act 1988 c. 52; see definition in regulation 2(1) of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989, S.I. 1989/1491.

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“(c) Possession with intent to £560.00”;  
supply or being concerned in the supply of a class B or class C drug, Assault to severe injury, Assault and robbery, Mobbing, Wilful fire raising, Housebreaking, Opening lockfast places, Bigamy, Contempt of Court, Perjury, Theft, Shameless indecency, Offences under the Sexual Offences Act 2003(9), Forgery, Concealing a pregnancy, Deforcement of Sheriff’s Officers, Malicious mischief, Brothel keeping, Public order offences (stirring up racial hatred, wearing of uniforms, disrupting lawful meetings), Harassment, Road traffic offences (other than section 1 or 3A of the 1988 Act), Possession of offensive weapons, Violation of sepulchres

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(ii) in paragraph 4, at the end, insert–

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“(q) trial within a trial	Payable at the full rate for a trial (paragraph 3 above) depending on category of case.
(r) examination of the facts in a case of insanity or diminished responsibility	Payable at the full rate for a trial (paragraph 3 above) depending on category of case.
(s) proof in mitigation	Payable at the full rate for a trial (paragraph 3 above) depending on category of case.
(t) deferred sentence in which evidence is taken from an expert witness	Payable at the full rate for a trial (paragraph 3 above) depending on category of case.”;

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(iii) in paragraph 5, for “£200.00” substitute “£250.00”; and

(iv) in paragraph 8, for “£75.00” substitute “£100.00”;

(d) in Chapters 1 and 2 of Part III–

(i) for paragraph 1, substitute–

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“ 1A. Written work

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(a) petition to Nobile Officium	£225.00	£225.00	£225.00
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*“ 1A. Written work*

(b) drafting devolution minute	£150.00	£150.00	£150.00
(c) drafting section 275 application under the 1995 Act	£150.00	£150.00	£150.00
(d) drafting specification of documents	£125.00	£125.00	£125.00
(e) drafting interrogatories	£125.00	£125.00	£125.00
<i>1B. Early plea</i>			
Hearing under section 76 of the 1995 Act	£1,250.00	£1,250.00	£625.00”;

(ii) in paragraph 2(a), at the end, insert “, Offences under the Explosive Substances Act 1883, sections 327 to 333 and 339(1A) of the Proceeds of Crime Act 2002 (Money Laundering), Firearms offences, Incest, Sodomy, Embezzlement, Lewd and libidinous behaviour against children under the age of 12”; and

(iii) omit paragraph 3(j)(iii);

(e) in Chapter 1 of Part III–

(i) for paragraph 2(b) and (c), substitute–

(b) Attempted murder, Assault to severe injury (with aggravations), Indecent assault, Assault and robbery (involving retail premises), Possession with intent to supply or being concerned	£495.00	£430.00	£305.00
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in the  
supply of  
a class  
A drug,  
Attempted  
rape,  
Lewd  
and  
libidinous  
behaviour  
(other  
than  
under  
category  
(a)  
above),  
Offences  
under the  
Sexual  
Offences  
Act,  
Offences  
against  
children  
under the  
1995  
Consolidation  
Act<sup>(10)</sup>,  
Offences  
under  
section 6A  
of the  
1995  
Consolidated  
Act,  
Abduction  
and/or  
unlawful  
imprisonment,  
Extortion,  
Counterfeiting,  
Bribery  
and  
corruption,  
Mobbing  
and  
rioting,  
Mobbing,  
Environmental  
protection

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(10) Criminal Law (Consolidation) (Scotland) Act 1995 c. 39; see definition in regulation 2(1) of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989, S.I. 1989/1491.

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prosecutions,  
Health  
and  
safety  
offences,  
Intellectual  
property  
offences,  
Indecent  
or  
obscene  
publications,  
Possession  
with  
intent to  
supply or  
being  
concerned  
in the  
supply of  
a class B  
or class  
C drug,  
Assault  
to severe  
injury,  
Assault  
and  
robbery,  
Wilful  
fire  
raising,  
Housebreaking,  
Opening  
lockfast  
places,  
Bigamy,  
Contempt  
of Court,  
Perjury,  
Theft,  
Forgery,  
Uttering,  
Reset,  
Concealing  
a  
pregnancy,  
Deforcement  
of  
Sheriff's  
Officers,  
Malicious  
mischief,

Brothel  
keeping,  
Public  
order  
offences  
(stirring  
up racial  
hatred,  
wearing  
of  
uniforms,  
disrupting  
lawful  
meetings),  
Harassment,  
Road  
traffic  
offences  
(other  
than  
section 1  
or 3A of  
the 1988  
Act),  
Possession  
of  
offensive  
weapons,  
Violation  
of  
sepulchres,  
Offences  
under the  
Immigration  
Act  
1971,  
Offences  
under  
section 52  
or 52A of  
the Civic  
Government  
(Scotland)  
Act  
1982”;

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(ii) in paragraph 3, at the end, insert–

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“(p) trial within a trial

Payable at the full rate for a trial (paragraph 2 above) depending on category of case and status of counsel.

