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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 126**

**LEGAL AID AND ADVICE**

**The Criminal Legal Aid (Fixed Payments)  
(Scotland) Amendment (No. 2) Regulations 2004**

<i>Made</i>	- - - -	<i>11th March 2004</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>12th March 2004</i>
<i>Coming into force</i>	- -	<i>2nd April 2004</i>

The Scottish Ministers, in exercise of the powers conferred by sections 33 and 41A of the Legal Aid (Scotland) Act 1986<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Criminal Legal Aid (Fixed Payments) (Scotland) Amendment (No. 2) Regulations 2004 and shall come into force on 2nd April 2004.

**Amendment of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999**

2. The Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999<sup>(2)</sup> shall be amended in accordance with the following Regulation.

3. For Part 1 of Schedule 1 substitute the provisions set out in the Schedule to these Regulations.

St Andrew's House, Edinburgh  
11th March 2004

*HUGH HENRY*  
Authorised to sign by the Scottish Ministers

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(1) 1986 c. 47. Sections 33(3A) and 41A were inserted by the Crime and Punishment (Scotland) Act 1997 (c. 48), sections 51 and 54 respectively. Section 33(3C) to (3K) and section 33(3AA) to (3AC) were inserted by the [Convention Rights \(Compliance\) \(Scotland\) Act 2001 \(asp 7\)](#), sections 7 and 8 respectively. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.I. 1999/491, as amended by S.I. 1999/1820 and S.S.I. 1999/48, 2001/307, 2002/247 and 442, 2003/249 and 2004/51.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Regulation 3

PROVISIONS SUBSTITUTED FOR THE TABLE SET OUT IN PART 1 OF SCHEDULE 1 OF  
THE CRIMINAL LEGAL AID (FIXED PAYMENTS) (SCOTLAND) REGULATIONS 1999

Regulation 4

“SCHEDULE 1 TO THE CRIMINAL LEGAL AID (FIXED  
PAYMENTS) (SCOTLAND) REGULATIONS 1999

## PART 1

		<i>Where professional services are provided in relation to proceedings in the District Court (other than where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court (other than proceedings in a Court specified in Schedule 2) or the District Court (where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court and those proceedings are brought in a Court specified in Schedule 2</i>
<b>1.</b> All up to including:	work and (i) any diet at which a plea of guilty is made and accepted or plea in mitigation is made; (ii) the first 30 minutes	£300 (where criminal legal aid has been made available in the circumstances referred to in paragraphs 10 or 11 below £275)	£500 (where criminal legal aid has been made available in the circumstances referred to in paragraphs 10 or 11 below £475)	£550 (where criminal legal aid has been made available in the circumstances referred to in paragraphs 10 or 11 below £525)

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	<i>Where professional services are provided in relation to proceedings in the District Court (other than where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court (other than proceedings in a Court specified in Schedule 2) or the District Court (where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court and those proceedings are brought in a Court specified in Schedule 2</i>
	of conducting a proof in mitigation, or a proof of a victim statement, other than in the circumstances where paragraph 2 below applies; and (iii) the first 30 minutes of conducting any trial  together with any subsequent or additional work other than that specified in paragraphs 2–12 below.		

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	<i>Where professional services are provided in relation to proceedings in the District Court (other than where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court (other than proceedings in a Court specified in Schedule 2) or the District Court (where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court and those proceedings are brought in a Court specified in Schedule 2</i>
2. All work done in connection with a grant of legal aid under section 23(1)(b) of the Act including the first 30 minutes of conducting a proof in mitigation, or a proof of a victim statement.	£25	£50	£50
3. Conducting a trial or proof in mitigation for the first day (after the first 30 minutes).	£50	£100	£100
4. Conducting a trial or proof in mitigation for the second day.	£50	£200	£200
5. Conducting a trial or proof in mitigation for the third and subsequent days (per day).	£100	£400	£400
6. Representation in court at a continued diet following a victim statement having been laid before the court where the		£50	—

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	<i>Where professional services are provided in relation to proceedings in the District Court (other than where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court (other than proceedings in a Court specified in Schedule 2) or the District Court (where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court and those proceedings are brought in a Court specified in Schedule 2</i>
court determines sentence or fixes a proof of a victim statement, or adjourns such a proof without hearing evidence.			
7. Conducting – a proof of a victim statement where there has been no trial or proof in mitigation for the first day (after the first 30 minutes), and thereafter for subsequent days (per day).		£200	–
8. Conducting – a proof of a victim statement at a continued diet following a concluded trial or proof in mitigation (per day).		£200	–
9. Representation – in court at a diet of deferred sentence or per appearance in a court which has been designated as a youth court by the sheriff principal, at a	£25	£50	£50

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	<i>Where professional services are provided in relation to proceedings in the District Court (other than where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court (other than proceedings in a Court specified in Schedule 2) or the District Court (where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court and those proceedings are brought in a Court specified in Schedule 2</i>
hearing in respect of a community supervision order.			
<b>10.</b> All work done where the accused is in custody and has tendered a plea of not guilty until determination of the application for legal aid.	£25	£25	£25
<b>11.</b> All work done by virtue of section 24(7) of the Act until determination of the application for legal aid.	£25	£25	£25
<b>12.</b> All work done in connection with a bail appeal under section 32 of the 1995 Act, or an appeal under section 201(4) of the 1995 Act.	£50	£50	£50".

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 (“the Principal Regulations”) to provide the following:

- (a) there shall be a fixed payment of £50 for each appearance on behalf of an assisted person (or £25 where the appearance is in the District Court other than before a stipendiary magistrate), in respect of a youth court hearing in consideration of a community supervision order. This provision was previously inserted into the principal Regulations by the Criminal Legal Aid (Youth Courts) (Scotland) Regulations 2003 ([S.S.I. 2003/249](#)), and omitted from the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 2004 ([S.S.I. 2004/51](#));
- (b) there shall be a fixed payment of £50 in respect of work done in connection with appeals under section 201(4) of the Criminal Procedure (Scotland) Act 1995 against the refusal of bail, or against bail conditions imposed. This provision was previously inserted into the principal Regulations by the Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 2002 ([S.S.I. 2002/247](#)) and omitted from the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 2004.