
STATUTORY INSTRUMENTS

1997 No. 726 (S.66)

LEGAL AID AND ADVICE, SCOTLAND

**The Advice and Assistance (Scotland)
Amendment Regulations 1997**

<i>Made</i>	- - - -	<i>11th March 1997</i>
<i>Laid before Parliament</i>		<i>11th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by sections 12(3), 33(2)(b) and (3)(b) and (f), 36(1), 37(1) and (3) and 42 of the Legal Aid (Scotland) Act 1986⁽¹⁾ and of all other powers enabling him in that behalf, and with the concurrence of the Treasury, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Advice and Assistance (Scotland) Amendment Regulations 1997 and shall come into force on 1st April 1997.

(2) In these Regulations, “the principal Regulations” means the Advice and Assistance (Scotland) (Consolidation and Amendment) Regulations 1996⁽²⁾.

Application

2.—(1) Regulations 4 and 5 shall apply only in relation to any case where an application for advice and assistance is made on or after 1st April 1997.

(2) Regulation 6 shall apply only to fees for work done on or after 1st April 1997.

Amendment of principal Regulations

3. In regulation 1 (citation and commencement) of the principal Regulations for the words from “Advice and Assistance” to “Regulations 1996” there shall be substituted “Advice and Assistance (Scotland) Regulations 1996”.

4. In regulation 16(2) of the principal Regulations (payment of fees and outlays from property recovered or preserved)–

(1) 1986 c. 47.
(2) S.I. 1996/2447.

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- (a) in sub-paragraph(a)(v) the words from “of the 1992 Act” to the end shall be substituted with the words “or an income-based jobseekers allowance or a back to work bonus (payable under the Jobseekers Act 1995)”⁽³⁾;
- (b) in sub-paragraph (c) the words from “, but excluding” to the end shall be omitted;
- (c) at the end the full stop shall be omitted and there shall be inserted–
 - “;
 - (i) to any payment made under the Community Care (Direct Payments Act 1996)⁽⁴⁾ or under section 12B of the Social Work (Scotland) Act 1968⁽⁵⁾;
 - (j) to any payment made by the Secretary of State under the Earnings Top-up Scheme⁽⁶⁾.”.

5. In Schedule 2 to the principal Regulations (assessment of disposable capital and disposable income)–

- (a) for paragraph 5(b) there shall be substituted the following paragraphs–
 - “(b) there shall be left out of account a back to work bonus (payable under the Jobseekers Act 1995);
 - (ba) there shall be left out of account any payment made under the Community Care (Direct Payments) Act 1996 or under section 12B of the Social Work (Scotland) Act 1968; and”;
- (b) in paragraph 7(a)(ii) for the words “those Acts” there shall be substituted the words “that Act”.

6. In Schedule 3 to the principal Regulations (table of fees allowable to solicitors)–

- (a) in Part I (table of fees allowable to solicitors for assistance by way of representation) for paragraphs 1(b)5 and 2 there shall be substituted the following paragraphs–
 - “5. 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), a fee of 8 pence shall be paid for each sheet copied.

Interpretation

2. In this Table–

- a “sheet” shall consist of 250 words or numbers; and
- a “page” shall consist of 125 words or numbers.”;
- (b) in Part II (table of fees allowed to solicitors for advice and assistance other than assistance by way of representation)–
 - (i) for paragraph 1. E there shall be substituted the following paragraph–

“E

Where a document is copied and it is necessary to take a copy of more than 20 sheets (whether 20 of 1 sheet, 5 or 4 sheets

(3) 1995 c. 18.

(4) 1996 c. 30.

(5) 1968 c. 49; section 12B was inserted by the Community Care (Direct Payments) Act 1996, section 4.

(6) This Scheme, which applies only in certain areas of Great Britain, is an extra statutory Scheme introduced by the Secretary of State for Social Security having effect on 8th October 1996. Copies of the Rules of the Scheme may be obtained from the Customers Services Manager, Earnings Top-up, Norcross, Blackpool, FY5 3TA and will be available for inspection at the Department of Social Security, 9th floor, Adelphi, 1-11 John Adam Street, London, WC2N 6HT and Offices of the Benefits Agency and Employment Job Centres which serve the area specified in Schedule 1 to the Scheme.

or whatever), a fee of 8 pence shall be paid for each sheet copied.”;

(ii) for paragraph 3 there shall be substituted the following paragraph–

“Interpretation

3. In this Table–

- a “sheet” shall consist of 250 words or numbers; and
- a “page” shall consist of 125 words or numbers.”.

St Andrew’s House Edinburgh
7th March 1997

James Douglas-Hamilton
Minister of State, Scottish Office

We concur,

11th March 1997

Patrick McLoughlin
Roger Knapman
Two of the Lords Commissioners of Her
Majesty’s Treasury

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Scotland) (Consolidation and Amendment) Regulations 1996 “the principal Regulations”.

The Regulations—

- (a) amend the citation of the principal Regulations (regulation 3);
- (b) provide that a solicitor’s right to prior payment of fees or outlays from property recovered or preserved does not apply to a back to work bonus (payable under the Jobseekers Act 1995), or to payments made under the Community Care (Direct Payments) Act 1996 (“the 1996 Act”), section 12B of the Social Work (Scotland) Act 1968 (“the 1968 Act”) and the Earnings Top-up Scheme (regulation 4);
- (c) provide that any back to work bonus should be disregarded in the computation of a person’s capital and income. The previous provision provided that only a back to work bonus treated as payable by way of a jobseekers allowance should be disregarded (regulation 5(a));
- (d) make a technical drafting alteration to paragraph 7 of Schedule 2 to the principal Regulations (regulation 5(b));
- (e) provide that the fee allowable to solicitors for assistance by way of representation, or for advice and assistance other than assistance by way of representation, where a document is copied and it is necessary to take a copy of more than 20 sheets is 8 pence per sheet copied (regulation 6). The previous provision provided that a fee of 35 pence would be paid for each sheet where an exceptional amount of copying proved necessary (“exceptional” being defined as meaning the production of more than 20 output copy sheets when a document has been copied).

By virtue of regulation 2, regulations 4 and 5 will only apply to any case where an application for advice and assistance is made on or after 1st April 1997 and regulation 6 will only apply to fees for work done on or after 1st April 1997.