
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to the financial limits upon the cost of providing advice and assistance including assistance by way of representation (ABWOR), without the prior approval of the Scottish Legal Aid Board.

These Regulations consolidate, with amendments, the Advice and Assistance (Scotland) (Prospective Cost) (No.3) Regulations 1988 (S.I. 1988/2288), the Advice and Assistance (Scotland) (Prospective Cost) Regulations 1991 (S.I. 1991/1096) and the Advice and Assistance (Scotland) (Prospective Cost) Amendment Regulations 1993 (S.I. 1993/973) (“the previous Regulations”), which are revoked (regulation 5).

These Regulations re-enact the provisions of the previous Regulations which amended section 10(2) of the Legal Aid (Scotland) Act 1986 to provide that the cost of providing advice and assistance (including ABWOR) must not exceed, in the special cases to which regulation 4 applies, £150 and in any other case, £80, without the prior approval of the Scottish Legal Aid Board (regulation 3).

The special cases to which regulation 4 applies are those contained in the previous Regulations namely—

- (d) where ABWOR is provided when a second or subsequent diet has been ordered by the court or in relation to a petition by a debtor for the sequestration of his estate; and
- (e) where advice and assistance is provided and the solicitor is satisfied of various matters.

There is also added, as a new special case, a case where ABWOR is provided in proceedings in a Parole Board case. A Parole Board case is one referred to the Parole Board under the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9) which involves a discretionary life prisoner or a prisoner who is treated as if he were a discretionary life prisoner.