

**1982 No. 121(S. 18)****LEGAL AID AND ADVICE, SCOTLAND****Act of Adjournal (Criminal Legal Aid Fees Amendment) 1982**

*Made* - - - - - 3 February 1982

*Coming into Operation* 24 February 1982

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 commencement*

**1.**—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Legal Aid Fees Amendment) 1982 and shall come into operation on 24 February 1982.

(2) This Act of Adjournal shall be inserted in the Books of Adjournal.

*New maximum fee*

**2.** In the Act of Adjournal (Criminal Legal Aid Fees) 1964(c), in section 6(1) for the figures “436.80” substitute the figures “850.00.”

*Amendments to sections 2A and 13*

**3.** In the said Act of Adjournal of 1964—

(a) in section 2A, in paragraphs (1) and (2), after the words “The duty solicitor” insert the words “or the nominated solicitor”;

(b) in section 2A, add the following paragraph—

“(3) Any fees allowed to a nominated solicitor under this section shall be in addition to any fees allowed to him under section 5 or 6.”

(c) in section 13, for paragraphs (2) and (3) substitute the following paragraphs—

“(2) The counsel or solicitor representing an accused at any trial (whether under solemn or summary procedure) may, immediately on the conclusion of the trial, make an oral application to the presiding judge for a certificate certifying that the case has necessarily been of exceptional length or complexity or difficulty, and the judge may either grant or refuse the application. If the judge refuses the application or if no such application is made, the counsel or solicitor may

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(a) 1967 c.43, as amended by 1980 c.62.

(b) 1975 c.21, as amended by 1980 c.62.

(c) S.I. 1964/1410, as amended by S.I. 1965/1788, 1968/1933, 1971/926, 1973/673, 1145, 1976/339, 1062, 1978/1686, 1979/1632, 1981/388.

make, within a period of 14 days after the date on which the trial in question was concluded, a written application to the judge for such a certificate in the form of a Note specifying the grounds of the application, and the judge may either grant or refuse the application, but shall not refuse it without giving the counsel or solicitor an opportunity of being heard in support of the application within a period of 14 days after the date on which it was made, and at any such hearing the prosecutor shall be given an opportunity of being heard in relation to the application. In determining an application for a certificate certifying that the case has necessarily been of exceptional length, the judge shall have regard to the time necessarily spent in preparation for the trial. In determining an application for a certificate certifying that the case has necessarily been of exceptional complexity or difficulty, the judge shall have regard to the numbers of accused represented by the solicitor in question.

(3) If a solicitor has done work for an accused in any proceedings, including proceedings on petition, and those proceedings do not, for any reason, lead to the trial of that accused, the solicitor may make a written application to a single judge of the court concerned for a certificate certifying that the work has necessarily been of exceptional length, or complexity, or difficulty; and the provisions of paragraph (2) shall apply to any such application as they apply to a written application under that paragraph.”

*Emslie,*  
Lord Justice General  
I.P.D.

Edinburgh.  
3 February 1982.

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#### 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 a new maximum fee to be payable under that Act and also by amending section 2A to make express provision for fees to be allowed to nominated solicitors for attendance at certain identification parades and at judicial examinations, and by amending section 13 to make further provision in respect of applications for certificates under that section.



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