
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 48

LEGAL AID AND ADVICE

**The Criminal Legal Aid (Fixed Payments)
(Scotland) Amendment Regulations 1999**

Made - - - - 7th September 1999
*Laid before the Scottish
Parliament* - - - - 9th September 1999
Coming into force - - 1st October 1999

The Scottish Ministers, in exercise of the powers conferred on them by sections 33 and 41A of the Legal Aid (Scotland) Act 1986(1), and all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 1999 and shall come into force on 1st October 1999.

(2) In these Regulations, “the principal Regulations” means the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999(2).

Amendment of principal Regulations

2.—(1) The principal Regulations shall be amended in accordance with the following paragraphs.

(2) In regulation 2 (interpretation)–

(a) in paragraph (1)–

(i) after the definition of “assisted person” there is inserted–

““diet of deferred sentence” includes those diets where the case has been adjourned for inquiries or reports under sections 201 (power of court to adjourn case before sentence) and 203 (reports) respectively of the 1995 Act;” and

(ii) in sub-paragraph (g), for “177” there is substituted “234”(3); and

(1) 1986 c. 47; sections 33(3A) and 41A were inserted by the Crime and Punishment (Scotland) Act 1997 (c. 48), sections 51 and 54 respectively. 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) S.I.1999/491, amended by S.I.1999/1820, Schedule 2, paragraph 168.

(3) Article 177 was renumbered as article 234 by the Treaty signed at Amsterdam on 2nd October 1997 amending the Treaty on European Union, the Treaty establishing the European Communities and certain related Acts O.J. No. C340, 10.11.97, p.1.

- (b) after paragraph (2), there is inserted–
 - “(3) For the purposes of these Regulations, a trial shall be taken to commence when the first witness is sworn.”
- (3) In Schedule 2 (specified sheriff courts)–
 - (a) the words “(where proceedings have taken place in Lochgilphead)” are omitted; and
 - (b) there is inserted at the appropriate places–
 - “Fort William”; and
 - “Wick”.

St Andrew’s House,
Edinburgh
7th September 1999

JIM WALLACE
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 (“the principal Regulations”) which made provision for fixed payments to be made from the Scottish Legal Aid Fund in respect of the professional services provided by a solicitor including certain prescribed outlays.

These Regulations provide a definition of “diet of deferred sentence” so as to make it clear that it includes those diets where the case has been adjourned for inquiries or reports under sections 201 and 203 of the Criminal Procedure (Scotland) Act 1995 (article 2(2)(a)(i)). The Regulations also make it clear that for the purposes of the principal Regulations, a trial is taken to commence when the first witness is sworn (article 2(2)(b)).

The Regulations amend Schedule 2 to the principal Regulations which specifies those distant and rural Sheriff Courts where proceedings are eligible for a higher fixed payment. Previously Dunoon was only eligible where the proceedings had taken place in Lochgilphead. This is amended so as to make Dunoon eligible in its entirety. Also, Fort William and Wick Sheriff Courts have been added to the list of specified courts (article 2(3)).

Finally, the Regulations make a consequential amendment to regulation 2(1)(g) of the principal Regulations as a result of the amendments made to the EEC Treaty by the Treaty of Amsterdam (article 2(2)(a)(ii)).