

SCHEDULE 9

Amendments to schedule 2 of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989

CHAPTER 2

SENIOR COUNSEL

1A.	<i>Written work</i>	
(a)	Petition to Nobile Officium	£231.75
(b)	Drafting devolution or compatibility minute	£154.50
(c)	Drafting section 275 application under the 1995 Act(1)	£154.50
(d)	Drafting specification of documents	£128.75
(e)	Drafting interrogatories	£128.75
(f)	Drafting defence statement under section 70A of the 1995 Act(2) or section 125 of the 2010 Act(3)	£128.75
1B	<i>Preliminary hearing</i>	
(a)	Preliminary hearing including all managed meetings or equivalent with Crown counsel or the Procurator Fiscal by whatever means and including any note on the line of evidence	Payable at one and a half times the full rate for a trial (paragraph 3 below) depending on category of case and status of counsel.
(aa)	preliminary hearing, adjourned or continued in which witnesses called to give evidence	Payable at the full rate for a trial (paragraph 3 below) depending on category of case and status of counsel.
(b)	further diet which involves substantive debate or the resolution of outstanding issues, preliminary pleas, objections to the admissibility of evidence by minute, devolution minutes or applications under section 275 of the 1995 Act	Payable at two thirds of the full rate for a trial (paragraph 3 below) depending on category of

(1) The Criminal Procedure (Scotland) Act 1995 (c.46). Defined in regulation 2 of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989/1491.

(2) Section 70A was inserted by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 124(3).

(3) The Criminal Justice and Licensing (Scotland) Act 2010 (asp. 13). Defined in regulation 2 of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989/1491.

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		case and status of counsel.
(c)	adjourned diet under section 75A(4) of the 1995 Act, or continued diet	Payable at one-half of the full rate for a trial (paragraph 3 below).
(d)	attendance at managed meeting or work in connection with equivalent communication with the Crown by whatever means and including any note on the line of evidence where counsel does not attend preliminary hearing	Payable at one-half of the fee prescribed at paragraph 1B(a) above
(e)	conduct of preliminary hearing on receipt of detailed instructions not having been involved in pre hearing communication with the Crown	Payable at one-half of the fee prescribed at paragraph 1B(a) above.
2.	<i>Early Plea</i>	
	Hearing under section 76 of the 1995 Act	£1287.50
3.	<i>Trial (per day)</i>	
	<i>Category Charges Prosecuted in the High Court</i>	
(a)	Murder, Multiple attempted murder, Culpable homicide, Rape, Assault and Robbery (involving commercial premises), Importation of controlled drugs, Fraud and related offences, section 1 of the 1988 Act (causing death by dangerous driving), section 3A of the 1988 Act (causing death by careless driving when under the influence of drink or drugs), Sedition, Treason, Offences under the 2000 Act(5), Torture, War crimes, Offences under the Explosive Substances Act 1883(6), sections 327 to 333 and 339(1A) of the Proceeds of Crime Act 2002(7) (Money Laundering), Firearms offences, Incest, Sodomy, Embezzlement, Lewd and libidinous behaviour against children under the age of 12, section 2B(8) of the 1988 Act, section 3ZB(9) of the 1988 Act, sections 1, 2, 3(2)(a) and 18 to 27 of the 2009 Act(10)	£927.00
(b)	Attempted Murder, Assault to severe injury (with aggravations), Indecent Assault, Assault and Robbery (involving retail premises), Possession with intent to supply or being concerned in the supply of a Class A drug, Attempted Rape, Lewd and libidinous behaviour, (other than under category (a) above), Offences under the Sexual Offences Act, Offences	£721.00

- (4) Section 75A was inserted by the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), section 15.
- (5) The Terrorism Act 2000 (c.11). Defined in regulation 2 of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989/1491.
- (6) 1883 c.3.
- (7) 2002 c. 29. Section 339(1A) was substituted by the Serious Organised Crime and Police Act 2005 (c.15), section 105(5).
- (8) Section 2B was inserted by the Road Safety Act 2006 (c.49), section 20(1).
- (9) Section 3ZB was inserted by inserted by the Road Safety Act 2006 (c.49), section 21(1), and relevantly amended by the Criminal Justice and Courts Act 2015 (c.2), section 95(1).
- (10) The Sexual Offences (Scotland) Act 2009 (asp 9). Defined in regulation 2 of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989/1491.

