

Draft Regulations laid before the Scottish Parliament under section 37(2) of the Legal Aid (Scotland) Act 1986 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

LEGAL AID AND ADVICE

The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 2) Regulations 2023

Made - - - - 2023
Coming into force - - 29th April 2023

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 9(1), (2)(e), 33(2), (3)(a), (b), (c), (d) and (f) and (3A), and 36(1), (2)(a) and (b) of the Legal Aid (Scotland) Act 1986⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 37(2) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament⁽²⁾.

Citation and commencement

1. These Regulations may be cited as the Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 2) Regulations 2023 and come into force on 29 April 2023.

Application

2.—(1) These Regulations apply only in relation to fees for work done or outlays incurred on or after 29 April 2023, except in relation to regulations 6, 7(2), (3)(c) and (e), and 8(3) to (5).

(2) Regulations 6, 7(2), (3)(c) and (e) and 8(3) to (5) apply only in relation to a case where the grant of legal aid, advice and assistance or assistance by way of representation was made on or after 29 April 2023.

(3) Where work for a fee prescribed in schedules 1 to 11 is conducted over more than one date, the work is deemed to have been done on the day on which the work comes to an end.

(1) 1986 c. 47 (“the 1986 Act”). Section 33(2) of the 1986 Act was amended by section 67(7)(b) of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5). Section 36(2)(b) was amended by section 23(9) of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

Amendment of the Civil Legal Aid (Scotland) (Fees) Regulations 1989

3.—(1) The Civil Legal Aid (Scotland) (Fees) Regulations 1989⁽³⁾ are amended as follows.

(2) In regulation 5 (fees allowable to solicitors), in paragraph (2A), for “£23.86”⁽⁴⁾ substitute “£26.30”.

(3) In Part 1 of Chapter 3 of schedule 2 (undefended actions), for the first table of fees substitute the table of fees in schedule 1 of these Regulations.

(4) In Part 2 of Chapter 3 of schedule 2 (defended actions), for the first table of fees substitute the table of fees in schedule 2 of these Regulations.

(5) In Chapter 4 of schedule 2 (executry business), for the table of fees substitute the table of fees in schedule 3 of these Regulations.

(6) In schedule 2A (fees allowable to solicitors for simple procedure cases and First-Tier Tribunal for Scotland cases)⁽⁵⁾, for the table of fees substitute the table of fees in schedule 4 of these Regulations.

(7) In schedule 3 (table of detailed fees chargeable by solicitors for proceedings in the Court of Session and the sheriff court), for the table of fees substitute the table of fees in schedule 5 of these Regulations.

(8) In schedule 5 (table of detailed fees chargeable by solicitors for proceedings in the Court of Session, Sheriff Appeal Court, and Upper Tribunal for Scotland, proceedings listed at regulation 5⁽³⁾ and proceedings in the sheriff court listed in schedule 7)⁽⁶⁾, for the table of fees substitute the table of fees in schedule 6 of these Regulations.

(9) In schedule 6 (table of fees chargeable by solicitors for proceedings in the sheriff court (except summary cause and executry proceedings and the proceedings listed in schedule 7) and in the Sheriff Appeal Court)—

- (a) in Chapter 1 (sheriff court civil fees (undefended)) in the Notes on the operation of Chapter 1 in paragraph 6, for “£8.27”⁽⁷⁾ substitute “£9.12”,
- (b) in Chapter 2 (sheriff court civil fees (defended)) in the Notes on the operation of Chapter 2 in paragraph 21, for “£8.27”⁽⁸⁾ substitute “£9.12”.

Amendment of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989

4.—(1) The Criminal Legal Aid (Scotland) (Fees) Regulations 1989⁽⁹⁾ are amended as follows.

(2) In regulation 4 (fees allowance to solicitors: general provisions)—

- (a) in paragraph (1), for “Schedule 1” substitute “Schedule 1A”,
- (b) after paragraph (1), insert—

“(1ZA) Subject to paragraph (1ZB), where the following conditions apply, the fees allowable to solicitors in relation to solemn criminal proceedings other than proceedings to which regulation 7A(1) (solemn proceedings (exceptional) fees) applies are those specified in Schedule 1—

- (a) the grant of legal aid was made before 29 April 2023,

(3) S.I. 1989/1490; relevant amending instruments are S.I. 1994/1015, S.I. 1995/1044, S.S.I. 2003/178, S.S.I. 2007/14, S.S.I. 2009/203, S.S.I. 2011/41, S.S.I. 2011/160, S.S.I. 2013/144, S.S.I. 2013/250, S.S.I. 2014/257, S.S.I. 2015/337, S.S.I. 2015/380, S.S.I. 2016/257, S.S.I. 2016/290, S.S.I. 2017/310, S.S.I. 2019/78, S.S.I. 2020/191, S.S.I. 2021/56 and S.S.I. 2022/30.

(4) Paragraph (2A) was inserted by S.S.I. 2003/178 and this figure substituted by S.S.I. 2022/30.

(5) Schedule 2A was inserted by S.S.I. 2016/290 and relevantly amended by S.S.I. 2022/30.

(6) Schedule 5 was inserted by S.S.I. 2003/178 and renamed by S.S.I. 2016/257.

(7) Schedule 6 was inserted by S.S.I. 2003/178 and this figure substituted by S.S.I. 2022/30.

(8) This figure was substituted by S.S.I. 2022/30.

(9) S.I. 1989/1491; relevant amending instruments are S.I. 1992/374, S.S.I. 2004/264, S.S.I. 2005/113, S.S.I. 2005/656, S.S.I. 2008/240, S.S.I. 2010/212, S.S.I. 2013/320, S.S.I. 2017/466, S.S.I. 2022/30 and S.S.I. 2022/116.

- (b) the proceedings in the case concluded on or after that date, and
 - (c) the solicitor submitting the account has requested, in such form as the Board may specify, that said account be paid in accordance with Schedule 1.
- (1ZB) Paragraph (1ZA) does not apply in a case if—
- (a) there has been a transfer of agency from one solicitor to another,
 - (b) the solicitor who transferred agency has submitted—
 - (i) an account for payment before 29 April 2023, or
 - (ii) a request in accordance with paragraph (1ZA)(c),
 - (c) that account, or the account in respect of which that request was made, has been paid, and
 - (d) the Board has received from all solicitors who have acted in the case a written request, in such form as the Board may specify, that their accounts be assessed, or reassessed as the case may be, and paid in accordance with Schedule 1A.”.
- (3) In regulation 5 (fees allowance to solicitors: identification parades)(10)—
- (a) in paragraph (1)—
 - (i) in sub-paragraph (a)(i), for “£129.47” substitute “£142.68”,
 - (ii) in sub-paragraph (a)(ii), for “£14.41” substitute “£15.88”,
 - (iii) in sub-paragraph (b)(i), for “£106.54” substitute “£117.41”,
 - (iv) in sub-paragraph (b)(ii), for “£13.43” substitute “£14.80”,
 - (b) in paragraph (6)—
 - (i) after “in accordance with”, insert “either”,
 - (ii) after “Schedule 1”, insert “or paragraph 1 of Part 2 of the Table of Fees set out in Schedule 1A”.
- (4) In regulation 6 (duty solicitors’ fees)(11)—
- (a) in paragraph (1)—
 - (i) in sub-paragraph (a), for “£165” substitute “£182”,
 - (ii) in sub-paragraph (b), for “£115” substitute “£127”,
 - (iii) for “£71.55” in each place where it appears substitute “£78.85”,
 - (iv) for “£10.23” in each place where it appears substitute “£11.28”,
 - (v) for “£79.50” in each place where it appears substitute “£87.61”,
 - (b) in paragraph (2)—
 - (i) for “Schedule 1” substitute “Part 1 of the table of fees in Schedule 1A”,
 - (ii) for “£250” substitute “£276”,
 - (iii) for “£79.50” substitute “£87.61”,
 - (c) in paragraph (2A) for “£80.00” substitute “£88.16”,
 - (d) in paragraph (3)—
 - (i) for “Schedule 1” substitute “Part 1 of the table of fees in Schedule 1A”,
 - (ii) for “£150” substitute “£180”.
- (5) In regulation 7 (fees allowable to solicitors), for “Schedule 1” substitute—

(10) Regulation 5 was substituted by [S.S.I. 2010/212](#) and amended by [S.S.I. 2022/30](#).

(11) The figures in regulation 6 were substituted by [S.S.I. 2022/30](#) and [S.S.I. 2022/116](#).

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- (a) Schedule 1A, or
 - (b) where regulation 4(1ZA) applies, Schedule 1”.
- (6) In regulation 7A (solemn proceedings (exceptional) fees), in paragraphs (1) and (9), for “Schedule 1” substitute “Schedule 1A”.
- (7) In regulation 8(1) (outlays allowable to solicitors), for “paragraph 5(4) of the notes on the operation of Schedule 1” substitute “paragraph 16(5) of the notes on the operation of Schedule 1A”.
- (8) In regulation 11(3) (dispute as to allowable fees and outlays)—
- (a) after “(1)(a)”, insert “, (ba)”,
 - (b) for “or, as the case may be, the sheriff”, insert “, the Sheriff Appeal Court or the sheriff, as the case may be,”.
- (9) In schedule 1 (fees of solicitors)—
- (a) after the heading insert—
 - “(Before 29 April 2023)”,
 - (b) in the Notes on the operation of schedule 1 in paragraph 7(1)(12), for “£14.41” substitute “£14.89”,
 - (c) in the tables of fees, for Part 1 (detailed fees) and Part 2 (inclusive fees for solemn first instance proceedings) substitute the tables of fees in schedule 7 of these Regulations.
- (10) After schedule 1, insert schedule 1A in schedule 8 of these Regulations.

