

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 4) Regulations 2023

Amendment of the Advice and Assistance (Scotland) Regulations 1996

5.—(1) The Advice and Assistance (Scotland) Regulations 1996(1) are amended as follows.

(2) In regulation 4A (applications for advice and assistance: further provision), after paragraph (c) insert—

“(d) a person who is detained under section 27 of the National Security Act 2023.”.

(3) In regulation 14A(4) (change of solicitor etc.)—

(a) after “2016,” omit “or”, and

(b) after “2000” insert “, or paragraphs 37 or 44 of schedule 6 of the National Security Act 2023”.

(4) In regulation 17(1A) (fees and outlays of solicitors), after sub-paragraph (d), insert—

“(e) Part VII of schedule 3, the reference to Part I of schedule 3 in paragraph (1)(a) above should be read as a reference to Part VII of schedule 3,

(f) Part VIII of schedule 3, the reference to Part II of schedule 3 in paragraph (1)(a) above should be read as a reference to Part VIII of schedule 3.”.

(5) In schedule 3 (table of fees allowable to solicitors)—

(a) for the table of fees in Part V (assistance by way of representation for proceedings under schedule 8 of the Terrorism Act 2000) substitute—

“Paragraph 29 (application for warrant of further detention) or 36 (application for extension of warrant of further detention) of schedule 8 of the Terrorism Act 2000

(a) Inclusive fee, excluding travel, for all work where matter does not proceed to a court hearing.	£62.59
(b) Inclusive fee, excluding travel, for all work where matter proceeds to a court hearing.	£93.87
(c) Additional fee, excluding travel, for second or subsequent court hearing, per hearing.	£62.59
(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.	£7.28”

(b) in the table of fees in Part VI (advice and assistance in relation to section 41 and schedule 7 of the Terrorism Act 2000 and Part 1 of schedule 8 of the Counter-Terrorism and Border Security Act 2019), in paragraph 2 for “these regulations” substitute “this schedule”,

(1) [S.I. 1996/2447](#). Regulation 4A was inserted by [S.S.I. 2021/55](#). Regulation 14A was inserted by [S.S.I. 2008/240](#). Other relevant amendments were made by [S.S.I. 2017/466](#) and [S.S.I. 2021/55](#).

(c) after Part VI insert—

“PART VII

TABLE OF FEES ALLOWABLE TO SOLICITORS FOR ASSISTANCE BY WAY OF REPRESENTATION FOR PROCEEDINGS UNDER SCHEDULE 6 OF THE NATIONAL SECURITY ACT 2023

**A reference in this Table of Fees to a paragraph is a reference
to a paragraph of schedule 6 of the National Security Act 2023.**

Paragraph 37 (application for warrant of further detention) or 44 (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. £62.59
(b)	Inclusive fee, excluding travel, for all work where matter proceeds to a court hearing. £93.87
(c)	Additional fee, excluding travel, for second or subsequent court hearing (including a hearing in relation to an application for an order under paragraph 42 (information)), per hearing. £62.59
(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. £7.28

PART VIII

TABLE OF FEES ALLOWABLE TO SOLICITORS FOR ADVICE AND ASSISTANCE IN RELATION TO SECTION 27 AND SCHEDULE 6 OF THE NATIONAL SECURITY ACT 2023

In this Table of Fees “the 2023 Act” means the National Security Act 2023.

1. (a) Where a client to whom paragraph 15(6) of schedule 6 of the 2023 Act applies has exercised their right to consult a solicitor—
 - (i) if the solicitor attends the consultation in person, the fee under paragraph 3
 - (ii) if the solicitor attends the

consultation other than in person, the fee under paragraph 4

(b) Where a client's detention under section 27 of the 2023 Act is reviewed in accordance with paragraph 29 of schedule 6 of that Act and on the instruction of that client the solicitor makes representations to the review officer in accordance with paragraph 34 of that schedule of that Act—

(i) if the solicitor (aa) where the makes the solicitor was already representations in in attendance in person— person at the time at which they were instructed to make the representations, an additional fee at the rate specified in paragraph 3(b)(ii);

(bb) where the solicitor was not already in attendance in person at the time at which they were instructed to make the representations, the fee under paragraph 3.

(ii) where the solicitor makes the representations other than in person, the fee under paragraph 4

(c) 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 this schedule

3. Inclusive fee, excluding travel, for personal attendance by a solicitor where the client consults the solicitor in person—

<i>Standard Rate</i>	<i>Higher Rate</i>
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(a) where aggregate time engaged or waiting is 2 hours or less; or

£143.93	£ 191.42
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(b) where aggregate time engaged or waiting is more than 2 hours—

(i) time engaged or waiting up to and including 4 hours; and

£250.29	£332.89
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(ii) for each additional hour time engaged or waiting over 4 hours (or part thereof)

£62.59	£83.24
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4. Inclusive fee for a consultation conducted by a solicitor, otherwise than in person

£37.56	£49.95
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5. Fee for travelling time in relation to personal attendance by a solicitor—

(a) for travel time engaged of 2 hours or less, per half hour (or part thereof); and

£14.53	£19.33
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(b) for travel time engaged of more than 2 hours, where authorised by the Board in advance, per half hour (or part thereof).	£14.53	£19.33”
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