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	against Children under the 1995 Consolidation Act(11), Abduction and/or unlawful imprisonment, Extortion, Counterfeiting, Bribery and Corruption, Mobbing and rioting, Indecent or Obscene Publications, Environmental Protection prosecutions, Health and Safety offences, Intellectual Property offences, Offences under the Immigration Act 1971(12), Offences under section 52 or 52A of the Civic Government (Scotland) Act 1982(13), Offences under section 12(1) of the Children and Young Persons (Scotland) Act 1937(14), all offences under the 2009 Act not otherwise prescribed in this Table of Fees	
(c)	Possession with intent to supply or being concerned in the supply of a class B or class C drug, Assault to severe injury, Assault and robbery, Mobbing, Wilful fire raising, Housebreaking, Opening lockfast places, Bigamy, Contempt of Court, Perjury, Theft, Shameless indecency, Offences under the Sexual Offences Act 2003(15), Forgery, Concealing a pregnancy, Deforcement of Sheriff's Officers, Malicious mischief, Brothel keeping, Public order offences (stirring of racial hatred, wearing of uniforms, disrupting lawful meetings), Harassment, Road traffic offences (other than section 1 or 3A of the 1998 Act), Possession of offensive weapons, Violation of sepulchres, Robbery, Breach of the peace	£576.80
4.	<i>Miscellaneous Hearings</i>	
(a)	fee for a day in court for miscellaneous hearings other than those for which a fee is prescribed	£422.30
(aa)	judicial examination	£422.30
(b)	preliminary diet	£422.30
(c)	hearing under section 275 of the 1995 Act	£422.30
(d)	hearing on specification of documents	£422.30
(e)	hearing on a devolution or compatibility minute	£422.30
(f)	hearing on an application by the Crown for an extension of time	£422.30
(g)	hearing under section 72 of the 1995 Act	£211.15
(h)	hearing on a motion to adjourn	£211.15
(i)	hearing on an application for special measures	£211.15
(j)	confiscation diet in which substantial evidence is led or where full settlement is agreed where the confiscation proceedings follow acceptance of a guilty plea to the charge or charges categorised as below or follow a trial as specified in this Chapter in—	
(i)	paragraph 3(a)	£927.00
(ii)	paragraph 3(b)	£721.00

(11) The Criminal Law (Consolidation) (Scotland) Act 1995 (c.39). Defined in regulation 2 of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989/1491 .

(12) 1971 c.77.

(13) 1982 c.45. Section 52A was inserted by the Criminal Justice Act 1988 (c.33), section 161(1)(2) and relevantly amended by the Criminal Justice and Public Order Act 1994 (c.33), section 84(7), the Criminal Justice (Scotland) Act 2003 (asp 7), section 19(1)(b), and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 41(1)(b).

(14) 1937 c.37.

(15) 2003 c.42.

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	(iii) paragraph 3(c)	£576.80
(k)	confiscation diet where no substantial evidence is led	£422.30
(l)	deferred sentence where mitigation is led	£422.30
(m)	deferred sentence where no mitigation is led	£211.15
(n)	remit for sentence	£422.30
(na)	drug treatment and testing order review	£211.15
(nb)	drug treatment and testing order review where mitigation led and order revoked	£422.30
(o)	adjourned trial diet	£211.15
(p)	adjourned trial diet (trial having commenced)	£422.30
(pa)	trial diet where there is more than one accused and counsel represents an accused who pled guilty at an earlier diet	£422.30
(q)	trial within a trial	Payable at the full rate for a trial (paragraph 3 above) depending on category of case.
(qa)	commission on evidence and any other hearing, other than one for which a fee is prescribed, at which evidence is adduced	Payable at the full rate for a trial (paragraph 3 above) depending on category of case and status of counsel.
(r)	examination of the facts in a case of insanity or diminished responsibility	Payable at the full rate for a trial (paragraph 3 above) depending on category of case.
(s)	proof in mitigation	Payable at the full rate for a trial (paragraph 3 above) depending on category of case.

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	(t)	deferred sentence in which evidence is taken from an expert witness	Payable at the full rate for a trial (paragraph 3 above) depending on category of case.
5.		<i>Fee for consultations, accused and counsel meetings and locus visits</i>	£257.50
5A.		<i>Fee for abortive consultation</i>	£128.75
6.		<i>Fee for a necessary Note</i>	£51.50
7.		<i>Travel</i>	
		Supplementary fee chargeable in addition to any of the above fees where necessary travel is undertaken within Scotland, including travel to a Procurator Fiscal's office or elsewhere to view productions	£103.00
		Supplementary fee chargeable in addition to any of the above fees where necessary travel is undertaken furth of Scotland	£206.00
8.		<i>Accommodation and associated subsistence</i>	
		Payment of necessary accommodation and associated subsistence per day	£103.00