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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2021 No.**

**The Criminal Legal Aid and Advice and Assistance (Counter-Terrorism and Border Security) (Scotland) Regulations 2021**

**Amendment of the Advice and Assistance (Scotland) Regulations 1996**

- 3.—(1) The Advice and Assistance (Scotland) Regulations 1996(1) are amended as follows.
- (2) For regulation 4A (applications for advice and assistance: further provision) substitute—
- “4A. The requirement in regulation 4 for an application for advice and assistance to be signed does not apply in the case of—
- (a) a client to whom section 32 of the Criminal Justice (Scotland) Act 2016 (right to have a solicitor present) applies;
  - (b) a person who is detained under section 41 or schedule 7 of the Terrorism Act 2000;
  - (c) a person who is detained under part 1 of schedule 3 of the Counter-Terrorism and Border Security Act 2019.”.
- (3) In paragraph (4) of regulation 14A (change of solicitor etc.), after “2016”, insert “, or paragraphs 29 or 36 of schedule 8 of the Terrorism Act 2000”.
- (4) In paragraph (1A) of regulation 17 (fees and outlays of solicitors), after sub-paragraph (b), insert—
- “(c) Part V of schedule 3, the reference to Part I of schedule 3 in paragraph (1)(a) above should be read as a reference to Part V of schedule 3;
- (d) Part VI of schedule 3, the reference to Part II of schedule 3 in paragraph (1)(a) above should be read as a reference to Part VI of schedule 3.”.
- (5) In schedule 3 (Table of fees allowable to solicitors) after Part IV insert—

**“PART V**

**TABLE OF FEES ALLOWABLE TO SOLICITORS FOR ASSISTANCE  
BY WAY OF REPRESENTATION FOR PROCEEDINGS  
UNDER SCHEDULE 8 OF THE TERRORISM ACT 2000**

**In this Table of Fees “the 2000 Act” means the Terrorism Act 2000.**

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Paragraph 29 of schedule 8 of the 2000 Act – *Application for warrant of further detention*

- (a) Inclusive fee, excluding travel, for all work where matter does not proceed to a court hearing. £51.50

- (b) Inclusive fee, excluding travel, for all work where matter proceeds to a court hearing. £77.25
- (c) Additional fee, excluding travel, for second or subsequent court hearing, per hearing. £51.50
- (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. £5.98

Paragraph 36 of Schedule 8 of the 2000 Act – *Application for extension of warrant of further detention*

- (a) Inclusive fee, excluding travel, for all work where matter does not proceed to a court hearing. £51.50
  - (b) Inclusive fee, excluding travel, for all work where matter proceeds to a court hearing. £77.25
  - (c) Additional fee, excluding travel, for second or subsequent court hearing, per hearing. £51.50
  - (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. £5.98
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## PART VI

### 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

**In this Table of Fees “the 2000 Act” means the Terrorism Act 2000 and “the 2019 Act” means the Counter-Terrorism and Border Security Act 2019.**

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- 1. (a) Where a client to whom paragraph 16(6) of schedule 8 of the 2000 Act or paragraph 37(6) of schedule 3 of the 2019 Act applies has exercised their right to consult a solicitor in person, the fee under paragraph 3.
- (b) Where a client to whom paragraph 16(6) of schedule 8 of the 2000 Act applies has not exercised their right to consult a solicitor in

person, the fee under paragraph 4.

(c) Where a client to whom paragraph 16A(5) of schedule 8 of the 2000 Act applies or paragraph 37(6) of schedule 3 of the 2019 Act has exercised a right to consult a solicitor, but the examining officer requires that a consultation is to take place other than in person, in accordance with paragraphs 16A(6) and (7) of schedule 8 of the 2000 Act or 38(6) and (7) of the 2019 Act, the fee under paragraph 4.

(d) Where a client's detention under section 41 of the 2000 Act is reviewed in accordance with paragraph 21 of schedule 8 of that Act and on the instruction of that client a solicitor makes representations to the review officer in accordance with paragraph 26 of that schedule,

(i) where the solicitor is in attendance already, an additional fee at the rate specified under paragraph 3(b) (ii);

(ii) where the solicitor is not in attendance already, the fee under paragraph 3.

(e) Where a client's detention under Part

1 of schedule 3 of the 2019 Act is reviewed in accordance with paragraph 52 of that schedule and on the instruction of that client a solicitor makes representations to the review officer in accordance with paragraph 54 of that schedule,

(i) where the solicitor is in attendance already, an additional fee at the rate specified under paragraph 3(b)(i);

(ii) where the solicitor is not in attendance already, the fee under paragraph 3.

(f) where a fee is claimed by virtue of this paragraph, a solicitor can only claim the higher rate, instead of the standard rate, if consultation takes place wholly or partly during an unsocial time.

2. In this part—  
“unsocial time” has the meaning given in Part IV of these regulations

3. Inclusive fee, excluding travel, for personal attendance by a solicitor where the client has exercised a right to consult a solicitor in person –

(a) aggregate time engaged or waiting is 2 hours or less; or

Standard Rate	Higher Rate
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£118.45	£157.54
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	(b)			
		(i) aggregate time engaged or waiting is more than 2 hours, up to	£206.00	£273.98
		and including 4 hours;		
		and		
		(ii) for each additional hour over 4 hours (or part thereof).	£51.50	£68.50
4.	Inclusive fee for a consultation conducted by a solicitor, otherwise than in person—		£30.90	£41.10
5.	Fee for travelling time in relation to personal attendance—			
	(a) travel time engaged is 2 hours or less per half hour (or part thereof); and		£11.95	£15.90
	(b) travel time engaged is more than 2 hours, where authorised by the Board, in advance per half hour (or part thereof).		£11.95	£15.90”