
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 30

The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2022

Citation and Commencement

1. These Regulations may be cited as the Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2022 and come into force on 1 April 2022.

Application

2.—(1) These Regulations apply only in relation to fees for work done or outlays incurred on or after 1 April 2022, except in relation to regulations 6(4) and (6), and 7.

(2) Regulations 6(4) and (6), and 7 apply only in relation to a case where the criminal legal assistance concerned is granted or made available on or after 1 April 2022.

(3) For the purposes of paragraph (1), where work for a fee prescribed in schedules 1 to 11 is conducted over more than one date, the work is deemed to have been done on the day on which the work comes to an end.

Amendments to the Civil Legal Aid (Scotland) (Fees) Regulations 1989

3.—(1) The Civil Legal Aid (Scotland) (Fees) Regulations 1989(1) are amended as follows.

(2) In regulation 5 (fees allowable to solicitors) in paragraph (2A) for “£22.72”(2) substitute “£23.86”.

(3) In Part 1 of Chapter 3 of schedule 2 (undefended actions), for the first table of fees substitute the table of fees in schedule 1 of these Regulations.

(4) In Part 2 of Chapter 3 of schedule 2 (defended actions), for the first table of fees substitute the table of fees in schedule 2 of these Regulations.

(5) In Chapter 4 of schedule 2 (executory business), for the table of fees substitute the table of fees in schedule 3 of these Regulations.

(6) In schedule 2A (fees allowable to solicitors for simple procedure cases and First-Tier Tribunal for Scotland cases)(3), for the table of fees substitute the table of fees in schedule 4 of these Regulations.

(7) In schedule 3 (table of detailed fees chargeable by solicitors for proceedings in the Court of Session and the sheriff court), for the table of fees substitute the table of fees in schedule 5 of these Regulations.

(1) S.I. 1989/1490; relevant amending instruments are S.I. 1990/473, S.I. 1991/565, S.I. 1992/372, S.I. 1994/1015, S.I. 1995/1044, S.I. 1997/689, S.S.I. 2003/178, S.S.I. 2007/14, S.S.I. 2009/203, S.S.I. 2011/41, S.S.I. 2011/160, S.S.I. 2013/144, S.S.I. 2013/250, S.S.I. 2014/257, S.S.I. 2015/337, S.S.I. 2015/380, S.S.I. 2016/257, S.S.I. 2016/290, S.S.I. 2017/310 and S.S.I. 2019/78, S.S.I. 2020/191 and S.S.I. 2021/56. Regulation 11 was modified by paragraph 23 of schedule 4 of the Coronavirus (Scotland) Act 2020 (asp 7).

(2) Paragraph (2A) was inserted by S.S.I. 2003/178 and this figure substituted by S.S.I. 2021/56.

(3) Schedule 2A was inserted by S.S.I. 2016/290 and amended by S.S.I. 2021/56.

(8) In schedule 4 (fees of counsel for proceedings in the Court of Session, Sheriff Appeal Court, sheriff court, First-Tier Tribunal for Scotland and Upper Tribunal for Scotland)(4), for the table of fees substitute the table of fees in schedule 6 of these Regulations.

(9) In schedule 5 (table of detailed fees chargeable by solicitors for proceedings in the Court of Session, Sheriff Appeal Court, and Upper Tribunal for Scotland, proceedings listed at regulation 5(3) and proceedings in the sheriff court listed in schedule 7)(5), for the table of fees substitute the table of fees in schedule 7 of these Regulations.

(10) In schedule 6 (table of fees chargeable by solicitors for proceedings in the sheriff court (except summary cause and executry proceedings and the proceedings listed in schedule 7) and in the Sheriff Appeal Court)—

- (a) in Chapter 1 (sheriff court civil fees (undefended)) in the Notes on the operation of Chapter 1 in paragraph 6, for “£7.87”(6) substitute “£8.27”,
- (b) in Chapter 2 (sheriff court civil fees (defended)) in the Notes on the operation of Chapter 2 in paragraph 21, for “£7.87”(7) substitute “£8.27”.

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

4.—(1) The Criminal Legal Aid (Scotland) (Fees) Regulations 1989(8) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the entry for “counsel” insert—

““court holiday” means a day prescribed as such (including an additional court holiday) in accordance with section 8(2) of the 1995 Act;”,

(b) after the entry for “High Court” insert—

““holiday court sitting” means a sitting of a sheriff court on a court holiday, a Saturday or a Sunday by virtue of an order under section 28 or 29 of the Courts Reform (Scotland) Act 2014(9);”.

