

This Statutory Instrument has been made in consequence of defects in S.I. 1993/530 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

1994 No. 1019 (S.51)

LEGAL AID AND ADVICE, SCOTLAND

The Criminal Legal Aid (Scotland) (Fees) Amendment Regulations 1994

<i>Made</i>	- - - -	<i>31st March 1994</i>
<i>Laid before Parliament</i>		<i>14th April 1994</i>
<i>Coming into force</i>	- -	<i>5th May 1994</i>

The Secretary of State, in exercise of the powers conferred on him by sections 33(2)(a) and (3) and 36(1) and (2)(a) of the Legal Aid (Scotland) Act 1986((1)), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Criminal Legal Aid (Scotland) (Fees) Amendment Regulations 1994 and shall come into force on 5th May 1994.

Interpretation

2. In these Regulations—

“the Act” means the Legal Aid (Scotland) Act 1986;

“the principal Regulations” means the Criminal Legal Aid (Scotland) (Fees) Regulations 1989((2)).

Application

3. These Regulations shall apply—

(a) in respect of criminal legal aid made available in terms of section 22 of the Act, only in relation to any case where criminal legal aid is first so made available on or after 5th May 1994; and

(1) 1986 c. 47.

(2) S.I. 1989/1491, amended by S.I. 1990/474 and 1035, 1991/566, 1992/374 and 1993/530.

- (b) in respect of criminal legal aid made available otherwise, only in relation to any case where an application for criminal legal aid is granted on or after that date.

Amendment of the principal Regulations

4. In regulation 2(1) of the principal Regulations (interpretation):–

- (a) for the definitions of “counsel” and of “junior counsel” and “junior”, there shall be substituted–

““counsel” includes a solicitor-advocate;”;

““junior counsel” or “junior” includes a junior solicitor-advocate;” and

- (b) for the definition of “rights of audience solicitor” to the end, there shall be -substituted–

““right of audience” means, in relation to a solicitor, a right of audience in the High Court of Justiciary which a solicitor has by virtue of section 25A (rights of audience in specified courts) of the Solicitors (Scotland) Act 1980((3));

“senior counsel” or “senior” includes a senior solicitor-advocate except in paragraph (1A) below;

“solicitor-advocate” means a solicitor, whether instructed by another solicitor or not, when and only when he is exercising his right of audience or acting in connection with the exercise of such a right and “junior solicitor-advocate” and “senior solicitor-advocate” shall be construed in accordance with paragraph (1A) below;

and, unless the context otherwise requires, any reference in these Regulations to a solicitor shall not include a solicitor when acting as a solicitor-advocate.

(1A) For the purposes of these Regulations, a solicitor-advocate shall be–

- (a) a senior solicitor-advocate, where he is undertaking work equivalent to that which would be done by a senior counsel in a case where the proceedings relate to a prosecution or conviction for murder or where the Board has authorised the employment of senior counsel under regulation 14(1)(a) or (2) of the Criminal Legal Aid (Scotland) Regulations(4);

- (b) a junior solicitor-advocate, where he is undertaking work equivalent to that which would be done by a junior counsel, whether or not the Board has authorised the employment of senior counsel in the case.”.

Revocation

5. The Criminal Legal Aid (Scotland) (Fees) Amendment Regulations 1993((5)) are hereby revoked.

St Andrew’s House,
Edinburgh
31st March 1994

Fraser of Carmyllie
Minister of State, Scottish Office

(3) 1980 c. 46; section 25A was introduced by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40), section 24.

(4) S.I. 1987/307, amended by S.I. 1988/1126, 1992/527 and 1993/532.

(5) S.I. 1993/530.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations substitute in the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 new definitions relating to solicitors who have a right of audience in the High Court of Justiciary.

The Criminal Legal Aid (Scotland) (Fees) Amendment Regulations 1993 ([S.I. 1993/530](#)) which inserted defective definitions relating to such solicitors are revoked.