
STATUTORY INSTRUMENTS

1992 No. 1228 (S.122)

LEGAL AID AND ADVICE, SCOTLAND

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

<i>Made</i>	- - - -	<i>13th May 1992</i>
<i>Laid Before Parliament</i>		<i>5th June 1992</i>
<i>Coming into force</i>	- -	<i>1st July 1992</i>

The Secretary of State, in exercise of the powers conferred upon him by section 33(2)(a) and (3) (a) and (b) of the Legal Aid (Scotland) Act 1986⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992 and shall come into force on 1st July 1992.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“auditor” means the appropriate auditor of court specified in regulation 9;

“the Act” means the Legal Aid (Scotland) Act 1986;

“the Fund” means the Scottish Legal Aid Fund;

“High Court” means the High Court of Justiciary;

“legal aid” means legal aid given under section 30 of the Act in connection with proceedings for contempt of court;

“outlays” do not include fees payable to counsel;

“nominated solicitor” means the solicitor nominated to act for or by a person to whom legal aid for contempt proceedings has been made available.

(2) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is to one of these Regulations and any reference to a numbered Schedule is to a Schedule to these Regulations.

(1) 1986 c. 47.

Fees and outlays to which the Regulations apply

3. These Regulations shall regulate the fees and outlays allowable to solicitors and counsel from the Fund in respect of legal aid made available under section 30 of the Act in connection with proceedings for contempt of court upon any taxation in accordance with Regulation 9.

Fees allowable to solicitors

4.—(1) Subject to paragraph (2) below, a solicitor shall be allowed such amount of fees, calculated in accordance with Schedule 1, as shall be determined to be reasonable remuneration for work actually and reasonably done, and travel and waiting time actually and reasonably undertaken or incurred, due regard being had to economy.

(2) In determining the fees specified in paragraph (1) above there shall be taken into account—

- (a) time necessarily spent at the court on any day in waiting for the hearing or the appeal to be heard, where such time had not been occupied in waiting for or conducting another case;
- (b) time necessarily spent in travelling to and from the court at which the person appears or the hearing or appeal takes place (not being a court in the town or place where the solicitor has a place of business) and to and from the prison and any place visited for the purpose of preparing or conducting the defence or appeal;

Provided that it would not have been more economical to use a local solicitor unless it was reasonable in the interests of the client that the nominated solicitor or a solicitor assisting the nominated solicitor should attend personally.

(3) Where the work done by a solicitor constitutes a supply of services in respect of which value added tax is chargeable there may be added to the amount of fees allowed to the solicitor an amount equal to the amount of value added tax chargeable thereon.

Outlays allowable to solicitors

5.—(1) A solicitor shall be allowed the following outlays:—

- (a) expenses actually and reasonably incurred by himself or his clerk in travelling to and from the court at which the person held to be in contempt of court appears or the hearing or appeal takes place (not being a court in the town or place where the solicitor has a place of business) and to and from the prison and any place visited for the purposes of preparing or conducting the defence or appeal:

Provided that where public transport is not used a reasonable mileage allowance shall be treated as an outlay; and

- (b) any out of pocket expenses actually and reasonably incurred, provided that without prejudice to any other claims for outlays there shall not be allowed to a solicitor outlays representing posts and incidents.

Submission of accounts by solicitors

6.—(1) Subject to paragraph (2) below and to regulation 8, accounts prepared in respect of fees and outlays allowable to solicitors shall be submitted to the Board not later than 6 months after the date of conclusion of the proceedings in respect of which that legal aid was made available.

(2) The Board may accept accounts submitted in respect of fees and outlays later than the 6 months referred to in paragraph (1) above if it considers that there is a special reason for late submission.

Fees and outlays allowable to counsel

7.—(1) Counsel shall be allowed such fees as appear to the auditor to represent reasonable remuneration, calculated in accordance with Schedule 2, for work actually and reasonably done, due regard being had to economy.

(2) Where work done by counsel constitutes a supply of services in respect of which value added tax is chargeable, there may be added to the amount of fees allowable to counsel an amount equal to the amount of value added tax chargeable thereon.

(3) Where, in terms of section 30(2) of the Act, representation is by counsel alone, he shall be allowed such outlays actually and reasonably incurred by witnesses called on behalf of the person held to be in contempt of court.

Submission of accounts by counsel

8. Where in making legal aid available under section 30 of the Act the court orders that the legal aid shall consist of representation by counsel only, an account of fees and outlays allowable to counsel shall be submitted to the Board by or on behalf of counsel upon the conclusion of the proceedings in respect of which the legal aid was made available.

