

EXECUTIVE NOTE

THE CRIMINAL LEGAL AID (FIXED PAYMENTS) (SCOTLAND) AMENDMENT REGULATIONS 2010 SSI/2010/237

The Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 2010 are made in exercise of the powers conferred on the Scottish Ministers by section 33(3A) and (3AA) of the Legal Aid (Scotland) Act 1986 and all other powers enabling them to do so.

The Regulations amend the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 (“the principal Regulations”).

Policy Objective

The principal objective of the Regulations is to reinstate the fee payable to solicitors for criminal legal aid work done in connection with a bail appeal under section 32 or 201(4) of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”).

After the changes to summary criminal legal assistance, and as a result of the wider summary justice reforms, this fee ceased to be payable. The Cabinet Secretary has accepted that this was an unintended consequence of the summary justice reforms and committed to reinstating the fee as soon as practicably possible.

The Regulations therefore reinstate the fee for work done in connection with a bail appeal under section 32 or 201(4) of the 1995 Act. Solicitors will be able to claim this additional fee in relation to criminal proceedings which begin on or after 5 July 2010. Solicitors will also be able to claim this fee in relation to summary criminal proceedings which commenced on or after 30 June 2008, provided the proceedings have not concluded before 5 July 2010.

The Regulations also increase the fee payable to solicitors for work done in connection with a complaint in relation to a breach of bail conditions under section 27(1)(b) of the 1995 Act from £75 to £150. This is a corrective amendment as it was intended that this fee should have always been £150. Solicitors will be able to claim this higher fee in relation to proceedings commenced on or after 5 July 2010.

The Regulations also make minor amendments to the principal Regulations.

Consultation

The Scottish Government has consulted the Scottish Legal Aid Board and the Law Society of Scotland.

Financial Implications

It is estimated that the cost of the Regulations will be circa £25,000, in respect of the retrospective provisions, if solicitors choose to claim this fee for cases which have not concluded on 5 July 2010. Future full year additional costs to the Legal Aid Fund will be circa £100,000.

Legal System Division
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