Legal aid in contempt of court proceedings

5. Schedule 1 (table of fees allowable to solicitors for legal aid made available under section 30 of the Legal Aid (Scotland) Act 1986 in connection with proceedings for contempt of court) of the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992(13) is amended as follows—

- (a) in paragraph 1(a), for “£31.14” substitute “£34.32”,
- (b) in paragraph 1(b), for “£15.58” substitute “£17.17”,
- (c) in paragraph 2(a), for “£12.00” substitute “£13.23”,
- (d) in paragraph 2(b), for “£5.98” substitute “£6.59”,
- (e) in paragraph 3, for “£6.82” substitute “£7.52”,
- (f) in paragraph 4, for “£2.75” substitute “£3.04”,
- (g) in paragraph 4A(a)(14), for “£6.01” substitute “£6.63”,
- (h) in paragraph 4A(b), for “£3.00” substitute “£3.31”.

Amendment of the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993

6. Regulation 3 (financial limit) of the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993(15) is amended as follows—

- (a) in paragraph (b)—
 - (i) in sub-paragraph (i), for “£120” substitute “£135”,

(12) The figure in paragraph 7 was substituted by [S.S.I. 2022/30](#).

(13) [S.I. 1992/1228](#); relevant amending instruments are [S.S.I. 2013/250](#) and [S.S.I. 2022/30](#). Figures in paragraphs 1 to 4A were substituted by [S.S.I. 2022/30](#).

(14) Paragraph 4A was inserted by [S.S.I. 2011/41](#) and amended by [S.S.I. 2022/30](#).

(15) [S.I. 1993/3187](#); relevant amending instruments are [S.S.I. 2007/248](#), [S.S.I. 2017/466](#) and [S.S.I. 2022/116](#).

- (ii) in sub-paragraph (ii), for “£45” substitute “£50”,
- (b) in paragraph (c)—
 - (i) in sub-paragraph (i) and (ii), for “£105” substitute “£115”,
 - (ii) in sub-paragraph (iii), for “£45” substitute “£50”,
 - (iii) in sub-paragraph (iv)—
 - (aa) omit “a stipendiary magistrate, or”,
 - (bb) for “£705” substitute “£750”,
 - (iv) in sub-paragraph (v)—
 - (aa) omit “(other than before a stipendiary magistrate)”,
 - (bb) for “£330” substitute “£500”,
 - (v) in sub-paragraph (vi) and (vii), for “£195” substitute “£215”,
 - (vi) in sub-paragraph (viii), for “£265” substitute “£290”,
 - (vii) in sub-paragraph (ix), for “£185” substitute “£215”,
 - (viii) in sub-paragraph (x) and (xv), for “£225.00” substitute “£250”,
 - (ix) in sub-paragraph (xi), for “£550” substitute “£600”,
 - (x) in sub-paragraph (xii), (xiii) and (xiv), for “£350” substitute “£385”,
 - (xi) in sub-paragraph (xv), for “£550.00” substitute “£600”.

Amendment of the Advice and Assistance (Scotland) Regulations 1996

- 7.—(1) The Advice and Assistance (Scotland) Regulations 1996⁽¹⁶⁾ are amended as follows.
- (2) In regulation 17(1B) (fees and outlays of solicitors)⁽¹⁷⁾, for “£550.76” substitute “£572.00”.
- (3) In schedule 3 (table of fees allowable to solicitors)—
- (a) in Part 1 (table of fees allowable to solicitors for assistance by way of representation)—
 - (i) in paragraph 1, for the table of fees substitute the table of fees in schedule 9 of these Regulations,
 - (ii) in paragraph 3 (petition by debtor for sequestration)⁽¹⁸⁾—
 - (aa) in sub-paragraph (a), for “£37.66” substitute “£41.51”,
 - (bb) in sub-paragraph (b), for “£61.85” substitute “£68.16”,
 - (b) in Part 2 (table of fees allowed to solicitors for advice and assistance other than assistance by way of representation), for the table of fees in paragraph 1 substitute the table of fees in schedule 10 of these Regulations,
 - (c) in Part 3 (table of fees allowed to solicitors for assistance by way of representation for proceedings under sections 19, 30 and 36(1)(a) of the Criminal Justice (Scotland) Act 2016), for the table of fees substitute the table of fees in schedule 11 of these Regulations,
 - (d) in Part 4 (table of fees allowed to solicitors for advice and assistance in relation to sections 32 and 44 of the Criminal Justice (Scotland) Act 2016)⁽¹⁹⁾—
 - (i) in paragraph 3 (standard rate), for “£85.18” substitute “£93.87”,
 - (ii) in paragraph 3 (higher rate), for “£113.29” substitute “£124.85”,

⁽¹⁶⁾ S.I. 1996/2447; relevant amending instruments are S.S.I. 2005/171, S.S.I. 2017/466, S.S.I. 2021/55 and S.S.I. 2022/30.

⁽¹⁷⁾ Paragraph (1B) was inserted by S.S.I. 2022/292.

⁽¹⁸⁾ Figures in paragraph 3 were substituted by S.S.I. 2022/30.

⁽¹⁹⁾ Part 4 was inserted by S.S.I. 2017/466. Figures in Part 4 were substituted by S.S.I. 2022/30.

- (iii) in paragraph 4(a) (standard rate), for “£130.60” substitute “£143.93”,
 - (iv) in paragraph 4(a) (higher rate), for “£173.70” substitute “£191.42”,
 - (v) in paragraph 4(b)(i) (standard rate), for “£227.12” substitute “£250.29”,
 - (vi) in paragraph 4(b)(i) (higher rate), for “£302.07” substitute “£332.89”,
 - (vii) in paragraph 4(b)(ii) (standard rate), for “£56.79” substitute “£62.59”,
 - (viii) in paragraph 4(b)(ii) (higher rate), for “£75.53” substitute “£83.24”,
 - (ix) in paragraph 5 (standard rate), for “£34.08” substitute “£37.56”,
 - (x) in paragraph 5 (higher rate), for “£45.32” substitute “£49.95”,
 - (xi) in paragraph 6 (standard rate), for “£13.18” in each place where it appears substitute “£14.53”,
 - (xii) in paragraph 6 (higher rate), for “£17.54” in each place where it appears substitute “£19.33”,
- (e) in Part 5 (table of fees allowable to solicitors for assistance by way of representation for proceedings under schedule 8 of the Terrorism Act 2000)(**20**)—
- (i) for “£56.79” in each place where it appears substitute “£62.59”,
 - (ii) for “£85.18” in both places where it appears substitute “£93.87”,
 - (iii) for “£6.60” in both places where it appears substitute “£7.28”,
- (f) in Part 6 (table of fees allowable to solicitors for advice and assistance in relation to section 41 and schedule 7 of the Terrorism Act 2000 and Part 1 of schedule 3 of the Counter-Terrorism and Border Security Act 2019)(**21**)—
- (i) in paragraph 3(a) (standard rate), for “£130.60” substitute “£143.93”,
 - (ii) in paragraph 3(a) (higher rate), for “£173.70” substitute “£191.42”,
 - (iii) in paragraph 3(b)(i) (standard rate), for “£227.12” substitute “£250.29”,
 - (iv) in paragraph 3(b)(i) (higher rate), for “£302.07” substitute “£332.89”,
 - (v) in paragraph 3(b)(ii) (standard rate), for “£56.79” substitute “£62.59”,
 - (vi) in paragraph 3(b)(ii) (higher rate), for “£75.53” substitute “£83.24”
 - (vii) in paragraph 4 (standard rate), for “£34.08” substitute “£37.56”,
 - (viii) in paragraph 4 (higher rate), for “£45.32” substitute “£49.95”,
 - (ix) in paragraph 5 (standard rate), for “£13.18” in each place where it appears substitute “£14.53”,
 - (x) in paragraph 5 (higher rate), for “£17.54” in each place where it appears substitute “£19.33”.

Amendment of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999

8.—(1) The Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999(**22**) are amended as follows.

(2) In regulation 4 (fixed payments allowable to solicitors)—

(a) in paragraph (1A)(**23**)—

(20) Part 5 was inserted by [S.S.I. 2021/55](#) and amended by [S.S.I. 2022/30](#).

(21) Part 6 inserted by [S.S.I. 2021/55](#) and amended by [S.S.I. 2022/30](#).

(22) [S.I. 1999/491](#); relevant amending instruments are [S.S.I. 2001/307](#), [S.S.I. 2004/263](#), [S.S.I. 2008/240](#), [S.S.I. 2011/162](#), [S.S.I. 2014/366](#), [S.S.I. 2020/191](#) and [S.S.I. 2022/30](#).

(23) Paragraphs (1A) and (1D) were inserted by [S.S.I. 2008/240](#), and paragraph (6ZA) was inserted by [S.S.I. 2011/162](#).

