
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 237

LEGAL AID AND ADVICE

**The Criminal Legal Aid (Fixed Payments)
(Scotland) Amendment Regulations 2010**

<i>Made</i>	- - - -	<i>10th June 2010</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>11th June 2010</i>
<i>Coming into force</i>	- -	<i>5th July 2010</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 33(3A) and (3AA) of the Legal Aid (Scotland) Act 1986(1) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 2010 and come into force on 5th July 2010.

Application

2.—(1) Subject to paragraph (2), these Regulations apply only in relation to proceedings commenced on or after 5th July 2010.

(2) Regulation 3(4) and (5)(a) applies also in relation to proceedings commenced on or after 30th June 2008 and before 5th July 2010 if the proceedings were continuing as at the date these Regulations were made.

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

3.—(1) The Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999(2) are amended as follows.

(2) In regulation 4 (fixed payments allowable to solicitors)—

(a) in paragraph (3), for “reference to summary proceedings in paragraph (1)” substitute “references to summary proceedings in paragraphs (1) and (1C)”; and

(1) 1986 c.47. Section 33(3A) was inserted by the Crime and Punishment (Scotland) Act 1997 (c.48), section 51. Section 33(3AA) was inserted by the Convention Rights Compliance (Scotland) Act 2001 (asp 7), section 7.

(2) S.I. 1999/491; amended by S.I. 1999/1820 and S.S.I. 1999/48, 2001/307, 2002/247 and 442, 2003/249, 2004/51, 126 and 263, 2005/93, 2006/234 and 2008/240.

Status: This is the original version (as it was originally made).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

(b) in paragraph (7)(c), for “10 and 10AA” substitute “10, 10AA and 13”.

(3) In Part 1 of Schedule 1 (which specifies fixed payments in respect of certain cases in the justice of the peace court and sheriff court for which criminal legal aid is available), omit paragraph 14.

(4) In paragraph 1 of Schedule 1A (which specifies fixed payments in respect of certain cases in the Justice of the Peace court and sheriff court for which criminal legal aid is available), in the first column, for “12” substitute “13”.

(5) In Part 1 of Schedule 1B (which specifies fixed payments in respect of certain cases in the Justice of the Peace court and sheriff court for which assistance by way of representation is available)

—
(a) in paragraph 1, for “8 and 9” substitute “8, 9 and 10”;

(b) in paragraph 3, for “£75” substitute “£150”; and

(c) omit paragraph 11.

St Andrew’s House,
Edinburgh
10th June 2010

KENNY MACASKILL
A member of the Scottish Executive

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”).

Regulation 3(2)(a) amends regulation 4(3) of the principal Regulations to reflect the insertion of regulation 4(1C) by the Criminal Legal Assistance (Fees and Information) (Scotland) Regulations 2008⁽³⁾.

Regulation 3(2)(b) amends regulation 4(7)(c) of the principal Regulations in consequence of the amendment made by regulation 3(4) of these Regulations.

Regulation 3(3) and (5)(c) removes the fixed payments for work done in connection with an application for bail subject to a movement restriction condition under section 24A of the Criminal Procedure (Scotland) Act 1995⁽⁴⁾ (“the 1995 Act”).

Regulation 3(4) amends Schedule 1A to the principal Regulations to allow a fixed payment for all work done in connection with a bail appeal under section 32 or 201(4) of the 1995 Act.

Regulation 3(5)(a) amends Schedule 1B to the principal Regulations to allow (in relation to cases to which paragraph 1 of that Schedule applies) a fixed payment to be made under paragraph 10 of that Schedule for all work done in connection with a bail appeal under section 32 or 201(4) of the 1995 Act.

Regulation 3(5)(b) amends paragraph 3 of Schedule 1B to the principal Regulations to increase the payment prescribed for work done in connection with a complaint in relation to a breach of bail conditions under section 27(1)(b) of the 1995 Act.

These Regulations apply in relation to proceedings commenced on or after 5th July 2010. The amendments made by regulation 3(4) and (5)(a) (allowing an additional fixed payment in connection with bail appeals) also apply in relation to proceedings commenced on or after 30th June 2008 if the proceedings were continuing when these Regulations were made (regulation 2).

⁽³⁾ S.S.I. 2008/240.

⁽⁴⁾ 1995 c.46.