

EXECUTIVE NOTE

THE LEGAL AID (SUPREME COURT) (SCOTLAND) REGULATIONS 2009

SSI 2009/312

These Regulations are made in exercise of the powers conferred on Scottish Ministers by sections 33(2) and (3) and 36(1) and (2)(a) and (c) of the Legal Aid (Scotland) Act 1986 and all other powers enabling them to do so.

Policy Objective

The policy objective is to ensure that provision is made for the payment of legal aid in proceedings in the Supreme Court following the transfer of jurisdictions from the House of Lords and the Judicial Committee of the Privy Council to that court. That transfer (provided for by virtue of section 40 of the Constitutional Reform Act 2005) and the amendments made by these Regulations will take effect on 1st October 2009.

Six sets of legal aid regulations are amended to ensure that reference is made to the Supreme Court rather than to the House of Lords or the Judicial Committee of the Privy Council.

Provision is also made for taxation by the Registrar of the Supreme Court where there is a dispute or question as to the amount of fees or outlays. Where proceedings in the House of Lords were concluded before 1st October 2009 and a reference for taxation was made to the Auditor of the Court of Session before that date, the taxation is to remain with that Auditor.

Consultation

Formal consultation was not carried out although views were sought from the Lord President's Office and the Auditor of the Court of Session.

Financial Implications

Because the regulations seek to maintain rather than extend availability of civil legal aid in appeals they are not expected to have an impact on expenditure.

Scottish Government
8 September 2009