(3) In regulation 5(1) (fees allowance to solicitors: identification parades)(10)—

- (a) in sub-paragraph (a)(i), for “£123.30” substitute “£129.47”,
- (b) in sub-paragraph (a)(ii), for “£13.72” substitute “£14.41”,
- (c) in sub-paragraph (b)(i), for “£101.46” substitute “£106.54”,
- (d) in sub-paragraph (b)(ii), for “£12.79” substitute “£13.43”.

(4) In regulation 6 (duty solicitors’ fees)(11)—

- (a) for “£68.14” in each place where it appears substitute “£71.55”,
- (b) for “£9.74” in each place where it appears substitute “£10.23”,
- (c) for “£75.71” in each place where it appears substitute “£79.50”,
- (d) after paragraph (2) insert—

(4) Schedule 4 was inserted and renamed by [S.S.I. 2011/160](#), renamed by [S.S.I. 2016/257](#) and amended by [S.S.I. 2021/56](#).

(5) Schedule 5 was inserted by [S.S.I. 2003/178](#) and renamed by [S.S.I. 2016/257](#).

(6) This figure substituted by [S.S.I. 2021/56](#).

(7) Paragraph 21 was inserted by [S.S.I. 2003/178](#) and this figure substituted by [S.S.I. 2021/56](#).

(8) [S.I. 1989/1491](#); relevant amending instruments are [S.I. 1991/566](#), [S.I. 1992/374](#), [S.S.I. 2004/264](#), [S.S.I. 2005/113](#), [S.S.I. 2005/584](#), [S.S.I. 2005/656](#), [S.S.I. 2007/180](#), [S.S.I. 2008/240](#), [S.S.I. 2009/312](#), [S.S.I. 2010/63](#), [S.S.I. 2010/212](#), [S.S.I. 2011/41](#), [S.S.I. 2011/135](#), [S.S.I. 2012/276](#), [S.I. 2013/7](#), [S.S.I. 2013/250](#), [S.S.I. 2013/320](#), [S.S.I. 2015/337](#) and [S.S.I. 2017/466](#), [S.S.I. 2019/78](#), [S.S.I. 2020/191](#) and [S.S.I. 2021/56](#).

(9) [2014 asp 18](#).

(10) Regulation 5 substituted by [S.S.I. 2010/212](#) and amended by [S.S.I. 2021/56](#).

(11) Figures in regulation 6 substituted by [S.S.I. 2021/56](#).

“(2A) Where a duty solicitor at a holiday court sitting acts for a person appearing from custody on the day on which that person is first brought to a court to answer to a complaint—

- (a) there shall be allowed to that solicitor, in addition to any fees under paragraph (1) and as may be under paragraph (2), a supplementary fee of £80.00 for appearing in relation to that case on that day, and
- (b) such supplementary fee shall not be taken into account for the purposes of any maximum total fee under paragraph (1) or in the calculation of any additional fee under paragraph (2).”.

(5) In schedule 1 (fees of solicitors) in the Notes on the operation of schedule 1 in paragraph 7(1)(12), for “£13.72” substitute “£14.41”.

(6) In schedule 1 (fees of solicitors) in the table of fees, for Part 1 (detailed fees) and Part 2 (inclusive fees for solemn first instance proceedings) substitute the tables of fees in schedule 8 of these Regulations.

(7) In schedule 2 (fees of counsel), for the table of fees substitute the table of fees in schedule 9 of these Regulations.

(8) In schedule 3 (fees of counsel for proceedings in the supreme court), for the table of fees substitute the table of fees in schedule 10 of these Regulations.

Amendments to the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992

5.—(1) The Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992(13) are amended as follows.

(2) In schedule 1 (table of fees allowable to solicitors for legal aid made available under section 30 of the Act in connection with proceedings for contempt of court)(14)—

- (a) in paragraph 1(a), for “£29.65” substitute “£31.14”,
- (b) in paragraph 1(b), for “£14.83” substitute “£15.58”,
- (c) in paragraph 2(a), for “£11.42” substitute “£12.00”,
- (d) in paragraph 2(b), for “£5.69” substitute “£5.98”,
- (e) in paragraph 3, for “£6.49” substitute “£6.82”,
- (f) in paragraph 4, for “£2.61” substitute “£2.75”,
- (g) in paragraph 4A(a)(15), for “£5.72” substitute “£6.01”,
- (h) in paragraph 4A(b), for “£2.85” substitute “£3.00”.

(3) In paragraph 4 of schedule 2 (fees of counsel)(16), for the tables of fees substitute the tables of fees in schedule 11 of these Regulations.

(12) Figure in paragraph 7 substituted by [S.S.I. 2021/56](#).