- (i) in sub-paragraph (a) omit “(other than before a stipendiary magistrate)”,
 - (ii) in sub-paragraph (a) and (b) omit “(before a stipendiary magistrate)”,
 - (b) in paragraph (1D) omit “(before a stipendiary magistrate or otherwise)”,
 - (c) omit paragraphs (4) to (6ZA).
- (3) In schedule 1, for the table of fees in Part 1 substitute the table of fees in Part 1 of schedule 12 of these Regulations.
- (4) In schedule 1A**(24)**, for the table of fees substitute the table of fees in schedule 13 of these Regulations.
- (5) In schedule 1B**(25)**—
- (a) for the table of fees in Part 1 substitute the table of fees in Part 1 of schedule 14 of these Regulations,
 - (b) for the table of fees in Part 2 substitute the table of fees in Part 2 of schedule 14 of these Regulations.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

Part 2 - Defended Actions		
5.	The fee for attendance at court, except as specifically provided for elsewhere in this Chapter, per half hour	£26.44
6.	The fee for drawing precognitions, including instructions, attendances with witnesses and all relative meetings and correspondence, per sheet	£39.16
7.	The fee for perusing, revising and adjusting a report or precognition prepared by a skilled witness, per sheet	£19.59
8.	In connection with reports commissioned by order of Court, the fee for—	
	(a) all incidental work, including instructing the report	£26.44
	(b) each half hour perusing the report	£26.44
9.	The fee, per inventory, for—	
	(a) lodging productions	£39.16
	(b) perusing the opposition's productions	£18.08
10.	The fee for framing affidavits, per sheet	£19.59
11.	Except as provided for by paragraphs 17, 18 and 19 the fee for—	
	(a) drawing, intimating and lodging any written minute or incidental application including any relative attendance at court, where that minute or application is—	
	(i) opposed	£55.74
	(ii) unopposed	£33.48
	(b) considering a written minute or incidental application intimated by the opposition including any relative attendance at court, where that minute or application is—	
	(i) opposed	£45.86
	(ii) unopposed	£26.44
12.	In connection with a hearing to which paragraph 11 applies, if waiting for and conducting that hearing exceeds half an hour, the fee for attendance at court for each subsequent half hour	£26.44
13.	In connection with a proof the fee for all work, except as specifically provided for elsewhere in this Chapter, preparatory to—	
	(a) the first scheduled proof, if—	
	(i) the cause is settled or abandoned 7 or more days before the scheduled proof	£91.70
	(ii) paragraph (i) does not apply	£110.08
	(b) any adjourned proof, if the postponement from the hearing previously scheduled exceeds 6 days and—	
	(i) the cause is settled or abandoned 7 or more days before the scheduled proof	£45.86
	(ii) paragraph (i) does not apply	£55.05

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument:
The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 2) Regulations 2023 No. 135

Part 2 - Defended Actions		
14.	The fee for each half hour inspecting the opposition's documents either at court or at a place fixed by the opposition	£26.44
15.	In connection with a proof or a trial and debate on evidence taken at the close of proof, the fee for each half hour—	
(a)	conducting that hearing	£26.44
(b)	waiting in court for that hearing	£14.06
16.	In connection with a debate on evidence not taken at the close of proof, the fee for—	
(a)	all preparatory work	£61.42
(b)	attendance at court, per half hour	£26.44
17.	In connection with a minute of judicial tender—	
(a)	the fee for consideration of, preparing and lodging the minute	£55.74
(b)	on acceptance of the tender, the fee for consideration of, preparing and lodging the minute of acceptance and attendance at court when decree is granted in terms of that minute	£39.16
(c)	on rejection of the tender, the fee for considering it	£39.16
18.	The fee for each party where the case is settled extra-judicially, including all relative negotiations, framing or revising the joint minute and attendance at court when authority is interponed thereto	£91.70
19.	In connection with an incidental application for commission and diligence to recover documents or an order under section 1 of the Administration of Justice (Scotland) Act 1972 (26), the fee for—	
(a)	drawing, intimating and lodging the application and, where relevant, specification and any relative attendance at court, where the application is—	
(i)	opposed	£61.28
(ii)	unopposed	£33.48
(b)	considering the application and, where relevant, specification intimated by the opposition and any relative attendance at court, where the application is—	
(i)	opposed	£45.86
(ii)	unopposed	£26.44
(c)	each subsequent half hour, where attendance at court exceeds half an hour	£26.44
(d)	citing havers and preparing for and appearing before the commissioner or sheriff at the execution of the commission, per half hour	£26.44

(26) 1972 c. 59. Section 1 was amended by section 19 and paragraph 15 of schedule 2 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73).

Part 2 - Defended Actions			
	(e)	serving an order on each person, if optional procedure is adopted	£18.08
	(f)	each half hour perusing the documents recovered	£26.44
20.	In connection with an open commission to take evidence, the fee for—		
	(a)	all work, excluding attendance at the commission, by the—	
		(i) solicitor applying for the commission	£61.42
		(ii) opposing solicitor	£26.44
	(b)	each half hour attending the execution of the commission	£26.44
21.	At the conclusion of the cause, the fee for—		
	(a)	settling with witnesses and noting the final decree	£55.74
	(b)	the successful party to cover drawing the account of expenses, arranging, intimating and attending a diet of taxation and obtaining approval of the auditor's report and, where necessary, ordering, procuring and examining extract decree or adjusting account with opponent	£55.74
	(c)	the unsuccessful party to cover considering the opponent's account of expenses and, where necessary, adjusting the account with opponent or attending a diet of taxation	£26.44

SCHEDULE 3

Regulation 3(5)

Amendments to Chapter 4 of schedule 2 of the
Civil Legal Aid (Scotland) (Fees) Regulations 1989

1. Petition for decree dative	
Inclusive fee for taking instructions to present petition, drawing petition and making necessary copies, lodging and directing publication, attendance at court, moving for decree-dative, extracting decree where necessary and all matters incidental to petition	£42.20
2. Restriction of Caution	
Inclusive fee for taking instructions to prepare petition, drawing petition and making necessary copies, lodging, instructing advertisement and all matters incidental to petition	£42.20
3. Fees for other work shall be chargeable according to schedule 3.	

SCHEDULE 4

Regulation 3(6)

Amendments to schedule 2A of the Civil Legal Aid (Scotland) (Fees) Regulations 1989

1.	The fee for—
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Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument:
The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 2) Regulations 2023 No. 135

	(a)	any time up to the first half hour spent by a solicitor conducting a proof or hearing	£41.51
	(b)	each quarter hour (or part thereof) subsequent to the first half hour	£20.79
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 7 of this table, provided that any time is additional to the total time charged for under paragraph 1	£15.97
	(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 7 of this table	£7.97
3.	The fee for framing affidavits – per sheet (or part thereof)		£13.12
4.	The fee for—		
	(a)	framing and drawing all necessary papers, other than affidavits or papers of a formal character – per sheet (or part thereof),	
	(b)	each citation of a party, witness or haver including execution thereof,	
	(c)	instructing sheriff officers, including examining execution and settling fee,	
	(d)	agency accepting service of any writ,	
	(e)	lodging first step of process,	
	(f)	lengthy telephone calls (of over 4 minutes and up to 10 minutes duration),	
	(g)	letters, including instructions to counsel – per page (or part thereof), subject to paragraph 5(f) below,	
	(h)	perusing any document (other than a letter) consisting of not more than 12 sheets – for the first 2 sheets and each 2 sheets thereafter.	
	Note: Where the document perused consists of more than 12 sheets the fee for perusing the whole document shall be charged in accordance with paragraph 2 above		
	in each of sub-paragraphs (a) to (h).		£9.10
5.	The fee for—		
	(a)	attendance at court or First-tier Tribunal for Scotland offices for performance of formal work including making up process and each necessary lodging in (other than first step) uplifting from or borrowing of process (to include return of same) or enquiry for documents due to be lodged,	
	(b)	revising papers drawn by counsel, where ordered or necessary – per 5 sheets (or part thereof),	
	(c)	framing formal papers such as inventories, title pages and accounts of expenses per sheet (or part thereof),	
	(d)	certifying or signing a document,	

	(e)	short telephone calls (of up to 4 minutes duration),	
	(f)	short letters of a formal nature, intimations, and letters confirming telephone calls.	
		in each of sub-paragraphs (a) to (f)	£3.64
6.		The fee for each quarter of an hour (or part thereof) spent travelling—	
	(a)	by a solicitor	£8.01
	(b)	by a solicitor’s clerk	£4.01
7.	(a)	There is no fee for photocopying—	
	(i)	where fewer than 20 sheets are copied at any one time,	
	(ii)	in relation to the first 20 sheets copied at any one time.	
	(b)	Subject to sub-paragraph (a), the fee for all photocopying in relation to proceedings is—	
	(i)	for each sheet copied for up to 10,000 sheets	£0.05
	(ii)	for each sheet copied in addition to the first 10,000 sheets	£0.01

SCHEDULE 5

Regulation 3(7)

Amendments to schedule 3 of the Civil Legal Aid (Scotland) (Fees) Regulations 1989