Taxation of fees and outlays

9.—(1) If any question or dispute arises between the Board and a solicitor or counsel as to the amount of fees or outlays allowable to the solicitor or to counsel from the Fund in respect of legal aid for contempt of court made available in the High Court or Court of Session, including appeals, the matter shall be referred for taxation to the Auditor of the Court of Session:

Provided that the Board and any other party to a reference to the Auditor under this paragraph shall have the right to state written objections to the High Court or Court of Session in relation to the report of the Auditor under this paragraph within 14 days of the date of issue of such report and the Board and any such other party may be heard thereon.

(2) If any question or dispute arises between the Board and a solicitor or counsel as to the amount of fees or outlays allowable to the solicitor, or to counsel, from the Fund in respect of legal aid made available in the sheriff or district court, the matter shall be referred for taxation to the auditor of the sheriff court for the district in which those proceedings for contempt of court took place:

Provided that the Board and any other party to a reference to an auditor under this paragraph shall have the right to state written objections to the sheriff in relation to the report of the auditor under this paragraph within 14 days of issue of such report and the Board and any such other party may be heard thereon.

(3) A reference to an auditor under this regulation may be made at the instance of the solicitor concerned or, where the question in dispute affects the fees or outlays allowable to counsel, of the counsel concerned, or of the Board and the auditor concerned shall give reasonable notice of the diet of taxation to the solicitor or counsel as appropriate and the Board.

St Andrew's House,
Edinburgh
13th May 1992

Fraser of Carmyllie
Minister of State, Scottish Office

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SCHEDULE 1

Regulation 4

TABLE OF FEES ALLOWABLE TO SOLICITORS FOR LEGAL AID MADE AVAILABLE UNDER SECTION 30 OF THE ACT IN CONNECTION WITH PROCEEDINGS FOR CONTEMPT OF COURT

1. The fee for—
 - (a) any time up to the first half hour spent by a solicitor appearing in court or conducting another hearing shall be £27.40;
 - (b) each quarter hour (or part thereof) subsequent to the first half hour spent appearing in court or conducting another hearing shall be £13.70.
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 5 hereof, provided that any time is additional to the total time charged for under paragraph 1 above shall be £10.55;
 - (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 5 hereof shall be £5.25.
3. The fee for—
 - (a) each citation of a witness including execution thereof;
 - (b) framing and drawing precognitions and other necessary papers, subject to paragraph 4(c) below — per sheet (or part thereof);
 - (c) instructing messengers-at-arms and sheriff officers, including examining execution and settling fee;
 - (d) lengthy telephone calls (of over 4 and up to 10 minutes duration); and
 - (e) letters, including instructions to counsel — per page (or part thereof), subject to paragraph 4(b) below,

shall be £6.00.

4. The fee for—
 - (a) attendance at court offices for performance of formal work including each necessary lodging in or uplifting from court or each necessary enquiry for documents due to be lodged;
 - (b) short letters of a formal nature, intimations and letters confirming telephone calls;
 - (c) framing formal papers, including inventories and title pages per sheet (or part thereof);
 - (d) revising papers drawn by counsel or where revisal ordered by court per 5 sheets (or part thereof); and
 - (e) short telephone calls (of up to 4 minutes duration),

shall be £2.40.

5. Where an exceptional amount of copying proves necessary a fee of 35 pence shall be paid for each sheet.

Interpretation

6. In this Table—
 - a “sheet” shall consist of 250 words or numbers;
 - a “page” shall consist of 125 words or numbers; and

“exceptional” means the production or more than 20 output copy sheets (whether 20 of 1 sheet, 5 of 4 sheets or whatever) when a document has been copied.

SCHEDULE 2

Regulation 7

FEES OF COUNSEL

1. Subject to the following provisions of this Schedule, fees shall be calculated in accordance with the Table of Fees in this Schedule.

2. Where the Tables of Fees in this Schedule does not prescribe a fee for any item of work the auditor shall allow such fee as appears to him appropriate to provide reasonable remuneration for work with regard to all the circumstances, including the general levels of fees in the said Table of Fees.

3. The auditor shall have power to increase any fee set out in the Table of Fees in this Schedule where he is satisfied that, because of the particular complexity or difficulty of the work or any other particular circumstances, such an increase is necessary to provide reasonable remuneration for the work.

4. The auditor shall have power to reduce any fee set out in the Table of Fees in this Schedule where he is satisfied that, because of any particular circumstances, a reduced fee is sufficient to provide reasonable remuneration for the work.

