

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

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

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

4.—(1) The Criminal Legal Aid (Scotland) (Fees) Regulations 1989⁽¹⁾ 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,

(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)⁽²⁾—

(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)—

⁽¹⁾ 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.

⁽²⁾ Regulation 5 was substituted by S.S.I. 2010/212 and amended by S.S.I. 2022/30.

- (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)(3)—
 - (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—
 - “—
 - (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)(4), 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.

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

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