1.		The fee for—	
	(a)	any time up to the first half hour spent by a solicitor conducting a proof or hearing	£35.31
	(b)	each quarter hour (or part thereof) subsequent to the first half hour	£17.67
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 6 of this table, provided that any time is additional to the total time charged for under paragraph 1	£13.66
	(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 6 of this table	£6.77
3.		The fee for framing affidavits – per sheet (or part thereof)	£11.60
4.		The fee for—	
	(a)	framing and drawing all necessary papers, other than affidavits or papers of a formal character,	
	(b)	each citation of a party, witness or haver including execution thereof,	
	(c)	instructing messengers-at-arms and sheriff officers, including examining execution and settling fee,	
	(d)	agency accepting service of any writ,	

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The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 2) Regulations 2023 No. 135

	(e)	lodging first step of process,	
	(f)	lengthy telephone calls (of over 4 minutes and up to 10 minutes duration),	
	(g)	letters, including instructions to counsel - per page (or part thereof), subject to paragraph 5(f) below,	
	(h)	perusing any document (other than a letter) consisting of not more than 12 sheets - for the first 2 sheets and each 2 sheets thereafter.	
	NOTE: Where the document perused consists of more than 12 sheets the fee for perusing the whole document shall be charged in accordance with paragraph 2 above		
	in each of sub-paragraphs (a)-(h)		£7.77
5.	The fee for—		
	(a)	attendance at court offices for carrying out formal work including making up process and each necessary lodging in (other than first step), uplifting from or borrowing of process (to include return of same) or enquiry for documents due to be lodged,	
	(b)	revising papers drawn by counsel, open and closed records etc. or where revisal ordered - per 5 sheets (or part thereof),	
	(c)	framing formal papers such as inventories, title pages and accounts of expenses per sheet (or part thereof),	
	(d)	certifying or signing a document,	
	(e)	short telephone calls (of up to 4 minutes duration),	
	(f)	short letters of a formal nature, intimations, and letters confirming telephone calls.	
	in each of sub-paragraphs (a) to (f)		£3.09
5A.	The fee for each quarter hour (or part thereof) spent travelling—		
	(a)	by a solicitor	£6.72
	(b)	by a solicitor's clerk	£3.40
6.	Where a document is copied and it is necessary to take a copy of more than 20 sheets (whether 20 of 1 sheet, 5 of 4 sheets or whatever), for each sheet copied a fee of		£0.08

SCHEDULE 6

Regulation 3(8)

Amendments to schedule 5 of the Civil Legal Aid (Scotland) (Fees) Regulations 1989

1.	The fee for—		
	(a)	any time up to the first half hour spent by a solicitor conducting a proof or hearing	£47.05

	(b)	each quarter hour (or part thereof) subsequent to the first half hour	£23.53
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 6 of this table, provided that any time is additional to the total time charged for under paragraph 1	£18.20
	(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 6 of this table	£9.00
3.	The fee for—		
	framing affidavits – per sheet (or part thereof)		£15.42
4.	The fee for—		
	(a)	framing and drawing all necessary papers, other than affidavits or papers of a formal character – per sheet (or part thereof),	
	(b)	each citation of a party, witness or haver including execution thereof,	
	(c)	instructing messengers-at-arms and sheriff officers, including examining execution and settling fee,	
	(d)	agency accepting service or any writ,	
	(e)	lodging first step of process,	
	(f)	lengthy telephone calls (of over 4 minutes and up to 10 minutes duration),	
	(g)	letters, including instructions to counsel – per page (or part thereof), subject to paragraph 5(f) below,	
	(h)	perusing any document (other than a letter) consisting of not more than 12 sheets – for the first 2 sheets and each 2 sheets thereafter.	
	Note: Where the document perused consists of more than 12 sheets the fee for perusing the whole document shall be charged in accordance with paragraph 2 above.		
	in each of sub-paragraphs (a) to (h)		£10.39
5.	The fee for—		
	(a)	attendance at court offices for performance of formal work including making up process and each necessary lodging in (other than first step) uplifting from or borrowing of process (to include return of same) or enquiry for documents due to be lodged,	
	(b)	Revising papers drawn by counsel, open and closed records etc. or where revisal ordered — per 5 sheets (or part thereof),	
	(c)	framing formal papers such as inventories, title pages and accounts of expenses per sheet (or part thereof),	
	(d)	certifying or signing a document,	
	(e)	short telephone calls (of up to 4 minutes duration),	

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	(f)	short letters of a formal nature, intimations, and letters confirming telephone calls.	
		in each of sub-paragraphs (a) to (f)	£4.09
5A.		The fee for each quarter of an hour (or part thereof) spent travelling—	
	(a)	by a solicitor	£9.12
	(b)	by a solicitor’s clerk	£4.51
6.	(a)	There is no fee for photocopying—	
	(i)	where fewer than 20 sheets are copied at any one time,	
	(ii)	in relation to the first 20 sheets copied at any one time.	
	(b)	Subject to sub-paragraph (a), the fee for all photocopying in relation to proceedings is—	
	(i)	for each sheet copied for up to 10,000 sheets	£0.05
	(ii)	for each sheet copied in addition to the first 10,000 sheets	£0.01

SCHEDULE 7

Regulation 4(9)(c)

Amendments to schedule 1 of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989

PART 1

DETAILED FEES

			Summary Procedure	Solemn Procedure
1.		In connection with the conduct of a hearing—		
	(a)	in summary proceedings, the fee for—		
	(i)	any time up to the first half hour spent by a solicitor conducting the hearing	£34.32	
	(ii)	each quarter hour spent, subsequent to the first half hour, conducting the hearing	£17.17	
	(b)	in solemn proceedings, the fee for each quarter of an hour spent by a solicitor conducting the hearing		£21.48
1A.		Supplementary fee, payable in addition to the fee under paragraph 1, where at a holiday court sitting a solicitor acts for a person appearing from custody on the day on which that person is first brought to a court to answer to a complaint or attend a first examination	£88.16	£88.16
2.		The fee for any of the following—	£7.52	£8.17
	(a)	each citation of a witness, including execution,		

		Summary Procedure	Solemn Procedure
	(b) framing and drawing necessary papers other than those referred to in paragraph 3(c),		
	(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), subject to paragraph 4(b)(iii), and		
	(e) letters, including instructions to counsel, per page (or part thereof), subject to paragraph 3(b).		
3.	The fee for any of the following—	£3.04	£3.25
	(a) attendance at court offices for performance of formal work including each necessary lodging in or uplifting from court or each necessary inquiry for documents due to be lodged,		
	(b) short formal letters, letters of acknowledgement, letters each having a similar 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) subject to paragraph 4(b)(iii), short telephone calls (of up to 4 minutes' duration) and telephone calls (of any duration) where the intended recipient is not reached or insufficient narrative is provided in the account to ascertain the duration of the call.		
4.	In connection with taking a precognition in relation to solemn proceedings—		
	(a) subject to paragraph 7 of the notes on the operation of schedule 1, the fee for each hour (or part thereof) spent —		
	(i) travelling		£13.57
	(ii) taking a statement		£13.57
	(b) the fee for—		
	(i) framing the precognition, per sheet		£2.85
	(ii) each letter making arrangements for taking a statement		£1.72
	(iii) a telephone call, of any duration		£1.13
5.	There is no fee for photocopying—		
	(a) where fewer than 20 sheets are copied at any one time,		

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			Summary Procedure	Solemn Procedure
	(b)	in relation to the first 20 sheets copied at any one time.		
		Subject to sub-paragraph (a), the fee for photocopying in relation to the proceedings is—		
	(a)	for each sheet copied for up to 10,000 sheets	£0.05	£0.05
	(b)	for each sheet copied in addition to the first 10,000 sheets	£0.01	£0.01
5A.		The fee for each quarter of an hour spent travelling—		
	(a)	by a solicitor	£6.63	£7.18
	(b)	by a solicitor's clerk	£3.31	£3.60
6.		The fee for each quarter of an hour spent carrying out work other than that prescribed in the preceding paragraphs—		
	(a)	by a solicitor, provided the time is additional to the total time charged for under paragraph 1	£13.23	£14.32
	(b)	by a solicitor's clerk	£6.59	£7.18

PART 2

INCLUSIVE FEES FOR SOLEMN FIRST INSTANCE PROCEEDINGS

	Column A	Column B	Column C
1. The fee for all work from the taking of initial instructions up until the client is admitted to bail or committed until liberated in due course of law, where —			
(a) at the first examination the client is either—			
(i) not committed for further examination, or	£178.31	£156.03	£66.88
(ii) committed for further examination and admitted to bail			
(b) at the first examination the client is committed for further examination and not admitted to bail	£267.47	£245.19	£156.03
2. The fee for all work preparing for a bail appeal hearing including any continued diet and, where necessary, instructing Edinburgh agents	£66.88	£66.88	£66.88
3. The fee for arranging and attending all meetings, including consultations, in prison with the client after full committal for trial up to the conclusion of the case	£512.64	£356.62	£178.31
4. The fee for preparation, including citing and settling with witnesses, perusing evidence and preparing lines			

	Column A	Column B	Column C
of enquiry and submissions but excluding relative consultations, in respect of—			
(a) the first day of trial	£468.06	£334.34	£178.31
(b) a subsequent day of trial	£178.31	£133.75	£44.59
4A. The fee for preparation for	£44.59	£44.59	£44.59
(a) a hearing under section 76 of the 1995 Act (procedure where accused decides to plead guilty),			
(b) a hearing on a plea in bar of trial,			
(c) a hearing raising a preliminary issue, where the preliminary issue would have the effect of excusing the accused person from trial and no other fee is prescribed for this preparation.			
5. The fee for all work in connection with post conviction discussions, advice and representation including advising and giving an opinion on the prospects of any appeal	£207.65	£207.65	£118.50
6. Unless dealt with in the course of the preliminary hearing or a first diet, the fee for all work in connection with any of the following:—	£178.31	£178.31	£178.31
(a) a devolution issue, in terms of Schedule 6 to the Scotland Act 1998,			
(ab) a compatibility issue in terms of section 288ZA (27) of the 1995 Act,			
(b) a vulnerable witnesses application, in terms of section 271A, B, C or D of the 1995 Act,			
(c) a specification of documents,			
(d) a precognition on oath,			
(e) an evidence on commission,			
(f) an application to lead evidence relating to sexual offences under section 275(1) of the 1995 Act,			
(g) a proof in mitigation, and			
(h) an examination of facts.			

