

## **EXECUTIVE NOTE**

### **THE CRIMINAL LEGAL AID (SCOTLAND) (FEES) AMENDMENT (NO. 2) REGULATIONS 2010 SSI 2010/212**

The Criminal Legal Aid (Scotland) (Fees) Amendment (No. 2) Regulations 2010 are made in exercise of the powers conferred on the Scottish Ministers by sections 33 and 36(1) of the Legal Aid (Scotland) Act 1986 and all other powers enabling them to do so. The Regulations are subject to the negative resolution procedure.

#### **Policy Objective**

The policy objective is to introduce a new fee structure for solicitors providing criminal legal aid in relation to solemn proceedings and to increase the fees payable to solicitors under criminal legal aid for specified items of work.

For these purposes the Regulations amend the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 (“the principal Regulations”).

The new fee structure for solemn proceedings (set out in Schedule 1 to the Regulations) means a block fee will be paid for all work undertaken during defined stages of the case at first instance. The introduction of block fees for solemn cases is part of a movement away from detailed (time and line) accounting, with its wide variation in costs towards a system which remunerates the solicitor for advancing the case from stage to stage. A significant percentage of solemn criminal accounts will however continue to be chargeable on a detailed basis; in particular time spent attending identification parades, in court and taking precognitions will be chargeable on a detailed basis.

The new fee structure is linked to an increase in fees announced by the Cabinet Secretary for Justice in November 2007. The increase is the equivalent of 7% against the current fee levels. The Cabinet Secretary further announced in January 2009 that the fees would be backdated to April 2008. The amendments therefore apply in relation to all proceedings commenced on or after 1 June 2010, or if the solicitor involved so chooses, 1 April 2008.

#### **Consultation**

Consultation on the detail of the Regulations has taken place with both the Law Society of Scotland and the Scottish Legal Aid Board.

## **Financial Implications**

It is estimated that the cost of applying the amendments made by the Regulations to proceedings commenced between 1st April 2008 and the coming into force date (5 July 2010) will be around £900,000. It is further estimated that additional future full year costs to the Scottish Legal Aid Fund of paying solicitors according to the new fee structure will be around £2 million.

Legal System Division  
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