- |     |   |   |
|-----|---|---|
| (q) | examination of the facts in a case of insanity or diminished responsibility | Payable at the full rate for a trial (paragraph 2 above) depending on category of case and status of counsel.   |
| (r) | proof in mitigation   | Payable at the full rate for a trial (paragraph 2 above) depending on category of case and status of counsel.   |
| (s) | deferred sentence in which evidence is taken from an expert witness         | Payable at the full rate for a trial (paragraph 2 above) depending on category of case and status of counsel.   |
| (t) | first diet  | Payable at the full rate for a trial (paragraph 2 above) depending on category of case and status of counsel.”; |

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(iii) in paragraph 4, for “£142.00 £123.00 £86.00”, substitute “£178.00 £154.00 £108.00”; and

(iv) in paragraph 7, for “£75.00”, on each occasion it occurs, substitute “£100.00”;

(f) in Chapter 2 of Part III–

(i) for paragraph 2(b) and (c), substitute–

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“(b) Attempted murder, £560.00”;

Assault to severe injury (with aggravations), Indecent assault, Assault and robbery (involving retail premises), Possession with intent to supply or being concerned in the supply of a class A drug, Attempted rape, Lewd and libidinous behaviour (other than under category (a) above), Offences under the Sexual Offences Act, Offences against children under the 1995 Consolidation Act, Offences under section 16A of the 1995 Consolidated Act, Abduction and/or unlawful imprisonment, Extortion, Counterfeiting, Bribery and corruption, Mobbing and rioting, Mobbing, Environmental protection prosecutions, Health and safety offences, Intellectual property offences, Indecent or obscene publications, Possession with intent to supply or being concerned in the supply of a class B or class C drug, Assault to severe injury, Assault and robbery, Wilful fire raising, Housebreaking, Opening lockfast places, Bigamy, Contempt of

Court, Perjury, Theft, Forgery, Uttering, Reset, Concealing a pregnancy, Deforcement of Sheriff's Officers, Malicious mischief, Brothel keeping, Public order offences (stirring up racial hatred, wearing of uniforms, disrupting lawful meetings), Harassment, Road traffic offences (other than section 1 or 3A of the 1988 Act), Possession of offensive weapons, Violation of sepulchres, Offences under the Immigration Act 1971, Offences under section 52 or 52A of the Civic Government (Scotland) Act 1982

(ii) in paragraph 3, at the end, insert–

“(p) trial within a trial	Payable at the full rate for a trial (paragraph 2 above) depending on category of case.
(q) examination of the facts in a case of insanity or diminished responsibility	Payable at the full rate for a trial (paragraph 2 above) depending on category of case.
(r) proof in mitigation	Payable at the full rate for a trial (paragraph 2 above) depending on category of case.
(s) deferred sentence in which evidence is taken from an expert witness	Payable at the full rate for a trial (paragraph 2 above) depending on category of case.
(t) first diet	Payable at the full rate for a trial (paragraph 2 above) depending on category of case.”;

(iii) in paragraph 4, for “£160.00” substitute “£200.00”; and

(iv) in paragraph 7, for “£75.00” substitute “£100.00”; and

(g) for paragraph 7 of Chapter 1 in Part I and paragraph 6 of Chapter I in Part III, substitute–

“Supplementary fee chargeable in addition to any of the above fees where necessary travel is undertaken within Scotland, including travel to a Procurator Fiscal’s office or elsewhere to view productions	£100.00	£100.00	£100.00
Supplementary fee chargeable in	£200.00	£200.00	£200.00”;

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addition to any  
of the above fees  
where necessary  
travel is undertaken  
furth of Scotland

---

(h) for paragraph 7 of Chapter 2 in Part I and paragraph 6 of Chapter 2 in Part III, substitute—

---

“Supplementary fee chargeable in addition £100.00  
to any of the above fees where necessary  
travel is undertaken within Scotland,  
including travel to a Procurator Fiscal’s  
office or elsewhere to view productions

Supplementary fee chargeable in addition £200.00”  
to any of the above fees where necessary  
travel is undertaken furth of Scotland

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8. After Schedule 2 insert the Schedule to these Regulations.