(27) Section 288ZA was inserted by section 34(3) of the Scotland Act 2012 (c. 11).

SCHEDULE 8

Regulation 4(10)

Schedule 1A of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989

“SCHEDULE 1A

Regulation 4

FEES OF SOLICITORS

(From 29 April 2023)

Notes on the operation of Schedule 1A

Application of Schedule 1A

1. Subject to paragraph 2, in relation to solemn criminal proceedings other than proceedings to which regulation 7A(1) (solemn proceedings (exceptional) fees) applies—

- (a) the fees payable to a solicitor for all work are to be calculated in accordance with the fees prescribed in Part 2 of the Table of Fees (fees for solemn first instance proceedings), and
- (b) only the fees specified for that work in that Part are payable.

2. Where a solicitor carries out any of the work described in the following sub-paragraphs, the fees referred to in that sub-paragraph or sub-paragraphs are payable in addition to the fees payable in accordance with paragraph 1—

- (a) attending an identification parade held by or on behalf of the prosecutor (within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995), in connection with or in contemplation of criminal proceedings against the person so represented, in which case the fees specified in regulation 5 of these Regulations will apply;
- (b) work in connection with any appeal, or referral by the Lord Advocate, where those proceedings are covered by the grant of criminal legal aid in respect of the solemn first instance proceedings, in which case the fees specified in Part 1 of the Table of Fees (detailed fees) will apply to that work;
- (c) where confiscation proceedings are being brought against the accused, and the confiscation is treated as part of the sentencing process, work that is covered under any existing grant of criminal legal aid, in which case the fees specified in Part 1 of the Table of Fees (detailed fees) will apply to that work.

3. In relation to summary criminal proceedings, including appeals, the fee for any item of work is to be calculated in accordance with the fees prescribed in Part 1 of the Table of Fees (detailed fees).

4. Without prejudice to the discretion of the Board or the auditor, where fees are calculated in accordance with the fees prescribed in Part 1 of the Table of Fees (detailed fees) no fee is chargeable for—

- (a) making a telephone call that is not answered;
- (b) making a telephone call that is answered only by an automated device or system that allows the caller to record a message, except on cause shown;
- (c) framing a file note;
- (d) framing a precognition following a meeting where a file note would suffice;
- (e) perusing correspondence;
- (f) a letter of acknowledgement, unless expressly requested or required;
- (g) more than two consultations, except on cause shown;

- (h) a meeting with the client, unless it is clear from a brief narrative in the account that information was received from or imparted to the client at the meeting advancing the case;
- (i) more than one solicitor attending a meeting with the client, without the prior sanction of the Board;
- (j) preparing for a hearing;
- (k) more than one solicitor attending a hearing, without the prior sanction of the Board;
- (l) during the court's lunch break, time spent at court for a hearing or travelling to or from court, except on cause shown;

Solemn Fees - General

5. Where a fee is payable under Part 2 of the Table of Fees (fees for solemn first instance proceedings) that fee includes any and all of the following work carried out in relation to the case to which the fee relates and accordingly no further claim may be made in relation to that work (whether such work is done by the nominated solicitor or by any other party)—

- (a) the taking, drawing, framing and perusal of precognitions;
- (b) the undertaking by a solicitor of any part of the work; and
- (c) photocopying.

6. In a case in which an indictment has been served, the relevant column of Part 2 of the Table of Fees (fees for solemn first instance proceedings) for the purposes of paragraph 1 of these Notes

- (a) for proceedings in the High Court of Justiciary which relate to an offence listed in Schedule 2, Part I, Chapter 1—
 - (i) paragraph 3(a) is column A;
 - (ii) paragraph 3(b) or (c) is column B;
- (b) for proceedings in the sheriff court is column C.

7. In a case in which an indictment has not been served (unless the matter is reduced to summary proceedings), the relevant column of Part 2 of the Table of Fees (fees for solemn first instance proceedings) for the purposes of paragraph 1 of these Notes—

- (a) is column A if the proceedings relate to any of the following offences—
 - (i) murder;
 - (ii) multiple attempted murder;
 - (iii) culpable homicide;
 - (iv) rape, or an offence under section 1, 2, 3(2)(a) or any of sections 18 to 27 of the 2009 Act;
 - (v) assault and robbery involving commercial premises;
 - (vi) importation of controlled drugs;
 - (vii) an offence under section 1 (causing death by dangerous driving), section 3A (causing death by careless driving when under the influence of drink or drugs) or 3ZB (causing death by driving while unlicensed or uninsured) of the 1988 Act;
 - (viii) an offence under the Explosive Substances Act 1883;
 - (ix) a firearms offence;
 - (x) incest;
 - (xi) sodomy;
 - (xii) sedition;

- (xiii) treason;
 - (xiv) torture;
 - (xv) war crimes;
 - (xvi) an offence under the 2000 Act or the Terrorism Act 2006⁽²⁸⁾;
 - (xvii) an offence under section 1 or 4 of the Human Trafficking and Exploitation (Scotland) Act 2015⁽²⁹⁾,
- (b) is column C if the proceedings do not relate to any of the offences specified in sub-paragraph (a).

8. In relation to paragraph 6 of these Notes—

- (a) where there is more than one offence on the indictment the applicable offence for the purpose of ascertaining the relevant column of Part 2 of the Table of Fees is to be determined as the Board, or as the case may be the auditor, considers appropriate, having regard to the offence on the indictment that in their view is the most serious;
- (b) where the proceedings relate to an offence which is not listed in paragraph 3(a), (b) or (c) of Chapter 1 of Part I of Schedule 2 the offence is deemed to be listed in whichever of those sub-paragraphs the Board, or as the case may be the auditor, considers appropriate having regard to all the circumstances.

9. The fees prescribed in paragraphs 1, 3, 5 and 6 of Part 2 of the Table of Fees (fees for solemn first instance proceedings) are payable only once in any proceedings which are covered by the grant of legal aid.

Solemn Fees – Perusal and Preparation

10. In respect of perusal fees under paragraph 4 of Part 2 of the Table of Fees (fees for solemn first instance proceedings)—

- (a) where the disclosed material is a combination of statements etc. (payable on the basis of sheets considered), audio/video (payable on the basis of runtime), and other material (payable on the basis of reasonable time engaged), the standard fee will be calculated on the basis of the aggregate total of sheets, minutes of audio/video runtime and minutes reasonably engaged, payable per tranche of 250;
- (b) where the amount of disclosure exceeds 50,000 sheets or minutes in any case the first 50,000 sheets or minutes remain payable at the prescribed rate in the Tables of Fees, and each tranche of 250 in excess of 50,000 will be payable at 50% of the prescribed rate.

11. Where a perusal fee is claimed under paragraph 4 of Part 2 of the Table of Fees (fees for solemn first instance proceedings)—

- (a) the fee payable is calculated on the basis of the documentation which has been actually and reasonably considered, due regard being had to economy;
- (b) the fee is only payable if the Board, or as the case may be the auditor, is satisfied that—
 - (i) the level of perusal was necessary, reasonable and proportionate in all the circumstances of the case, and
 - (ii) there has been due regard to the manner of perusal and reasonably available tools and aids;
- (c) the solicitor must—

⁽²⁸⁾ 2006 c. 11.

⁽²⁹⁾ 2015 asp 12.

- (i) produce, if requested, records providing a detailed summary of the nature of the work or, if applicable, the nature of the documentation perused, at each stage of the process, the time taken and when and where the work was undertaken, and
- (ii) retain, and if requested produce, any contemporaneous record or notes made in the course of the perusals.

12.—(1) The preparation fee under paragraph 5 of Part 2 of the Table of Fees (fees for solemn first instance proceedings) includes the perusal of—

- (a) the first 50 sheets, minutes or labels where a fee is payable under paragraph 5(a) or (c) of that Part of the Table of Fees;
- (b) the first 1,000 sheets, minutes or labels where a fee is payable under paragraph 5(b) of that Part of the Table of Fees.

(2) Where a preparation fee is payable under paragraph 5 of Part 2 of the Table of Fees (fees for solemn first instance proceedings), a perusal fee under paragraph 4 of that Part is only payable in respect of any perusal not included in sub-paragraph (1).

(3) No fee is payable under paragraph 5 of Part 2 of the Table of Fees (fees for solemn first instance proceedings) until the case to which it relates has concluded.

