

## 1973 No. 1145 (S.89)

## LEGAL AID AND ADVICE, SCOTLAND

## Act of Adjournal (Criminal Legal Aid Fees Amendment) 1973

*Made* - - - 22nd June 1973

*Coming into Operation* 16th July 1973

The Lord Justice-General, the Lord Justice-Clerk and the Lords Commissioners of Justiciary, under and by virtue of the powers conferred upon them by section 16 of the Legal Aid (Scotland) Act 1967(a), and of all other powers competent to them in that behalf, do hereby enact and declare as follows:

1. This Act of Adjournal may be cited as the Act of Adjournal (Criminal Legal Aid Fees Amendment) 1973 and shall come into operation on 16th July 1973.

2. The Act of Adjournal (Criminal Legal Aid Fees) 1964(b) as amended by the Act of Adjournal (Criminal Legal Aid Fees Amendment) 1965(c), by the Act of Adjournal (Criminal Legal Aid Fees Amendment) 1968(d), by the Act of Adjournal (Criminal Legal Aid Fees Amendment) 1971(e) and by the Act of Adjournal (Alteration of Criminal Legal Aid Fees) 1973(f) shall be further amended as follows:

(a) by deleting sub-paragraph (2) of paragraph 13 thereof and by substituting a new sub-paragraph as follows—

“(2) In the case of all trials on indictment it shall be competent immediately on conclusion of the trial, or, where the trial is not the last trial of the sitting, at the close of proceedings on the day on which the trial has ended, for the counsel or solicitor who appeared for the accused to make oral application to the Court either in Court or in chambers for a certificate that the case has necessarily been one of exceptional length, complexity or difficulty. Such certificate may be granted or refused forthwith, or the judge may adjourn the application for a further hearing in chambers on a later date. This hearing must take place within seven days of such adjournment. In the event of such an adjournment being ordered, written grounds for such application must be lodged within two days of the adjournment being ordered, otherwise the application shall be refused. The prosecutor may be represented at such hearing or adjourned hearing.”

(b) by adding new sub-paragraphs (3) and (4) to paragraph 13 as follows—

“(3) In all other cases it shall be competent immediately on conclusion of the trial for the counsel or solicitor who appeared for the accused to make oral application to the Court for a certificate that the case has necessarily been one of exceptional length, complexity

(a) 1967 c. 43.

(c) S.I. 1965/1788 (1965 III, p.5461).

(e) S.I. 1971/926 (1971 II, p. 2671).

(b) S.I. 1964/1410 (1964 III, p. 3292).

(d) S.I. 1968/1933 (1968 III, p. 5241).

(f) S.I. 1973/673 (1973 I, p. 2184).

or difficulty. Such certificate may be granted or refused forthwith by the Court, or the judge may adjourn the application for a hearing in chambers. This hearing must take place within seven days of such adjournment. In the event of such an adjournment being ordered, written grounds for such application must be lodged within two days of the adjournment being ordered, otherwise the application shall be refused. The prosecutor may be represented at such hearing.”

“(4) If such a certificate as is referred to in the foregoing subparagraphs shall be granted, then any limitation contained in the foregoing paragraphs or such of them as are referred to in such certificate, on the amount of any fee payable shall not apply and such fees shall be allowed, after taking into account all the relevant circumstances of the case, in respect of the work done, as appears to represent fair remuneration according to the work actually and reasonably done, due regard being had to economy.”

And the Lords appoint this Act of Adjournal to be recorded in the Books of Adjournal, and to be published in the Edinburgh Gazette.

Edinburgh,  
22nd June 1973.

*G. C. Emslie,*  
I. P. D.

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#### EXPLANATORY NOTE

*(This Note is not part of the Act of Adjournal.)*

This Act of Adjournal further amends the Act of Adjournal (Criminal Legal Aid Fees) 1964 by providing that in the case of all trials on indictment application for a certificate under paragraph 13(2) of the Act of Adjournal of 1964 as amended may be made to the judge either in Court or in chambers.

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