**Saving**

9. In respect of proceedings which commenced before 29th March 2007, paragraph 15 of Schedule 2 to the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 shall continue to have effect as if these Regulations had not been made where counsel would thereby be entitled to a higher fee for separate preparation than would have been the case under these Regulations.

St Andrew’s House,  
Edinburgh  
6th March 2007

*JOHANN M LAMONT*  
Authorised to sign by Scottish Ministers

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SCHEDULE

Regulation 8

“SCHEDULE 3

Regulation 4

FEEs OF COUNSEL FOR PROCEEDINGS IN THE  
JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

*Notes on the operation of Schedule 3*

1. Subject to the following provisions of this Schedule, fees shall be calculated by the Board, and in the event of a question or dispute by the auditor, in accordance with the Table of Fees in this Schedule.

2. In the assessment and taxation of counsel’s fees–

- (a) where higher fees than those set out in the Table of Fees are sought, they must be explained in a note from counsel;
- (b) for proceedings under paragraph 1 of the Table of Fees–
  - (i) subject to any higher fees allowable under sub-paragraph (a), no other payments are permitted;
  - (ii) there is a working assumption that a single fee is allowed for one junior counsel even where sanction is authorised for two counsel and that it would only be in the most exceptional cases that fees are allowable for two counsel; and
  - (iii) a fee for senior counsel may be allowed instead of junior counsel if it is held to be necessary because of the difficulty or complexity of the case or for other good reason; and
- (c) for proceedings under paragraph 2 of the Table of Fees–
  - (i) counsel’s fees are allowed only where the Board has sanctioned the employment of counsel or where counsel is automatically available;
  - (ii) except on cause shown, the auditor shall not have regard to any information produced by counsel at taxation which was not made available to the Board at the time the Board made the offer to counsel which is subject to taxation;
  - (iii) in cases where junior counsel has undertaken most of the work on a particular item the auditor shall allow such fee to senior and junior counsel as appears appropriate to provide reasonable remuneration for the work;
  - (iv) there is a working assumption that counsel for an appellant commands a higher fee than counsel for a respondent;
  - (v) only one counsel’s fee is permitted on a petition of appeal and on attending judgment; and
  - (vi) the brief fee shall include all work on the brief, the case and the first day of attendance at the Judicial Committee.

**TABLE OF FEES**

<i>1. Petition for leave to appeal</i>	<i>Junior Counsel</i>	<i>Senior Counsel</i>
(a) Drafting petition for leave to appeal	£800.00	£1000.00

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<i>1. Petition for leave to appeal</i>	<i>Junior Counsel</i>	<i>Senior Counsel</i>
(b) Preparing respondents' objections	£550.00	£750.00
(c) Attending Judicial Committee	£1100.00	£1600.00
	<i>Junior Counsel</i>	<i>Senior Counsel</i>
<i>2. Appeals and References</i>		
(a) Drafting Petition of appeal	£75.00	£75.00
(b) Statement of Facts and Issues	£1750.00	£3500.00
(c) Authorities	£600.00	£1200.00
(d) Consultations (each, up to a maximum of three)	£350.00	£700.00
(e) Brief (based on a 1 day hearing)	£6250.00	£12500.00
(f) Brief (based on a 2 day hearing)	£8000.00	£16000.00
(g) Refresher (from day two of the hearing)	£1250.00	£2500.00
(h) Judgment	£150.00	£150.00"

## EXPLANATORY NOTE

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

These Regulations amend the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 (“the principal Regulations”).

They provide that, in cases where criminal legal aid is made available for proceedings in the Judicial Committee of the Privy Council, where any question or dispute arises between the Scottish Legal Aid Board and a solicitor or counsel as to the amount of fees or outlays allowable to a solicitor, or as to the amount of fees allowable to counsel from the Fund, that the matter shall be referred for taxation to the Registrar of the Judicial Committee of the Privy Council (regulation 5).



Provision is made allowing persons who are dissatisfied with a taxation decision to lodge a petition to the Judicial Committee of the Privy Council which shall, in the first instance, be considered by a Board of the Judicial Committee of the Privy Council (regulation 5).

A new Schedule 3 is inserted in the principal Regulations providing for a table of fees for counsel for proceedings in the Judicial Committee of the Privy Council (regulations 4 and 8).

