

POLICY NOTE

THE ADVICE AND ASSISTANCE (SUMMARY CRIMINAL PROCEEDINGS) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2022

SSI 2022/XXX

The above Regulations are made in exercise of the powers conferred by sections 9(1) and (2)(a), 33(2) and (3)(b), (f) and (3A), and 36(2)(b) of the Legal Aid (Scotland) Act 1986. The instrument is subject to *affirmative procedure*.

Summary Box

This instrument makes amendments to advice and assistance regulations to support a sheriff court initiative that seeks to encourage appropriate early resolution of summary criminal cases.

Policy Objectives

Following the Scottish Courts and Tribunal Service (SCTS) Evidence and Procedure Review, three sheriff courts, Dundee, Hamilton and Paisley, will pilot an initiative to test the benefits of earlier engagement between Crown and defence agents to encourage appropriate early resolution of summary criminal cases. This instrument amends legal aid fee arrangements to allow an inclusive fee to be paid to defence agents at an earlier stage of proceedings.

Amendments are made to the following Regulations –

The Advice and Assistance (Financial Limit) (Scotland) Regulations 1993

The Advice and Assistance (Scotland) Regulations 1996

The Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003

Consultation

The Scottish Legal Aid Board (SLAB) is a non-departmental public body which administers legal aid in Scotland and is accountable to the Scottish Government. SLAB have been consulted in the development of the draft Regulations.

Draft Regulations were shared with the Law Society of Scotland and Bar Associations participating in the pilot.

No public consultation was carried out due to the technical nature of the proposed regulations.

Impact Assessments

The following impact assessments were considered:

Child Rights & Wellbeing Impact Assessment – not required declaration completed

Equality Impact Assessment – not required declaration completed

Business & Regulatory Impact Assessment – BRIA not required

Fairer Scotland Duty – not required

Strategic Environmental Assessment – not required

Data Protection Impact assessment – not required

Financial Effects

The Minister for Community Safety confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government

Justice Directorate

June 2022