

2013 No. 250

LEGAL AID AND ADVICE

The Legal Aid and Advice and Assistance (Photocopying Fees and Welfare Reform) (Miscellaneous Amendments) (Scotland) Regulations 2013

Made - - - - *29th August 2013*
Laid before the Scottish Parliament *2nd September 2013*
Coming into force - - *31st October 2013*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 12(3) and 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, commencement and application

1.—(1) These Regulations may be cited as the Legal Aid and Advice and Assistance (Photocopying Fees and Welfare Reform) (Miscellaneous Amendments) (Scotland) Regulations 2013 and come into force on 31st October 2013.

(2) Notwithstanding paragraph (1)—

- (a) the amendment in regulation 2(2) applies only in relation to any case where an application for advice and assistance is made on or after 31st October 2013;
- (b) the amendments in regulations 2(3) and (4) and 3 to 5 apply to work done or outlays incurred on or after 31st October 2013.

Amendment of the Advice and Assistance (Scotland) Regulations 1996

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

(2) In regulation 16(2)(c) (payment of fees and outlays from property recovered or preserved) for “section 79 of the Welfare Reform Act 2012” substitute “Part 4 of the Welfare Reform Act 2012(c)”.

(a) 1986 c.47; section 12(3) was amended by paragraph 12(4) of Schedule 1 to the Crime and Punishment (Scotland) Act 1997 (c.48) and section 67(5) of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5) (“the 2007 Act”). Section 33(2) was amended by section 67(7) of the 2007 Act. The functions of the Secretary of State under the Act were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(b) S.I. 1996/2447; relevant amending instruments are S.S.I. 2005/171, S.S.I. 2008/240, S.S.I. 2013/65 and S.S.I. 2013/142.
(c) 2012 c.5.

(3) In Part I of Schedule 3 (table of fees allowable to solicitors for assistance by way of representation), for paragraph 5 in the table of fees substitute—

- “5. (a) There is no fee for photocopying—
- (i) where fewer than 20 sheets are copied at one time;
 - (ii) in relation to the first 20 sheets copied at any one time.
- (b) Subject to sub-paragraph (a), the fee for all photocopying in the matter in relation to which assistance by way of representation was given is—
- (i) 5 pence for each sheet copied for up to 10,000 sheets; and
 - (ii) 1 penny per sheet for each sheet copied in addition to the first 10,000 sheets.”.

(4) In Part II of Schedule 3 (table of fees allowed to solicitors for advice and assistance other than assistance by way of representation), for paragraph E in the table of fees substitute—

- “E. (a) There is no fee for photocopying—
- (i) where fewer than 20 sheets are copied at any one time;
 - (ii) in relation to the first 20 sheets copied at any one time.
- (b) Subject to sub-paragraph (a), the fee for all photocopying in the matter is—
- (i) 5 pence for each sheet copied for up to 10,000 sheets; and
 - (ii) 1 penny per sheet for each sheet copied in addition to the first 10,000 sheets.”.

Amendment of the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992

3. In the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992^(a), Schedule 1 (table of fees allowable to solicitors for legal aid in connection with proceedings for contempt of court), for paragraph 5 in the table of fees substitute—

- “**5.**—(a) There is no fee for photocopying—
- (i) where fewer than 20 sheets are copied at one time;
 - (ii) in relation to the first 20 sheets copied at any one time.
- (b) Subject to sub-paragraph (a), the fee for all photocopying in relation to proceedings is—
- (i) 5 pence for each sheet copied for up to 10,000 sheets; and
 - (ii) 1 penny per sheet for each sheet copied in addition to the first 10,000 sheets.”.

^(a) S.I. 1992/1228; relevant amending instrument is S.I. 1997/718.

Amendment of the Civil Legal Aid (Scotland) (Fees) Regulations 1989

4. In the Civil Legal Aid (Scotland) (Fees) Regulations 1989(a), Schedule 5 (table of detailed fees chargeable by solicitors for proceedings in the Court of Session and sheriff court), in the table of fees—

(a) for paragraph 6 substitute—

- “6. (a) There is no fee for photocopying—
- (i) where fewer than 20 sheets are copied at any one time;
 - (ii) in relation to the first 20 sheets copied at any one time.
- (b) Subject to sub-paragraph (a), the fee for all photocopying in relation to proceedings is—
- (i) for each sheet copied for up to 10,000 sheets £0.05
 - (ii) for each sheet copied in addition to the first 10,000 sheets £0.01”; and

(b) after paragraph 6—

- (i) at the end of the definition of “sheet” insert “and”;
- (ii) at the end of the definition of “page” omit “and”; and
- (iii) omit the definition of “exceptional”.

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

5. In the Criminal Legal Aid (Scotland) (Fees) Regulations 1989(b), Schedule 1, Part 1 (fees of solicitors: detailed fees) of the table of fees, for paragraph 5 substitute—

- “5. (a) There is no fee for photocopying—
- (i) where fewer than 20 sheets are copied at any one time;
 - (ii) in relation to the first 20 sheets copied at any one time.
- (b) Subject to sub-paragraph (a), the fee for all photocopying in relation to proceedings is—
- (i) for each sheet copied for up to 10,000 sheets £0.05 £0.05
 - (ii) for each sheet copied in addition to the first 10,000 sheets £0.01 £0.01”.

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A member of the Scottish Government

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29th August 2013

(a) S.I. 1989/1490; relevant amending instruments are S.S.I. 2003/178 and S.S.I. 2009/203.
(b) S.I. 1989/1491; relevant amending instrument is S.S.I. 2010/212.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend four sets of Regulations concerning advice and assistance and legal aid.

The amendments reduce the current fees allowable to solicitors for photocopying in relation to (i) advice and assistance including advice by way of representation; (ii) legal aid which is made available in connection with proceedings for contempt of court; (iii) civil legal aid and (iv) criminal legal aid.

The current fees allowable to solicitors for photocopying range from a fee of 8 pence to 9 pence per sheet (excluding the first 20 sheets). The amendments reduce the fees payable to a fee of 5 pence per sheet for up to 10,000 sheets (excluding the first 20 sheets) and 1 penny per sheet for each sheet copied in addition to the first 10,000 sheets.

Regulation 2(2) also amends the Advice and Assistance (Scotland) Regulations 1996 in order to correct a reference to the Welfare Reform Act 2012 in regulation 16 in the context of the payment of fees and outlays from property which has been recovered or preserved.

A Business Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Civil Law and Legal System Division, St Andrew's House, Regent Road, Edinburgh EH1 3DG.

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