(13) [S.I. 1992/1228](#); relevant amending instruments are [S.I. 1997/718](#), [S.S.I. 2011/41](#), [S.S.I. 2013/250](#), [S.S.I. 2014/257](#), [S.S.I. 2019/78](#) and [S.S.I. 2021/56](#).

(14) Figures in paragraphs 1 to 4A of schedule 1 substituted by [S.S.I. 2021/56](#).

(15) Paragraph 4A was inserted by [S.S.I. 2011/41](#) and amended by [S.S.I. 2021/56](#).

(16) Paragraph 4 was amended by [S.S.I. 2019/78](#).

Amendments to the Advice and Assistance (Scotland) Regulations 1996

6.—(1) Schedule 3 (table of fees allowable to solicitors) of the Advice and Assistance (Scotland) Regulations 1996⁽¹⁷⁾ is amended as follows.

(2) In Part 1 (table of fees allowable to solicitors for assistance by way of representation)—

(a) in paragraph 1, for the table of fees substitute the table of fees in schedule 12 of these Regulations,

(b) in paragraph 2 (interpretation), after the entry relating to a “page” insert—

““court holiday” means a day prescribed as such (including an additional court holiday) in accordance with section 8(2) of the Criminal Procedure (Scotland) Act 1995;

“holiday court sitting” means a sitting of a sheriff court on a court holiday, a Saturday or a Sunday by virtue of an order under section 28 or 29 of the Courts Reform (Scotland) Act 2014⁽¹⁸⁾.”.

(c) in paragraph 3 (petition by debtor for sequestration)⁽¹⁹⁾—

(i) in sub-paragraph (a), for “£35.86” substitute “£37.66”, and

(ii) in sub-paragraph (b), for “£58.90” substitute “£61.85”.

(3) In paragraph 1 of Part 2 (table of fees allowed to solicitors for advice and assistance other than assistance by way of representation), for the table of fees substitute the table of fees in schedule 13 of these Regulations.

(4) In Part 3 (table of fees allowed to solicitors for assistance by way of representation for proceedings under sections 19, 30 and 36(1)(a) of the Criminal Justice (Scotland) Act 2016), for the table of fees substitute the table of fees in schedule 14 of these Regulations.

(5) In Part 4 (table of fees allowed to solicitors for advice and assistance in relation to sections 32 and 44 of the Criminal Justice (Scotland) Act 2016)⁽²⁰⁾—

(a) in paragraph 3 (standard rate) for “£81.12” substitute “£85.18”,

(b) in paragraph 3 (higher rate) for “£107.89” substitute “£113.29”,

(c) in paragraph 4(a) (standard rate) for “£124.38” substitute “£130.60”,

(d) in paragraph 4(a) (higher rate) for “£165.42” substitute “£173.70”,

(e) in paragraph 4(b)(i) (standard rate) for “£216.30” substitute “£227.12”,

(f) in paragraph 4(b)(i) (higher rate) for “£287.68” substitute “£302.07”,

(g) in paragraph 4(b)(ii) (standard rate) for “£54.08” substitute “£56.79”,

(h) in paragraph 4(b)(ii) (higher rate) for “£71.93” substitute “£75.53”,

(i) in paragraph 5 (standard rate) for “£32.45” substitute “£34.08”,

(j) in paragraph 5 (higher rate) for “£43.16” substitute “£45.32”,

(k) in paragraph 6 for “£12.55” in each place where it appears substitute “£13.18”,

(l) in paragraph 6 for “£16.70” in each place where it appears substitute “£17.54”.

(6) In Part 5 (table of fees allowable to solicitors for assistance by way of representation for proceedings under schedule 8 of the Terrorism Act 2000)⁽²¹⁾—

⁽¹⁷⁾ S.I. 1996/2447; relevant amending instruments are S.I. 1997/726, S.S.I. 2004/262, S.S.I. 2005/171, S.S.I. 2006/233, S.S.I. 2008/240, S.S.I. 2010/312, S.S.I. 2011/41, S.S.I. 2013/144, S.S.I. 2013/250, S.S.I. 2014/257, S.S.I. 2017/466, S.S.I. 2019/78, S.S.I. 2020/191, S.S.I. 2021/55 and S.S.I. 2021/56.

⁽¹⁸⁾ 2014 asp 18.

⁽¹⁹⁾ Figures in paragraph 3 substituted by S.S.I. 2021/56.

⁽²⁰⁾ Figures in Part 4 substituted by S.S.I. 2021/56.

⁽²¹⁾ Part V inserted by S.S.I. 2021/55 and amended by S.S.I. 2021/56.

- (a) for “£54.08” in each place where it appears substitute “£56.79”,
- (b) for “£81.12” in both places where it appears substitute “£85.18”,
- (c) for “£6.28” in both places where it appears substitute “£6.60”.

