

**2013 No. 144**

**CHILDREN AND YOUNG PERSONS**

**LEGAL AID AND ADVICE**

**The Children's Legal Assistance (Fees) (Miscellaneous  
Amendments) (Scotland) Regulations 2013**

<i>Made</i> - - - -	<i>9th May 2013</i>
<i>Laid before the Scottish Parliament</i>	<i>13th May 2013</i>
<i>Coming into force</i> - -	<i>24th June 2013</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 33(2)(a) and (b) and (3) of the Legal Aid (Scotland) Act 1986(a) and all other powers enabling them to do so.

**Citation and Commencement**

1. These Regulations may be cited as the Children's Legal Assistance (Fees) (Miscellaneous Amendments) (Scotland) Regulations 2013 and come into force on 24th June 2013.

**Advice and Assistance (Scotland) Regulations 1996**

2.—(1) The Advice and Assistance (Scotland) Regulations 1996(b) are amended as follows.

(2) In Part 1 of Schedule 3 in paragraph 1—

- (a) after “civil matters” insert “and children's matters arising out of hearings or proceedings under the Children's Hearings (Scotland) Act 2011(c)”;
- (b) in the table, after the column “*Civil*” insert a new column “*Children's*”; and
- (c) in the table, in the column “*Children's*” insert the following fees at the corresponding entries:—

entry 1(i), £33.15;

entry 1(ii), £16.60;

entry 2(i), £12.75;

entry 2(ii), £6.35;

entry 3, £7.25;

entry 4, £2.90;

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(a) 1986 c.47. 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).

(b) S.I. 1996/2447. Schedule 3 was substituted by S.S.I. 2005/171. Part 1 of Schedule 3 has been relevantly amended by S.S.I. 2008/240 and 2011/41. Part 2 of Schedule 3 has been relevantly amended by S.S.I. 2008/240.

(c) 2011 asp 1.

entry 4A(a), £6.38; and  
entry 4A(b), £3.18.

(3) In Part 2 of Schedule 3, in paragraph 1, after “1995” insert “or in connection with any hearings or proceedings under the Children’s Hearings (Scotland) Act 2011(a)”.

### **Civil Legal Aid (Scotland) (Fees) Regulations 1989**

3.—(1) The Civil Legal Aid (Scotland) (Fees) Regulations 1989(b) are amended as follows.

(2) In regulation 2(1), before the definition of “auditor” insert—

““the 2011 Act” means the Children’s Hearings (Scotland) Act 2011(c);”.

(3) In regulation 3—

(a) in paragraph (2), for “(6)” substitute “(7)”; and

(b) after paragraph (6) insert—

“(7) In relation to children’s legal aid provided automatically under section 28C of the Legal Aid (Scotland) Act 1986(d), solicitors are to be paid fees in accordance with the fees prescribed in relation to children’s matters in Part 1 of Schedule 3 to the Advice and Assistance (Scotland) Regulations 1996(e).”.

(4) In Schedule 4, in Table of Fees A (fees for counsel in the Court of Session)—

(a) in Part 1 (junior counsel), Chapter 6 (ordinary actions), paragraph 11(b), after “motion” insert “including appeal under section 163, 164 or 165 of the 2011 Act”; and

(b) in Part 2 (senior counsel, family actions etc.), paragraph 6(a), after “Inner House” insert “including appeal under section 163, 164 or 165 of the 2011 Act”.

(5) In Schedule 4, in Table of Fees B (fees for counsel in the sheriff court)—

(a) in Part 1 (junior counsel), in paragraph 8—

(i) after “1995” insert “or under section 110 of the 2011 Act”;

(ii) after “85(1)”, where it second occurs, insert “of the Children (Scotland) Act 1995”;  
and

(iii) after “referral” insert—

“written application under section 110 of the 2011 Act for review of £225.00”;  
grounds of determination

(b) in Part 1 (junior counsel), after paragraph 14 insert—

“14A. *Applications to the sheriff under the 2011 Act*

(a)	under section 48 to vary or terminate a child protection order	£40.00	£55.00
(b)	under section 98 to extend or vary an interim compulsory supervision order	£40.00	£55.00
(c)	under section 99 to further extend or vary an interim compulsory supervision order	£40.00	£55.00

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(a) 2011 asp 1.

