
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 320

**The Criminal Legal Aid (Scotland)
(Fees) Amendment Regulations 2013**

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

3. After regulation 7, insert—

“Solemn proceedings (exceptional) fees

7A.—(1) A solicitor who provides criminal legal aid in relation to solemn criminal proceedings—

- (a) where the circumstances prescribed in paragraph (3) exist; and
- (b) subject to the conditions prescribed in paragraph (5),

is to be paid for all work only in accordance with Part 1 of the Table of Fees (detailed fees) in Schedule 1.

(2) It is for the Board to determine whether the circumstances prescribed at paragraph (3) exist, and whether the conditions prescribed at paragraphs (5) and (10) are met.

(3) The circumstances referred to in paragraph (1)(a) are where an assisted person would be deprived of the right to a fair trial in a case because of the amount of fees payable to the solicitor in accordance with these Regulations (other than paragraph (1)).

(4) Factors to be taken into account by the Board in considering whether the circumstances prescribed at paragraph (3) exist include whether the case involves legal or factual complexity (including procedural complexity).

(5) The conditions referred to in paragraph (1)(b) are as follows—

- (a) the solicitor providing the criminal legal aid is to make an application to the Board in such a manner and form (which may include an online form) and containing such information as the Board may specify at as early a stage in the provision of the criminal legal aid as is reasonably practicable;
- (b) that solicitor is, if required by the Board to do so, to supply such further information or such documents as the Board may require to enable it to determine the application; and
- (c) that solicitor is to keep proper records of all professional services provided by way of, and outlays incurred in the provision of, that criminal legal aid, whether before or after the Board determines whether the conditions prescribed in this paragraph are met.

(6) A solicitor may apply for review where the Board has determined that the circumstances prescribed in paragraph (3) do not exist.

(7) An application for review must—

- (a) subject to paragraph (8), be lodged with the Board within 15 days, beginning on the day notice of the Board’s determination was given to the applicant;

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- (b) include a statement of any matters which the applicant wishes the Board to take into account in reviewing the application; and
- (c) be accompanied by such additional precognitions and other documents as the applicant considers to be relevant to the review.

(8) Paragraph (7)(a) does not apply where the Board considers there is a special reason for it to consider a late application for review.

(9) Where the Board has granted an application for a change of solicitor under regulation 17(3) of the Criminal Legal Aid (Scotland) Regulations 1996 (changes of solicitor), any solicitor who provided criminal legal aid prior to that grant is to be paid, where the Board has determined that the circumstances prescribed in paragraph (3) exist, for all work only in accordance with Part 1 of the Table of Fees (detailed fees) in Schedule 1.

(10) A solicitor to whom paragraph (9) applies is only to be paid in accordance with paragraph (9) where that solicitor has kept proper records of all professional services provided by way of, and outlays incurred in the provision of, that criminal legal aid.”.