(7) In Part 6 (table of fees allowable to solicitors for advice and assistance in relation to section 41 and schedule 7 of the Terrorism Act 2000 and Part 1 of schedule 3 of the Counter-Terrorism and Border Security Act 2019)(22)—

- (a) in paragraph 3(a) (standard rate) for “£124.38” substitute “£130.60”,
- (b) in paragraph 3(a) (higher rate) for “£165.42” substitute “£173.70”,
- (c) in paragraph 3(b)(i) (standard rate) for “£216.30” substitute “£227.12”,
- (d) in paragraph 3(b)(i) (higher rate) for “£287.68” substitute “£302.07”,
- (e) in paragraph 3(b)(ii) (standard rate) for “£54.08” substitute “£56.79”,
- (f) in paragraph 3(b)(ii) (higher rate) for “£71.93” substitute “£75.53”,
- (g) in paragraph 4 (standard rate) for “£32.45” substitute “£34.08”,
- (h) in paragraph 4 (higher rate) for “£43.16” substitute “£45.32”,
- (i) in paragraph 5(a) (standard rate) for “£12.55” substitute “£13.18”,
- (j) in paragraph 5(a) (higher rate) for “£16.70” substitute “£17.54”,
- (k) in paragraph 5(b) (standard rate) for “£12.55” substitute “£13.18”,
- (l) in paragraph 5(b) (higher rate) for “£16.70” substitute “£17.54”.

Amendments to the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999

7.—(1) The Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999(23) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the entry for “continued diet” insert—

““court holiday” means a day prescribed as such (including an additional court holiday) in accordance with section 8(2) of the Criminal Procedure (Scotland) Act 1995;”.

(b) after the entry for “excluded proceedings” insert—

““holiday court sitting” means a sitting of a sheriff court on a court holiday, a Saturday or a Sunday by virtue of an order under section 28 or 29 of the Courts Reform (Scotland) Act 2014;”.

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

- (a) in paragraphs (6) and (6ZA)(24), for “£108.15” substitute “£113.56”,
- (b) in paragraph (9)(b), for “£108.15” substitute “£113.56”.

(4) In schedule 1—

- (a) for the table of fees in Part 1 substitute the table of fees in Part 1 of schedule 15 of these Regulations,

(22) Part VI inserted by S.S.I. 2021/55 and amended by S.S.I. 2021/56.

(23) S.I. 1999/491; relevant amending instruments are S.S.I. 2001/307, S.S.I. 2002/247, S.S.I. 2003/249, S.S.I. 2004/51, S.S.I. 2004/126, S.S.I. 2004/263, S.S.I. 2005/93, S.S.I. 2006/234, S.S.I. 2008/240, S.S.I. 2010/237, S.S.I. 2011/162, S.S.I. 2014/366, S.S.I. 2015/337 and S.S.I. 2017/466, S.S.I. 2019/78, S.S.I. 2020/191 and S.S.I. 2021/56.

(24) Paragraph 6ZA was inserted by S.S.I. 2011/162 and amended by S.S.I. 2021/56.

- (b) for the table of fees in Part 2 substitute the table of fees in Part 2 of schedule 15 of these Regulations.
- (5) In schedule 1A for the table of fees substitute the table of fees in schedule 16 of these Regulations.
- (6) In schedule 1B—
 - (a) for the table of fees in Part 1 substitute the table of fees in Part 1 of schedule 17 of these Regulations,
 - (b) for the table of fees in Part 2 substitute the table of fees in Part 2 of schedule 17 of these Regulations.

Amendments to the Criminal Legal Assistance (Fees and Information etc.) (Scotland) Regulations 2008

8.—(1) The Criminal Legal Assistance (Fees and Information etc.) (Scotland) Regulations 2008⁽²⁵⁾ are amended as follows.

- (2) After regulation 1 insert—

“Interpretation

1A. In these Regulations—

“court holiday” means a day prescribed as such (including an additional court holiday) in accordance with section 8(2) of the Criminal Procedure (Scotland) Act 1995; and

“holiday court sitting” means a sitting of a sheriff court on a court holiday, a Saturday or a Sunday by virtue of an order under section 28 or 29 of the Courts Reform (Scotland) Act 2014.”.

- (3) In regulation 7 (single payment in summary criminal cases), after paragraph (5)(b) insert—
“
 - (c) any supplementary fee payable to a solicitor for a holiday court sitting under regulation 6 or schedule 1 of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989, schedule 3 of the Advice and Assistance (Scotland) Regulations 1996 or schedule 1B of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999.”.

St Andrew’s House,
Edinburgh
26th January 2022

ASH REGAN
Authorised to sign by the Scottish Ministers