13.—(1) The preparation fee payable under paragraph 5 of Part 2 of the Table of Fees (fees for solemn first instance proceedings) in a case will be determined—

- (a) subject to sub-paragraph (2), by how proceedings are finally disposed of in that case where—
 - (i) a diet has been deserted pro loco et tempore, or
 - (ii) a trial diet does not proceed and the procedure in section 81 of the Criminal procedure (Scotland) Act 1995 is followed;
- (b) where proceedings are covered by an existing grant of legal aid, in accordance with any guidance issued from time to time by the Board.

(2) Where upon re-indictment following desertion pro loco et tempore after trial commenced on an earlier indictment, the case is disposed of by any means, the solicitor may elect the fee payable under paragraph 5 of Part 2 of the Table of Fees (fees for solemn first instance proceedings) either on the basis of the prior indictment or the final disposal.

Solemn and Summary - Calculation of fees based on time charges

14. The fees prescribed in paragraphs 1, 8 and 9 of Part 1 of the Table of Fees (detailed fees), and in paragraphs 7, 9, 10 and 11 of Part 2 of the Table of Fees (fees for solemn first instance proceedings) are payable on the basis of the aggregate actual time engaged on the case, per day.

15.—(1) A fee for time spent waiting is chargeable only for time necessarily spent waiting at court for a hearing, provided that time has not been occupied in connection with another case (whether such other case is legally aided or not).

(2) Waiting should be charged to the first case calling except where waiting time is in respect of multiple attendances for the same accused. In that case, the waiting fee should be apportioned equally between each of the relevant cases (whether the cases are legally aided or not).

(3) No waiting time is payable in respect of the period of time during the court's lunch break.

16.—(1) A fee for travelling time is chargeable only for time necessarily spent travelling to and from—

- (a) court, provided that—
 - (i) a fee is chargeable for the work undertaken at the court, and
 - (ii) the court is not in a town or place where the solicitor has a place of business;
- (b) a meeting with the client—
 - (i) in prison, or
 - (ii) elsewhere, if the client is unable to travel on medical grounds;
- (c) a meeting with the Procurator Fiscal or Advocate Depute at their office;
- (d) a consultation with counsel or an expert witness provided that, where necessary, prior approval to engage their services has been obtained from the Board;
- (e) a locus inspection;
- (f) an examination of productions.

(2) Where a fee for travelling time is claimed that falls within any of heads (b) to (f) of sub-paragraph (1) in respect of travel undertaken in relation to work for which a fee is payable under paragraphs 1 to 6 of Part 2 of the Table of Fees (fees for solemn first instance proceedings), no additional fee may be claimed in respect of any work done during that time spent travelling unless that work is separately chargeable in terms of paragraph 2(b) or (c) of these Notes.

(3) A fee for travelling time is chargeable in circumstances other than those listed in sub-paragraph (1) only if the Board, or as the case may be the auditor, is satisfied that it was necessary for the advancement of the case that the solicitor be physically present at the place travelled to.

(4) A fee for travelling time is not chargeable if it would 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 in terms of regulation 4(3), attended personally.

(5) The fee chargeable for travelling time is the fee for time necessarily spent travelling divided by the number of cases (whether legally aided or not) in connection with which the travel was undertaken.

(6) The travel fees chargeable will be based on the total time engaged in travel that day.

(7) Travel will be chargeable from the place of business or employment of the person travelling to the relevant location, except where travel—

- (a) commences from or concludes at that person's place of residence (or both commences and concludes at that place), and
- (b) is of a shorter distance than travel to the relevant location from their place of business or employment would have been.

Solemn and Summary Cases - Research

17.—(1) The fee prescribed in paragraph 9 of Part 1 of the Table of Fees (detailed fees) may be payable for time spent in researching a novel, developing or unusual point of law where the conditions in sub-paragraph (2) are met.

(2) The conditions are that—

- (a) the case is either—
 - (i) a summary case in respect of which—
 - (aa) Part 1 of the Table of Fees (detailed fees) applies, and
 - (bb) the Board considers the circumstances of the case to be exceptional, or
 - (ii) a solemn case in which either—

- (aa) the Board considers that the circumstances of the case are exceptional, whether or not the Board has made a determination under regulation 7A (solemn proceedings (exceptional) fees), or
- (bb) fees are payable in terms of paragraph 2(b) or (c) of these Notes; and
- (b) the research required in the case, in the opinion of the Board, goes beyond the understanding of the substantive and procedural law expected of solicitors in accordance with regulation 10A.

Solemn Cases - Transfer of agency

- 18.** Where agency is transferred from one solicitor to another—
- (a) the fee for a block of work commenced and completed by the same solicitor is payable to that solicitor;
 - (b) the fee for a block of work commenced by one solicitor but completed by another is to be apportioned equally between the solicitors who undertook work falling within that block;
 - (c) in relation to the fees to which paragraph 9 of these Notes applies, no fee is payable to the transferring solicitor for a block of work not completed at the point of transfer unless and until the remaining work of that block is completed;
 - (d) no fee is payable to the transferee solicitor under paragraph 4 of Part 2 of the Table of Fees (fees for solemn first instance proceedings) in respect of any documentation that has already been made available and perused by the transferring solicitor where—
 - (i) the transfer takes place post-conviction,
 - (ii) the work is in relation to confiscation proceedings, and
 - (iii) the work is covered under any existing grant of criminal legal aid.

Solemn Cases payable under Part 1 - Precognitions

- 19.—**(1) The fee for time spent by a solicitor in connection with a precognition to which this paragraph applies is—
- (a) for travelling, the fee prescribed in paragraph 8(a) of Part 1 of the Table of Fees (detailed fees);
 - (b) for taking a statement, the fee prescribed in paragraph 9(a) of that Part of that Table.
- (2) This paragraph applies to a precognition in relation to solemn proceedings if—
- (a) the fees payable to a solicitor in relation to those proceedings are to be calculated in accordance with Part 1 of the Table of Fees (detailed fees); and
 - (b) either—
 - (i) it is the first precognition of the client, or
 - (ii) cause is shown that the statement had to be taken by a solicitor.

Interpretation

- 20.** In this Schedule—
- “court” means the Supreme Court, the High Court of Justiciary, the Sheriff Appeal Court, the sheriff court, the justice of the peace court or any remaining district court as the case may be;
- “hearing” includes any diet;
- “minute” means—

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- (a) in relation to perusal work to which paragraph 4(b) of Part 2 of the Table of Fees (fees for solemn first instance proceedings) applies, a minute of running time of any untranscribed audio or video recording; and
- (b) in relation to perusal work to which paragraph 4(c) of Part 2 of the Table of Fees (fees for solemn first instance proceedings) applies, a minute of the actual time spent perusing any documentation or material covered in that paragraph in a manner appropriate in all the circumstances of the case;

“other material” means telephony/computer records, outputs/labels/photographs or any material or documentation not otherwise covered by paragraph 4(a) or (b) of Part 2 of the Table of Fees (fees for solemn first instance proceedings).

a “page” shall consist of 125 words;

“quarter of an hour” will be read as if immediately followed by the words “(or part thereof)”;

a “sheet” shall consist of 250 words or numbers.

PART 1

DETAILED FEES

		Summary Procedure	Solemn Procedure
1.	In connection with the conduct of a hearing—		
	(a) in summary proceedings, the fee for—		
	(i) any time up to the first half hour spent by a solicitor conducting the hearing	£34.32	
	(ii) each quarter hour spent, subsequent to the first half hour, conducting the hearing	£17.17	
	(b) in solemn proceedings, the fee for each quarter of an hour spent by a solicitor conducting the hearing		£21.48
2.	Supplementary fee, payable in addition to the fee under paragraph 1, where at a holiday court sitting a solicitor acts for a person appearing from custody on the day on which that person is first brought to a court to answer to a complaint or attend a first examination	£88.16	£88.16
3.	The fee for any of the following—	£7.52	£8.17
	(a) each citation of a witness, including execution,		
	(b) framing and drawing necessary papers other than those referred to in paragraph 4(c),		
	(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), subject to paragraph 5(b)(iii), and		
	(e) letters, including instructions to counsel, per page (or part thereof), subject to paragraph 4(b).		