(b) S.I. 1989/1490. Regulation 3 has been relevantly amended by S.S.I. 2002/496 and 2011/160. Schedule 4 was substituted by S.S.I. 2011/160. Schedule 7 was inserted by S.S.I. 2003/178 and has been relevantly amended by S.S.I. 2004/281.

(c) 2011 asp 1.

(d) Section 28C was inserted by the Children’s Hearings (Scotland) Act 2011 (asp 1) section 191.

(e) Schedule 3 was substituted by S.S.I. 2005/171 and relevant amending instruments are S.S.I. 2008/240, 2011/41 and 2011/160.

- (d) under section 166 to review a decision or determination to impose a duty on a local authority £40.00 £55.00”;
- (c) in Part 1 (junior counsel), paragraph 15, after “1995” insert “*and hearing or appeal under section 101, 110, 154, 160, 161 or 162 of the 2011 Act*”;
- (d) in Part 1 (junior counsel), paragraph 16, after “*Principal*” insert “*including appeal under section 163, 164, 165 or 167 of the 2011 Act*”;
- (e) in Part 2 (senior counsel), after paragraph 4 insert—
- “4A. *Applications to the sheriff under the 2011 Act*
- (a) under section 48 to vary or terminate a child protection order £82.50
- (b) under section 98 to extend or vary an interim compulsory supervision order £82.50
- (c) under section 99 to further extend or vary an interim compulsory supervision order £82.50
- (d) under section 166 to review a decision or determination to impose a duty on a local authority £82.50”;
- (f) in Part 2 (senior counsel), paragraph 5, after “1995” insert “*and hearing or appeal under section 101, 110, 154, 160, 161 or 162 of the 2011 Act*”; and
- (g) in Part 2 (senior counsel), paragraph 6, after “*Principal*” insert “*including appeal under section 163, 164, 165 or 167 of the 2011 Act*”.
- (6) In Schedule 7(a), after the entry “proceedings arising out of Part II of the Children (Scotland) Act 1995;” insert—
- “proceedings under the 2011 Act, other than those subject to regulation 3(7) of these Regulations;”.

*KENNY MACASKILL*  
A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
9th May 2013

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(a) Schedule 7 was added by S.S.I. 2003/178 and relevant amending instruments are S.S.I. 2004/281, 2007/14 and 2009/203.

## EXPLANATORY NOTE

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

These Regulations make provision about the fees which can be charged by solicitors and counsel when providing assistance by way of representation (“ABWOR”) or legal aid in accordance with the Legal Aid (Scotland) Act 1986 (“the 1986 Act”) in relation to hearings and proceedings under the Children’s Hearings (Scotland) Act 2011 (“the 2011 Act”).

Regulation 2 concerns children’s ABWOR. It inserts a new column into Part 1 of Schedule 3 to the Advice and Assistance (Scotland) Regulations 1996 (“the 1996 Regulations”) which prescribes the fees chargeable by solicitors for provision of ABWOR in relation to any hearings or proceedings under the 2011 Act.

Regulation 3 amends the Civil Legal Aid (Scotland) Fees Regulations 1989 (“the 1989 Regulations”). It provides that the fees chargeable by solicitors for automatic children’s legal aid (as defined in section 28C of the 1986 Act) are those prescribed in the table of fees in Part 1 of Schedule 3 to the 1996 Regulations. The fees chargeable by solicitors for all other children’s legal aid are those prescribed in Schedule 5 of the 1989 Regulations, by virtue of the application of Schedule 7 which is amended by regulation 3. Regulation 3 also prescribes the fees chargeable by junior and senior counsel for specified applications, hearings and appeals under the 2011 Act, by amendment of the tables of fees in the 1989 Regulations.

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£4.00

S201305103 05/2013 19585

<http://www.legislation.gov.uk/id/ssi/2013/144>

ISBN 978-0-11-102049-4



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