TABLE OF FEES

CHAPTER 1 — JUNIOR COUNSEL		
	Junior with Senior	Junior alone
1. Hearing, held during the course of other proceedings, at which the person concerned is first called upon to answer to the alleged contempt. No consultation fee (paragraph 4) will be payable in these circumstances.	£ 31.50	£ 46.50
2. Hearing (other than described in paragraphs 1 or 3)– per day.		
(a) In Edinburgh	£172.00	£242.50
(b) In Glasgow	£203.50	£298.50
(c) Elsewhere within 60 miles journey by road from Edinburgh	£211.00	£306.00
(d) In Aberdeen, Inverness or Dumfries	£291.00	£408.50
(e) Elsewhere beyond 60 miles journey by road from Edinburgh:	Such fee as the Auditor considers appropriate with regard to the journey involved	

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CHAPTER 1 — JUNIOR COUNSEL

and the level of fees prescribed in this paragraph.

3. Appeals, etc.

(a) Drafting grounds of appeal against finding of contempt including any note of appeal	£ 44.50	£ 63.00
(b) Hearing in appeal; against a finding of contempt — per day	£172.00	£242.50
(c) Note of adjustments to stated case	£ 44.50	£ 63.00
(d) Hearing on stated case or bill of suspension relating to a finding of contempt or a finding of contempt and sentence.	£ 78.00	£102.00
(e) Any appeal against sentence including fee for drafting note of appeal	£ 31.50	£ 70.50
(f) Appeal relating to granting of bail	£ 23.50	£ 23.50

4. Consultations.

Save in a case provided for by paragraph 1

(a) In Edinburgh	£ 55.00	£ 78.00
Additional fee if held in prison	£ 8.50	£ 8.50
(b) Elsewhere within 60 miles journey by road from Edinburgh	£102.00	£133.50
(c) In Aberdeen, Inverness or Dumfries	£203.50	£242.50
(d) Elsewhere beyond 60 miles journey by road from Edinburgh:	Such fee as the Auditor considers appropriate with regard to the journey involved and the level of fees prescribed in this paragraph.	

5. Opinion on appeal, etc.	£ 46.50
6. Revisal of stated case.	£ 46.50
7. Drafting bill of suspension.	£ 46.50
8. Remits for sentence and pleas in mitigation.	£ 46.50

CHAPTER 2 — SENIOR COUNSEL

CHAPTER 1 — JUNIOR COUNSEL	
1. Hearing, held during the course of other proceedings, at which the person concerned is first called upon to answer to the contempt. No consultation fee (paragraph 4) will be payable in these circumstances.	£ 70.50
2. Hearing (other than that described in paragraph 1 or 3) —per day	
(a) In Edinburgh	£315.00
(b) In Glasgow	£369.00
(c) Elsewhere within 60 miles journey by road from Edinburgh:	£377.50
(d) In Aberdeen, Inverness or Dumfries	£510.50
(e) Elsewhere beyond 60 miles journey by road from Edinburgh:	Such fee as the Auditor considers appropriate with regard to the journey involved and the level of fees prescribed in this paragraph.
3. Appeals, etc.	
(a) Revising grounds of appeal against a finding of contempt, including any note of appeal	£ 86.50
(b) Hearing in appeal against a finding of contempt— per day	£315.00
(c) Note of adjustments to stated case	£ 86.50
(d) Hearing on stated case or bill of suspension relating to a finding of contempt or a finding of contempt and sentence.	£156.50
(e) Any appeal against sentence including revisal of note of appeal	£102.00
(f) Appeal relating to granting of bail	£ 31.50
4. Consultations.	
Save in a case provided for by paragraph 1,	

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CHAPTER 1 — JUNIOR COUNSEL	
(a) In Edinburgh	£118.00
Additional fee if held in prison	£ 8.50
(b) Elsewhere within 60 miles journey by road from Edinburgh	£188.00
(c) In Aberdeen, Inverness or Dumfries	£361.50
(d) Elsewhere beyond 60 miles journey by road from Edinburgh:	Such fee as the Auditor considers appropriate with regard to the journey involved and the level of fees prescribed in this paragraph
5. Opinion on appeal	£ 70.50
6. Revisal of stated case	£ 70.50
7. Revisal of bill of suspension	£ 70.50
8. Remits for sentence and pleas in mitigation.	£ 70.50

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the remuneration of solicitors and counsel giving legal aid in relation to contempt of court proceedings in Scotland. They provide for the fees and outlays allowable to solicitors (regulations 4 and 5); the fees and outlays allowable to Counsel (regulation 7); and for the submission of accounts by both (regulations 6 and 8). Taxation of fees and outlays is provided for in regulation 9.

The Schedules set out the fees payable to solicitors (Schedule 1) and Counsel (Schedule 2) respectively.