		Summary Procedure	Solemn Procedure
4.	The fee for any of the following—	£3.04	£3.25
	(a) attendance at court offices for performance of formal work including each necessary lodging in or uplifting from court or each necessary inquiry for documents due to be lodged,		
	(b) short formal letters, letters of acknowledgement, letters each having a similar 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) subject to paragraph 5(b)(iii), short telephone calls (of up to 4 minutes' duration) and telephone calls (of any duration) where the intended recipient is not reached or insufficient narrative is provided in the account to ascertain the duration of the call.		
5.	In connection with taking a precognition in relation to solemn proceedings—		
	(a) subject to paragraph 19 of the notes on the operation of schedule 1A, the fee for each hour (or part thereof) spent—		
	(i) travelling		£13.57
	(ii) taking a statement		£13.57
	(b) the fee for—		
	(i) framing the precognition, per sheet		£2.85
	(ii) each letter making arrangements for taking a statement		£1.72
	(iii) a telephone call, of any duration		£1.13
6.	Subject to paragraph 7, the fee for photocopying in relation to the proceedings is—		
	(a) for each sheet copied for up to 10,000 sheets	£0.05	£0.05
	(b) for each sheet copied in addition to the first 10,000 sheets	£0.01	£0.01
7.	There is no fee for photocopying—		
	(a) where fewer than 20 sheets are copied at any one time,		
	(b) in relation to the first 20 sheets copied at any one time.		
8.	The fee for each quarter of an hour spent travelling—		
	(a) by a solicitor	£6.63	£7.18

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		Summary Procedure	Solemn Procedure
	(b) by a solicitor's clerk	£3.31	£3.60
9.	The fee for each quarter of an hour spent carrying out work other than that prescribed in the preceding paragraphs—		
	(a) by a solicitor, provided the time is additional to the total time charged for under paragraph 1	£13.23	£14.32
	(b) by a solicitor's clerk	£6.59	£7.18

PART 2

FEES FOR SOLEMN FIRST INSTANCE PROCEEDINGS

	Column A	Column B	Column C
1. The fee for all work except where prescribed in paragraph 2 or in paragraphs 6-10, from the taking of initial instructions up until the client is admitted to bail or committed until liberated in due course of law—			
(a) where at the first examination the client is either—	£178.31	£156.03	£66.88
(i) not committed for further examination, or			
(ii) committed for further examination and admitted to bail			
(b) in any other case	£267.47	£245.19	£156.03
2. The fee for all work in connection with a bail appeal hearing including any continued diet and, where necessary, instructing Edinburgh agents	£66.88	£66.88	£66.88
3. The fee for all forms of communications in the case including meetings, consultations, letters, telephone calls, etc. from the conclusion of the work in paragraph 1 up to and including the commencement of any work for which a fee is payable in accordance with paragraph 6	£794.91	£567.79	£227.12
4. Perusal fee. Fee payable for any perusal not included in a fee claimed and payable under paragraph 5—			
(a) for the first 250 sheets of documentation where separately chargeable, and each subsequent 250 sheets	£227.12	£227.12	£227.12
(b) for each 250 minutes of recorded video or audio material, where separately chargeable	£227.12	£227.12	£227.12

	Column A	Column B	Column C
(c) for each 250 minutes of other material, where separately chargeable	£227.12	£227.12	£227.12
5. Preparation fee. Except where a separate fee is otherwise prescribed, the fee for all other work in the case from the conclusion of the work in paragraph 1, including perusal work (in respect of which see paragraph 12 of the Notes on the operation of this Schedule), where—			
(a) (i) the case proceeds to trial	£1,357.26	£1,130.14	£903.03
(ii) on or after the day fixed for trial, the Crown withdraws any libel against the client, or			
(iii) a lesser plea is accepted by the Crown on the day the case has been brought to trial			
(b) the case is disposed of by way of a hearing under section 76 of the 1995 Act	£1,419.48	£1,419.48	£1,135.58
(c) the case is disposed of by any other means	£618.90	£519.54	£363.39
6. The fee for all work in connection with post-conviction discussions, including advising and giving an opinion on the prospects of any appeal	£207.65	£207.65	£118.50
7. The fee for each quarter of an hour spent by a solicitor conducting the hearing	£23.46	£23.46	£23.46
8. Supplementary fee, payable in addition to the fee under paragraph 7, where at a holiday court sitting a solicitor acts for a person appearing from custody on the day on which that person is first brought to a court to answer to a complaint or attend a first examination	£88.16	£88.16	£88.16
9. The fee, where counsel conducts the hearing, for each quarter of an hour spent by—			
(a) a solicitor	£15.49	£15.49	£15.49
(b) a solicitor's clerk	£7.18	£7.18	£7.18
10. The fee for each quarter of an hour spent waiting at court—			
(a) by a solicitor	£14.32	£14.32	£14.32
(b) by a solicitor's clerk	£7.18	£7.18	£7.18
11. The fee for each quarter of an hour spent travelling—			
(a) by a solicitor	£7.18	£7.18	£7.18
(b) by a solicitor's clerk	£3.60	£3.60	£3.60"

SCHEDULE 9

Regulation 7(3)(a)

Amendments to Part 1 of schedule 3 of the Advice and Assistance (Scotland) Regulations 1996

		Criminal	Civil	Children's	
<i>(b) fees, as undernoted, for work other than or subsequent to that described in schedule 1B of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999(30)—</i>					
1. The fee for—					
	(i)	any time up to the first half hour spent by a solicitor appearing in court or conducting another hearing	£34.32	£41.51	£41.51
	(ii)	each quarter hour (or part thereof) subsequent to the first half hour spent in court or conducting another hearing	£17.17	£20.79	£20.79
1A.					
		Supplementary fee, payable in addition to the fee under paragraph 1, where at a holiday court sitting a solicitor acts for a person appearing from custody on the day on which that person is first brought to a court to answer to a complaint	£88.16		
2. The fee for—					
	(i)	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 of this table, provided that any time is additional to the total time charged for under paragraph 1	£13.23	£15.97	£15.97
	(ii)	for 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 of this table	£6.59	£7.97	£7.97
3. The fee for—			£7.52	£9.10	£9.10
	(i)	each citation of a witness including execution thereof,			
	(ii)	framing and drawing precognitions and other necessary papers, subject to paragraph 4(iii) below - per sheet (or part thereof),			

(30) S.S.I. 1999/491. Schedule 1B was inserted by S.S.I. 2008/240 and relevantly amended by S.S.I. 2011/162, S.S.I. 2014/366, S.S.I. 2017/466, and S.S.I. 2022/30.

		Criminal	Civil	Children's	
	(iii)	instructing messengers-at-arms and sheriff officers, including examining execution and settling fee,			
	(iv)	lengthy telephone calls (of over 4 and up to 10 minutes duration), and			
	(v)	letters, including instructions to counsel, subject to paragraph 4(ii) below – per page (or part thereof).			
4. The fee for—		£3.04	£3.64	£3.64	
	(i)	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,			
	(ii)	short letters of a formal nature, intimations and letters confirming telephone calls,			
	(iii)	framing formal papers, including inventories and title pages - per sheet (or part thereof),			
	(iv)	revising papers drawn by counsel or where revisal ordered by court – per 5 sheets (or part thereof), and			
	(v)	short telephone calls (of up to 4 minutes duration).			
4A. The fee for each quarter of an hour (or part thereof) spent travelling—					
(a)	by a solicitor		£6.63	£8.01	£8.01
(b)	by a solicitor's clerk		£3.31	£4.01	£4.01
5.					
(a) There is no fee for photocopying—					
	(i)	where fewer than 20 sheets are copied at one time,			
	(ii)	in relation to the first 20 sheets copied at any one time.			
(b)	Subject to sub-paragraph (a), the fee for all photocopying in the matter in relation to which assistance by way of representation was given is—				
	(i)	for each sheet copied, up to 10,000 sheets, and	£0.05		
	(ii)	for each sheet copied in addition to the first 10,000 sheets	£0.01		

SCHEDULE 10

Regulation 7(3)(b)

Amendments to Part 2 of schedule 3 of the Advice and Assistance (Scotland) Regulations 1996

		Criminal	Civil	Children		
A.	Time occupied in carrying out work for the client other than work described in paragraphs B to E below—					
	(i)	Solicitor – per quarter hour (or part thereof)	£14.53	£15.97	£15.97	
	(ii)	Solicitor’s clerk – per quarter hour (or part thereof)	£7.25	£7.97	£7.97	
B.	For short letters of a formal nature, short telephone calls (of up to 4 minutes duration), framing formal documents such as inventories and engrossing formal documents for signature – per sheet (or part thereof)		£3.32	£3.64	£3.64	
C.	For letters other than B above – per page (or part thereof), framing non-formal documents other than precognitions – per sheet of 250 words (or part thereof) and lengthy telephone calls (of over 4 and up to 10 minutes duration)		£8.27	£9.10	£9.10	
D.	For taking and drawing precognitions – for the first sheet of 250 words or less		£29.00	£31.93	£31.93	
	for each subsequent sheet of 250 words		£29.00	£31.93	£31.93	
	for each subsequent sheet of less than 250 words		£14.53	£15.97	£15.97	
DA.	The fee for each quarter of an hour (or part thereof) spent travelling—					
	(a)	by a solicitor	£7.28	£8.01	£8.01	
	(b)	by a solicitor’s clerk	£3.63	£4.01	£4.01	
E.	(a)	There is no fee for photocopying—				
		(i)	where fewer than 20 sheets are copied at one time,			
		(ii)	in relation to the first 20 sheets copied at any one time.			
		(b)	Subject to sub-paragraph (a), the fee for all photocopying in the matter is—			
		(i)	for each sheet copied, up to 10,000 sheets, and	£0.05		
		(ii)	for each sheet copied in addition to the first 10,000 sheets	£0.01		

SCHEDULE 11

Regulation 7(3)(c)

Amendments to Part 3 of schedule 3 of the Advice and Assistance (Scotland) Regulations 1996

A reference in this Table of Fees to a section is a reference to a section of the Criminal Justice (Scotland) Act 2016 (31) .		
1.	Section 19 - <i>Application for review of conditions of investigative liberation</i>	
(a)	Inclusive fee, excluding travel, for all work where matter does not proceed to a court hearing	£62.59
(b)	Inclusive fee, excluding travel, for all work where matter proceeds to a court hearing	£93.87
(c)	Additional fee, excluding travel, for second or subsequent court hearing, per hearing	£62.59
(d)	Fee for time necessarily spent travelling to and from court, where the court is not in a town or place where the solicitor has a place of business, per quarter hour	£7.28
2.	Section 30 - <i>Application for review of undertaking conditions</i>	
(a)	Inclusive fee, excluding travel, for all work where matter does not proceed to a court hearing	£62.59
(b)	Inclusive fee, excluding travel, for all work where matter proceeds to a court hearing	£93.87
(c)	Additional fee, excluding travel, for second or subsequent court hearing, per hearing	£62.59
(d)	Fee for time necessarily spent travelling to and from court, where the court is not in a town or place where the solicitor has a place of business, per quarter hour	£7.28
3.	Section 36(1)(a) – <i>Application for authorisation for questioning by a prosecutor</i>	
(a)	Inclusive fee, excluding travel, for all work where matter does not proceed to a court hearing	£62.59
(b)	Inclusive fee, excluding travel, for all work where matter proceeds to a court hearing	£93.87
(c)	Additional fee, excluding travel, for second or subsequent court hearing, per hearing	£62.59
(d)	Fee for time necessarily spent travelling to and from court, where the court is not in a town or place where the solicitor has a place of business, per quarter hour	£7.28

(31) 2016 asp 1, to which there are amendments not relevant to these Regulations.

