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## EXPLANATORY NOTE

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

These Regulations amend existing regulations made under the Legal Aid (Scotland) Act 1986 (“the 1986 Act”).

Regulation 2 makes provision as to when the amendments made by regulations 3 and 4 of these Regulations apply.

Regulation 3 amends the civil legal aid fee tables, and related notes on their operation, in Chapter 2 of schedule 6 of the Civil Legal Aid (Scotland) (Fees) Regulations 1989, to take account of changes made to court rules relating to procedure in defended family and civil partnership actions in the sheriff court by the Act of Sederunt (Ordinary Cause Rules 1993 Amendment) (Case Management of Defended Family and Civil Partnership Actions) 2022.

Regulation 4 makes provision to amend fees for criminal legal aid work carried out by counsel in the High Court, Sheriff Court and JP Court, by providing for changes to the fee tables, and related notes on their operation, set out in schedule 2 of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989. Minor changes are also made to regulation 3A of those Regulations.

Regulation 5 amends the Advice and Assistance (Scotland) Regulations 1996 to provide that—

- additional payments made under the Social Security (Additional Payments) Act 2023 (“the 2023 Act”) and the Social Fund Winter Fuel Payment (Temporary Increase) Regulations 2023 (“the 2023 Regulations”) are to be disregarded by the Scottish Legal Aid Board in the assessment and computation of an applicant’s disposable capital and income,
- such payments are excluded from bearing fees and outlays when forming part of any recovered or preserved property in proceedings,
- the 1986 Act is modified so advice and assistance is available to an applicant who is entitled to free legal assistance under Article 15(1) of the Hague Convention or who has, in a State bound by the Hague Convention, benefited from legal aid or exemption from costs or expenses—
  - without regard to their income or capital, whether or not they are within Scotland,
  - without their requiring to pay any fees or outlays in respect of such advice and assistance, irrespective of their disposable income, and
  - with their fees or outlays to the solicitor met firstly out of any expenses payable to them by any other person (by virtue of a judgment, court order, agreement or otherwise) in respect of the matter in connection with which the advice and assistance is provided, and otherwise by SLAB out of the Scottish Legal Aid Fund.

Regulations 6 and 7 amend the Civil Legal Aid (Scotland) Regulations 2002 and the Children’s Legal Assistance (Scotland) Regulations 2013 respectively to make similar provision to regulation 5 in respect of disregarding additional payments made under the 2023 Act from the computation of disposable capital and income, and the exclusion of payments made under the 2023 Regulations from bearing fees and outlays.

A Business and Regulatory Impact Assessment has been prepared for these Regulations and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Justice Directorate, St Andrews House, Edinburgh EH1 3DG.