

2014 No. 257

LEGAL AID AND ADVICE

The Legal Aid and Assistance By Way of Representation (Fees for Time at Court and Travelling) (Scotland) Regulations 2014

Made - - - - 24th September 2014

Laid before the Scottish Parliament 26th September 2014

Coming into force - - 10th November 2014

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, commencement and application

1.—(1) These Regulations may be cited as the Legal Aid and Assistance By Way of Representation (Fees for Time at Court and Travelling) (Scotland) Regulations 2014 and come into force on 10th November 2014.

(2) These Regulations apply only in relation to fees and outlays incurred on or after 10th November 2014.

Amendment of the Advice and Assistance (Scotland) Regulations 1996

2. In Part 1 of Schedule 3 to the Advice and Assistance (Scotland) Regulations 1996(b) (table of fees allowable to solicitors for assistance by way of representation), after the table insert—

“Calculation of fees for time at court and travelling

1A. The fees under paragraphs 1, 2 and 4A of the table are payable on the basis of the total time engaged per day.”.

(a) 1986 c.47 (“the 1986 Act”). Section 33(2) of the 1986 Act was amended by section 67(7)(b) of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5). The functions of the Secretary of State under the 1986 Act were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.I. 1996/2447, relevantly amended by S.S.I. 2005/171 and S.S.I. 2013/144.

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

3. In Schedule 5 to the Civil Legal Aid (Scotland) (Fees) Regulations 1989(a) (table of detailed fees chargeable by solicitors for proceedings in the Court of Session, proceedings listed at regulation 5(3) and proceedings in the sheriff court listed in Schedule 7), after the table insert—

“Calculation of fees for time at court and travelling

The fees under paragraphs 1, 2 and 5A of the table are payable on the basis of the total time engaged per day.”.

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

4. In the notes on the operation of Schedule 1 in Schedule 1 to the Criminal Legal Aid (Scotland) (Fees) Regulations 1989(b) (fees of solicitors), after paragraph 3A insert—

“Calculation of fees for time at court and travelling

3AA. The fees under paragraphs 1, 5A and paragraph 6 (where the work referred to in that paragraph relates to work done at court) of Part 1 of the Table of Fees, and the fees under paragraph 7 of these Notes (where the statement referred to in that paragraph is taken at court) are payable on the basis of the total time engaged per day.”.

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

5. In Schedule 1 to the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992(c) (table of fees allowable to solicitors), after paragraph 5 insert—

“Calculation of fees for time at court and travelling

5A. The fees under paragraphs 1, 2 and 4A are payable on the basis of the total time engaged per day.”.

KENNY MACASKILL

A member of the Scottish Government

St Andrew’s House,
Edinburgh
24th September 2014

(a) S.I. 1989/1490, relevantly amended by S.S.I. 2003/178, S.S.I. 2009/203 and S.S.I. 2011/41.
(b) S.I. 1989/1491, relevantly amended by S.S.I. 2010/212, S.S.I. 2011/41 and S.S.I. 2013/320.
(c) S.I. 1992/1228, relevantly amended by S.S.I. 2011/41.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Scotland) Regulations 1996, the Civil Legal Aid (Scotland) (Fees) Regulations 1989, the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 and the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992.

These Regulations insert new provision into each of the above instruments about how fees payable to solicitors, in relation to provision of legal aid or assistance by way of representation at court, and fees payable to solicitors and solicitors' clerks for time spent travelling, should be calculated. The inserted provisions state that certain fees will be calculated on the basis of the total time engaged per day. This means that where time is spent on a prescribed activity at various stages throughout the day, the individual blocks of time spent on that activity should be totalled up and then rounded up to the nearest unit of time specified, before the prescribed fee rate is applied.

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