SCHEDULE 12

Regulation 8(3)

Amendments to schedule 1 of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999

PART 1

	Where professional services are provided in relation to proceedings in the JP Court	Where professional services are provided in relation to proceedings in the sheriff court (other than proceedings in a Court specified in schedule 2)	Where professional services are provided in relation to proceedings in the sheriff court and those proceedings are brought in a Court specified in schedule 2
1. All work up to and including:	£347.92, or	£572.00, or	£628.79, or
(i) any diet at which a plea of guilty is made and accepted or plea in mitigation is made,	£319.52 where criminal legal aid has been made available in the circumstances referred to in paragraphs 8 or 9 below.	£543.60 where criminal legal aid has been made available in the circumstances referred to in paragraphs 8 or 9 below.	£600.39 where criminal legal aid has been made available in the circumstances referred to in paragraphs 8 or 9 below.
(ii) the first 30 minutes of conducting a proof in mitigation, or a proof of a victim statement, other than in the circumstances where paragraph 2 below applies,			
(iii) the first 30 minutes of conducting any trial,			
(iiia) a first or second diet of deferred sentence, and			
(iv) advising, giving an opinion and taking final instructions on the prospects of an appeal against conviction, sentence, other disposal or acquittal,			
together with any subsequent or additional work other than that specified in paragraphs 2-10 below			

2. All work done in connection with a grant of legal aid under section 23(1)(b) of the Act including the first 30 minutes of conducting a proof in mitigation, or a proof of a victim statement		£28.40	£56.79	£56.79
3. Conducting a trial or proof in mitigation for the first day (after the first 30 minutes)		£85.19	£113.56	£113.56
4. Conducting a trial or proof in mitigation for the second and each subsequent day		£227.12	£340.38	£340.68
5. Conducting a proof of a victim statement:			£340.68	£340.68
(i)	where there has been no trial or proof in mitigation for the first day (after the first 30 minutes), and thereafter for subsequent days (per day), or			
(ii)	at a continued diet following a concluded trial or proof in mitigation (per day).			
6. Representation at a third or subsequent diet of deferred sentence		£28.40	£56.79	£56.79
7. Representation at a first or second diet of deferred sentence (one only) at which the court considers a report required under section 203 of the 1995 Act and where the case is disposed of (as an additional payment)		£28.40	£28.40	£28.40
8. All work done where the accused is in custody and has tendered a plea of not guilty until determination of the application for legal aid		£28.40	£28.40	£28.40
9. All work done by virtue of section 24(7) of the Act until determination of the application for legal aid		£28.40	£28.40	£28.40
10. All work done in connection with:				
(a)	a bail appeal under section 32 of the 1995	£56.79	£56.79	£56.79

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	Act, or an appeal under section 201(4) of the 1995 Act, other than work under sub-paragraph (b) below			
(b)	representation in an appeal of either type specified in (a), or a continued diet of such an appeal, where counsel not employed (fee per appearance)	£34.08	£34.08	£34.08

SCHEDULE 13

Regulation 8(4)

Amendments to schedule 1A of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999

	Where professional services are provided in relation to proceedings in the sheriff court	Where professional services are provided in relation to proceedings in the sheriff court and those proceedings are brought in a Court specified in schedule 2
1. All work up to and including —	£572.00, or £543.60 where criminal legal aid has been made available in the circumstances referred to in paragraphs 8 or 9 of Part 1 of schedule 1.	£628.79, or £600.39 where criminal legal aid has been made available in the circumstances referred to in paragraphs 8 or 9 of Part 1 of schedule 1.
(a)	any diet at which a plea of guilty is made and accepted or a plea in mitigation is made,	
(b)	the first 30 minutes of conducting any trial,	
(c)	a first or second diet of deferred sentence, and	
(d)	advising, giving an opinion and taking final instructions on the prospects of an appeal against conviction, sentence, other disposal or acquittal,	
	together with any subsequent or additional work other than that of the kind specified in	

paragraphs 6 to 10 of Part 1 of schedule 1		
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SCHEDULE 14

Regulation 8(5)

Amendments to schedule 1B of the Criminal Legal
Aid (Fixed Payments) (Scotland) Regulations 1999

PART 1

	<i>Where professional services are provided in relation to proceedings in the JP court</i>	<i>Where professional services are provided in relation to proceedings in the sheriff court</i>
1. All work relating to assistance by way of representation provided by a solicitor in summary criminal proceedings in accordance with regulation 6 or 6A of the Advice and Assistance (Assistance By Way Of Representation) (Scotland) Regulations 2003 other than that specified in paragraphs 2 to 4 below	£347.92	£572.00
2. Representation at a third or subsequent diet of deferred sentence	£28.40	£56.79
3. Representation at a first or second diet of deferred sentence (one only) at which the court considers a report required under section 203 of the 1995 Act and where the case is disposed of (as an additional payment)	£28.40	£28.40
4. All work done in connection with:		
(a) a bail appeal under section 32 of the 1995 Act, or on appeal under section 201(4) of the 1995 Act, other than work under sub-paragraph (b) below	£56.79	£56.79
(b) representation in an appeal of either type specified in (a), or a continued diet of such an appeal, where counsel not employed (fee per appearance)	£34.08	£34.08
5. Supplementary fee, payable in addition to any fees under paragraphs 1 to 5, where at a holiday court sitting a solicitor acts for a person appearing from custody on the day on which that person is first brought to a court to answer to a complaint	£88.16	£88.16

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument:
The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 2) Regulations 2023 No. 135

PART 2

	<i>Where professional services are provided in relation to proceedings in a sheriff court which has been designated by a drug court by the sheriff principal</i>
1. All work done in connection with any appearance of an assistance person (per appearance)	£56.79
2. Supplementary fee, payable in addition to any fees under paragraph 1, where at a holiday court sitting a solicitor acts for a person appearing from custody on the day on which that person is first brought to a court to answer to a complaint	£88.16

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the following instruments made under the Legal Aid (Scotland) Act 1986 (“the 1986 Act”)—

- the Civil Legal Aid (Scotland) (Fees) Regulations 1989,
- the Criminal Legal Aid (Scotland) (Fees) Regulations 1989,
- the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992,
- Advice and Assistance (Financial Limit) (Scotland) Regulations 1993,
- the Advice and Assistance (Scotland) Regulations 1996,
- the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 (“the 1999 Regulations”).

Regulation 2 provides that—

- regulations 6 (financial limits), 7(2), (3)(c) and (e) (assistance by way of representation) and 8(3) to (5) (fixed payments) apply where the grant of legal aid, advice and assistance or assistance by way of representation was made on or after 29 April 2023,
- the other amendments in these Regulations apply to fees for work done or outlays incurred on or after 29 April 2023, and
- where work which qualifies for a fee prescribed under these Regulations, other than under regulation 8 for the 1999 Regulations, is conducted over more than one date, the work is deemed to have been done on the day on which the work comes to an end.

Regulations 3, 5 and 7 amend the above instruments to increase fees and outlays for legal aid and advice and assistance.

Regulation 4 amends the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 to:

- increase certain fees,

- insert a new table of fees and note on the operation of those fees and make related amendments,
- provide that in relation to solemn proceedings (other than exceptional proceedings) where a grant of legal aid was made before 29 April 2023, the case concludes after that date and the solicitor has requested that the Scottish Legal Aid Board do so, fees may be paid in accordance with the previous table of fees, with related provision as to the applicable table of fees where there has been a transfer of agency in a case,
- add provision for written objections to be made to the Sheriff Appeal Court in relation to a dispute as to allowable fees and outlays.

Regulation 6 amends the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993 to substitute the financial limit amounts for advice and assistance specified in section 10(2) of the 1986 Act beyond which solicitors are required to seek prior approval of the Scottish Legal Aid Board before providing further advice and assistance, and removes obsolete references to stipendiary magistrates.

Regulation 8 substitutes the tables of fees in the 1999 Regulations and removes obsolete references to stipendiary magistrates.

A Business and Regulatory Impact Assessment has been prepared for these Regulations and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Justice Directorate, St Andrew's House, Edinburgh EH1 3DG, and online at www.legislation.gov.uk.