

This Statutory Instrument has been made in consequence of defects in S.I.1993/529 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

1994 No. 1018 (S.50)

LEGAL AID AND ADVICE, SCOTLAND

The Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Amendment Regulations 1994

<i>Made</i>	- - - -	<i>31st March 1994</i>
<i>Laid before Parliament</i>		<i>14th April 1994</i>
<i>Coming into force</i>	- -	<i>5th May 1994</i>

The Secretary of State, in exercise of the powers conferred on him by sections 33(2)(a) and (3) and 36(1) and (2)(a) 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) Amendment Regulations 1994 and shall come into force on 5th May 1994.

Interpretation

2. In these Regulations—

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

“the principal Regulations” means the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992⁽²⁾.

Application

3. These Regulations shall apply only in relation to any case where legal aid under section 30 of the Act⁽³⁾ is granted on or after 5th May 1994.

(1) 1986 c. 47.

(2) S.I. 1992/1228 as amended by S.I. 1993/529.

(3) Section 30 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40), Schedule 8, paragraph 36(12).

Amendment of the principal Regulations

4. In regulation 2(1) of the principal Regulations (interpretation)–

- (a) for the definitions of “counsel” and of “junior counsel” and “junior”, there shall be substituted–

““counsel” includes a solicitor-advocate;

“junior counsel” or “junior” includes a junior solicitor-advocate;”;

- (b) for the definition of “rights of audience solicitor” to the end there shall be substituted–

““right of audience” means, in relation to a solicitor, a right of audience in, on the one hand, the Court of Session, the House of Lords and the Judicial Committee of the Privy Council or, on the other hand, the High Court of Justiciary, which a solicitor has by virtue of section 25A (rights of audience in specified courts) of the Solicitors (Scotland) Act 1980((4));

“senior counsel” includes a senior solicitor-advocate except in paragraph (1A) below;

“solicitor-advocate” means a solicitor, whether instructed by another solicitor or not, when and only when he is exercising his right of audience or acting in connection with the exercise of such a right and “junior solicitor-advocate” and “senior solicitor-advocate” shall be construed in accordance with paragraph (1A) below;

and, unless the context otherwise requires, any reference in these Regulations to a solicitor does not include a solicitor when acting as a solicitor-advocate.

(1A) For the purposes of these Regulations, a solicitor-advocate shall be–

- (a) a senior solicitor-advocate, where he is undertaking work equivalent to that which would be done by a senior counsel in a case where the Board has authorised the employment of senior counsel under regulation 7(1)(a) or (2) of the Legal Aid in Contempt of Court Proceedings (Scotland) Regulations 1992((5));

- (b) a junior solicitor-advocate, where he is undertaking work equivalent to that which would be done by a junior counsel, whether or not the Board has authorised the employment of senior counsel in the case.”.

Revocation

5. The Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Amendment Regulations 1993((6)) are hereby revoked.

St Andrew’s House,
Edinburgh
31st March 1994

Fraser of Carmyllie
Minister of State, Scottish Office

(4) 1980 c. 46; section 25A was inserted by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40), section 24.

(5) S.I. 1992/1227, amended by S.I. 1993/528 and 1994/1016.

(6) S.I. 1993/529.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations substitute in the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992 new definitions relating to solicitors who have a right of audience in the Court of Session, the House of Lords and the Judicial Committee of the Privy Council or in the High Court of Justiciary.

The Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Amendment Regulations 1993 (S.I. [1993/529](#)) which inserted defective definitions relating to such solicitors are revoked.