
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Scotland) (Consolidation and Amendment) Regulations 1996 “the principal Regulations”.

The Regulations—

- (a) amend the citation of the principal Regulations (regulation 3);
- (b) provide that a solicitor’s right to prior payment of fees or outlays from property recovered or preserved does not apply to a back to work bonus (payable under the Jobseekers Act 1995), or to payments made under the Community Care (Direct Payments) Act 1996 (“the 1996 Act”), section 12B of the Social Work (Scotland) Act 1968 (“the 1968 Act”) and the Earnings Top-up Scheme (regulation 4);
- (c) provide that any back to work bonus should be disregarded in the computation of a person’s capital and income. The previous provision provided that only a back to work bonus treated as payable by way of a jobseekers allowance should be disregarded (regulation 5(a));
- (d) make a technical drafting alteration to paragraph 7 of Schedule 2 to the principal Regulations (regulation 5(b));
- (e) provide that the fee allowable to solicitors for assistance by way of representation, or for advice and assistance other than assistance by way of representation, where a document is copied and it is necessary to take a copy of more than 20 sheets is 8 pence per sheet copied (regulation 6). The previous provision provided that a fee of 35 pence would be paid for each sheet where an exceptional amount of copying proved necessary (“exceptional” being defined as meaning the production of more than 20 output copy sheets when a document has been copied).

By virtue of regulation 2, regulations 4 and 5 will only apply to any case where an application for advice and assistance is made on or after 1st April 1997 and regulation 6 will only apply to fees for work done on or after 1st April 1997.