The Regulations make provision as regards the payment of fees for counsel for proceedings in the High Court (other than appeals) and in the sheriff and district courts by amending Schedule 2 to the principal Regulations (regulations 6 and 7).

Although the fees in the table of fees include all preparation there is a scheme in place allowing for the payment of separate preparation. The fee for separate preparation may be paid on a daily rate with reference to the total number of sheets of documentation. This scheme is amended so as to take away the upper most range and to lower the total number of sheets required before the payment may, in some cases, be made (regulation 6(c)).

Provision is made for the payment of fees for proceedings concerning the offence of attempting to pervert the course of justice. Where an accused pleads guilty at a hearing fixed for trial before the jury is empanelled, or where the case is brought to an end by the Crown's acceptance of a plea of not guilty, or where, following the court deserting the trial, the indictment falls or, for any other reason is not brought to trial and where no order is made by the court to postpone or appoint a further trial diet, provision is made for fees to be payable at the rate of two-thirds the fee for a trial day (regulation 6(e)).

The criteria by which the supplementary fee for travel is payable is amended. The distance which must be travelled before the payment can be made is reduced from 90 miles single direction and 180 miles round trip to 60 and 120 miles respectively. Provision is made for the payment of a supplementary travel fee for travel furth of Scotland (regulations 6(h) and 7(g) and (h)).

Fees are provided for the written work relating to petitions to the Nobile Officium, and the drafting of devolution minutes, section 275 applications under the Criminal Procedure (Scotland) Act 1995, specification of documents and interrogatories (regulation 7(a)(i) and (d)(i)).

In High Court proceedings (other than appeals) the fee for preliminary hearings which includes the managed meeting or equivalent communication with the Crown and any note on the line of evidence is increased by one half (regulation 7(a)(i)).

Trials are paid on a daily basis with the rate being dependent upon the category of case and status of counsel. Category (a) charges are the most serious offences and attract the highest rate. Category (c) and (d) charges in High Court proceedings (other than appeals) are aggregated to become category (c). Category (b) and (c) charges in the sheriff and district courts are aggregated to become category (b). Category (a) is extended to include offences under the Explosive Substances Act 1883, money laundering and charges relating to lewd and libidinous behaviour against children under 12 years of age. Charges relating to firearms offences, incest, sodomy, embezzlement are uprated from category (b) to category (a). Category (b) is extended to include offences under the Immigration Act 1971 and offences under sections 52 and 52A of the

Civic Government (Scotland) Act 1982 (regulation 7(a)(ii) and (iii), (b)(i), (c)(i), (d)(ii), (e)(i) and (f)(i)).

Provision is made for the payment of fees for evidential hearings in solemn proceedings taking place outwith the presence of a jury (regulation 7(b)(ii), (c)(ii), (e)(ii) and (f)(ii)).

The fees for consultations, accused and counsel meetings and locus visits are increased (regulation 7(b)(iii), (c)(iii), (e)(iii) and (f)(iii)).

The fee for accommodation and associated subsistence is increased from £75 to £100 (regulation 7(b)(iv), (c)(iv), (e)(iv) and (f)(iv)).

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

Provision is made for the payment of first diets in sheriff court proceedings. The fee shall only be payable where a plea of guilty is tendered at that hearing or where the case is otherwise brought to an end by the Crown's acceptance of a plea of not guilty, withdrawal of the libel, desertion of the diet or by other means (regulations 6(f) and 7(e)(ii) and (f)(ii)).

The Regulations, where they make provision as regards the payment of fees for counsel for proceedings in the High Court (other than appeals) and in the sheriff and district courts, apply to fees for work done and outlays incurred on or after 2nd October 2006. Regulation 5, which makes provision as to references to taxation, applies in respect of proceedings concluded before 29th March 2007 which are referred to taxation after that date and proceedings concluded on or after 29th March 2007. Regulations 4 and 8, which provide for a table of fees for counsel in proceedings before the Judicial Committee of the Privy Council, apply in respect of proceedings commenced on or after 29th March 2007. Regulation 9, a savings provision, applies in respect of proceedings commenced before 29th March 2007 which are not concluded before that date (regulation 2).

Regulation 9 saves the operation of paragraph 15 of Schedule 2 to the principal Regulations in respect of proceedings commenced before 29th March 2007 where counsel would be entitled to a higher fee for work done in respect of those proceedings in relation to separate preparation than counsel would be entitled to had these regulations not been made.