

1976 No. 339 (S. 25)

LEGAL AID AND ADVICE, SCOTLAND

Act of Adjournal (Criminal Legal Aid Fees Amendment) 1976

Made - - - - - 2nd March 1976

Coming into Operation 25th March 1976

The Lord Justice General, Lord Justice Clerk and Lords Commissioners of Justiciary, by virtue of the powers conferred upon them by section 16 of the Legal Aid (Scotland) Act 1967(a) and sections 282 and 457 of the Criminal Procedure (Scotland) Act 1975(b), and of all other powers competent to them in that behalf, do hereby enact and declare:

Citation and interpretation

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Legal Aid Fees Amendment) 1976 and shall come into operation on 25th March 1976.

(2) The Interpretation Act 1889(c) shall apply for the interpretation of this Act of Adjournal as it applies for the interpretation of an Act of Parliament.

Increase in fees

2. For the purpose of increasing the fees set out in the Act of Adjournal (Criminal Legal Aid Fees) 1964(d), as amended(e), in the sections of that Act specified in column 1 of the Schedule to this Act of Adjournal, for the figures specified opposite those sections in column 2 of the Schedule, there are substituted the figures specified opposite those figures in column 3 of the Schedule.

Amendments to section 13

3. In section 13 of the said Act of Adjournal—

(a) in paragraph (1), for the words from “and shall include ” to the end are substituted the words: “and shall include such amount as may be determined, in accordance with the provisions of paragraphs (5) and (6) of this section, to be fair remuneration for the work actually and reasonably done, due regard being had to economy”;

(a) 1967 c. 43.

(c) 1889 c. 63.

(e) S.I. 1965/1788, 1968/1933, 1971/926, 1973/673, 1145 (1965 III, p. 5461; 1968 III,

p. 5241; 1971 II, p. 2671; 1973 I, p. 2184: II, p. 3506).

(b) 1975 c. 21.

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

- (b) in paragraph (2), for the words from “Such certificate” to “later date” are substituted the words “In determining whether to grant a certificate that a case has necessarily been one of exceptional length the Court shall have regard to the time necessarily spent in preparation for the trial. Such certificate may be granted forthwith. If it is not so granted the judge shall adjourn the application for a further hearing in chambers on a later date”;
- (c) in paragraph (3), for the words from “Such certificate” to “in chambers” are substituted the words “In determining whether to grant a certificate that a case has necessarily been one of exceptional length the Court shall have regard to the time necessarily spent in preparation for the trial. Such certificate may be granted forthwith. If it is not so granted the judge shall adjourn the application for a further hearing in chambers”;
- (d) in paragraph (4), for the words from “as appears to” to the end are substituted the words “as may be determined in accordance with the provisions of paragraphs (5) and (6) of this section, to be fair remuneration for the work actually and reasonably done, due regard being had to economy”;
- (e) at the end are added the following paragraphs—
- “(5) The determination of what is fair remuneration for the purposes of paragraph (1) of this section, shall be made
- (a) in the case of all proceedings in the High Court, on the basis of the charges set out in Chapter I of the Table of Fees of Solicitors in the Court of Session;
- (b) in the case of all other proceedings, on the basis of the charges set out in Chapter III of the Table of Fees of Solicitors in the Sheriff Court,
- being those charges in force at the date of the conclusion of the trial or other proceedings.
- (6) Where a certificate has been granted under paragraph (2) or (3) of this section upon the ground that the case has necessarily been exceptional complexity or difficulty, or upon grounds which include either or both of these grounds, and the certificate so discloses, the determination of what is fair remuneration for the purposes of paragraph (4) of this section shall be made in accordance with paragraph (5) of this section, with the addition of such further sum in respect of such exceptional complexity of difficulty as appears in the particular circumstances to be appropriate, being a sum of up to, but not exceeding, 25 per cent of the remuneration that would, apart from this paragraph, have been determined to be fair remuneration.”

4. In section 15 of the said Act of Adjournal there is added the following paragraph—

“(4) The Auditor of the Court of Session or as the case may be the Auditor of the Sheriff Court, in deciding for the purposes of this section what sum is payable to a solicitor in respect of fair remuneration under and in terms of this Act of Adjournal, shall make that decision on the same basis as a determination made under paragraph (5) or paragraph (6) of section 13.”

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.
2nd March 1976.

G. C. EMSLIE
I. P. D.

Section 2

SCHEDULE
AMENDMENT OF FEES

Column 1	Column 2	Column 3
Sections	old fees	new fees
3(1)(a)	7	9
	1	1-30
	15	20
3(1)(b)	7	9
	1	1-30
	10	13
3(2)	17	23
4	10	13
	77	100
	25	33
5(1)	13	17
	127	166
5(2)	36	47
	25	33
6(1)	16	21
	127	166
6(2)	25	33
7	16	21
8(1)	13	17
	127	166
8(2)	25	33
9(1)	13	17
	127	166
9(2)	25	33
10(1)	13	17
	127	166
10(2)	25	33

EXPLANATORY NOTE

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

This Act of Adjournal amends the Act of Adjournal (Criminal Legal Aid Fees) 1964 by making provision for an increase in fees payable under that Act and for certain amendments to sections 13 and 15 thereof, including provision for the determination of fair remuneration under those sections.

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