

2016 No. 290

LEGAL AID AND ADVICE

**The Civil Legal Aid (Scotland) (Fees) Amendment Regulations
2016**

Made - - - - - *14th September 2016*
Laid before the Scottish Parliament *16th September 2016*
Coming into force - - - *28th November 2016*

The Scottish Ministers make the following regulations in exercise of the powers conferred by sections 33(2)(a) 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 Civil Legal Aid (Scotland) (Fees) Amendment Regulations 2016 and come into force on 28th November 2016.

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

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

(2) In regulation 5(2) (fees allowable to solicitors)—

- (a) in sub-paragraph (a), after “(b)” insert “, (ba)”;
- (b) in sub-paragraph (b), omit “and”; and
- (c) after sub-paragraph (b) insert—

“(ba) in a simple procedure case (within the meaning of section 72(3) of the Courts Reform (Scotland) Act 2014(c)) shall be calculated in accordance with Schedule 2A; and”.

(3) After Schedule 2, insert Schedule 2A as set out in the schedule of these Regulations.

(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. 1989/1490; relevant amending instruments are S.S.I. 2003/178, S.S.I. 2009/203 and S.S.I. 2015/380.
(c) 2014 asp 18.

(4) In paragraph 1(3)(d) of Schedule 7 (interpretation of “exceptional case”), after “with” insert “Schedule 2A or”.

St Andrew’s House,
Edinburgh
14th September 2016

ANNABELLE EWING
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 2

“SCHEDULE 2A

Regulation 5

Fees allowable to solicitors for simple procedure cases

1. Fees shall be calculated in accordance with the Table of Fees in this Schedule.
2. In the Table of Fees—
 - (a) a “sheet” shall consist of 250 words or numbers;
 - (b) a “page” shall consist of 125 words or numbers.
3. The fees under paragraphs 1, 2 and 6 of the Table of Fees are payable on the basis of the total time engaged per day.

Table of Fees

1.	The fee for— (a) any time up to the first half hour spent by a solicitor conducting a proof or hearing; (b) each quarter hour (or part thereof) subsequent to the first half hour.	£33.15 £16.60
2.	The fee for— (a) each quarter hour (or part thereof) spent by a solicitor in carrying out work other than that prescribed in paragraphs 1 and 3 to 6 hereof, provided that any time is additional to the total time charged for under paragraph 1 above; (b) each quarter hour (or part thereof) spent by a solicitor’s clerk in carrying out work other than that prescribed in paragraphs 3 to 6 hereof.	£12.75 £6.35
3.	The fee for— framing affidavits – per sheet (or part thereof).	£10.47
4.	The fee for— (a) framing and drawing all necessary papers, other than affidavits or papers of a formal character – per sheet (or part thereof); (b) each citation of a party, witness or haver including execution thereof; (c) instructing sheriff officers, including examining execution and settling fee; (d) agency accepting service of any writ; (e) lodging first step of process; (f) lengthy telephone calls (of over 4 minutes and up to 10 minutes duration); (g) letters, including instructions to counsel – per page (or part thereof), subject to paragraph 5(f) below; (h) perusing any document (other than a letter) consisting of not more than 12 sheets – for the first 2 sheets and each 2 sheets thereafter— <i>Note:</i> Where the document perused consists of more than 12 sheets the fee for perusing the whole document shall be charged in	

	accordance with paragraph 2 above, in each of sub-paragraphs (a) to (h).	£7.25
5.	The fee for— <ul style="list-style-type: none"> (a) attendance at court offices for performance of formal work including making up process and each necessary lodging in (other than first step) uplifting from or borrowing of process (to include return of same) or enquiry for documents due to be lodged; (b) revising papers drawn by counsel, where ordered or necessary – per 5 sheets; (c) framing formal papers such as inventories, title pages and accounts of expenses per sheet (or part thereof); (d) certifying or signing a document; (e) short telephone calls (of up to 4 minutes duration); (f) short letters of a formal nature, intimations, and letters confirming telephone calls, in each of sub-paragraphs (a) to (f).	£2.90
6.	The fee for each quarter of an hour (or part thereof) spent travelling— <ul style="list-style-type: none"> (a) by a solicitor; (b) by a solicitor’s clerk. 	£6.38 £3.18
7.	<ul style="list-style-type: none"> (a) There is no fee for photocopying:— <ul style="list-style-type: none"> (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— <ul style="list-style-type: none"> (i) for each sheet copied for up to 10,000 sheets; (ii) for each sheet copied in addition to the first 10,000 sheets. 	£0.05 £0.01”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Legal Aid (Scotland) (Fees) Regulations 1989 (“the principal Regulations”) to provide for the fees of solicitors in simple procedure cases (within the meaning of section 72(3) of the Courts Reform (Scotland) Act 2014 (“the 2014 Act”). Civil legal aid will be available in simple procedure cases, except as provided in Part 2 of schedule 2 of the Legal Aid (Scotland) Act 1986, as amended by paragraph 23 of schedule 5 of the 2014 Act.

Regulation 2(2) amends regulation 5 of the principal Regulations to provide for fees in simple procedure cases to be calculated in accordance with Schedule 2A of the principal Regulations, as inserted by regulation 2(3) and the schedule of these Regulations. The fees prescribed in inserted Schedule 2A are equivalent to those presently allowable to solicitors for assistance by way of representation in terms of schedule 3 of the Advice and Assistance (Scotland) Regulations 1996 (S.I. 1996/2447).

Regulation 2(4) amends paragraph 1 (interpretation) of Schedule 7 (sheriff court proceedings for which fees for work done shall only be payable under Schedule 5) to provide that the Scottish Legal Aid Board (“SLAB”) may certify a case as an “exceptional case” if satisfied that payment in accordance with Schedule 2A would not provide reasonable remuneration for the work actually, necessarily and reasonably done because the case involved either unusual court procedure for which a fee is not otherwise prescribed or a significantly greater volume of work than is usual for a case of that type. Where SLAB certifies a case as exceptional, regulation 5(2)(b) of the principal Regulations provides for a solicitor’s fees to be calculated in accordance with the Schedule 5 to those Regulations (detailed fees).

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