

## STATUTORY INSTRUMENTS

# 1999 No. 491

## The Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999

### Citation and commencement

1. These Regulations may be cited as the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 and shall come into force on 1st April 1999.

### Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

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

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995 <sup>M1</sup>;

“assisted person” means a person to whom criminal legal aid has been made available in relation to the proceedings in question;

“excluded proceedings” means—

- (a) summary proceedings arising following a reduction from solemn proceedings;
- (b) proceedings in relation to which legal aid is only available by virtue of section 22(1)(a) of the Act (identification parades held by or on behalf of the prosecutor in contemplation of criminal proceedings);
- (c) proceedings in relation to which legal aid is only available by virtue of section 22(1)(c) of the Act (assisted person in custody or liberated by police on undertaking to appear);
- (d) proceedings in relation to which legal aid is only available by virtue of section 22(1)(da) of the Act (plea of insanity in bar of trial) <sup>M2</sup>;
- (e) proceedings in relation to which legal aid is only available by virtue of section 22(1)(db) of the Act (examination of facts) <sup>M3</sup>;
- (f) proceedings in relation to which legal aid is made available by virtue of regulation 15 of the Criminal Legal Aid (Scotland) Regulations 1996 (matters of special urgency) <sup>M4</sup>;
- (g) any reference in connection with proceedings under article 177 of the EEC Treaty <sup>M5</sup>.

“relevant criminal legal aid” means criminal legal aid provided by a solicitor in relation to summary proceedings other than excluded proceedings.

(2) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is to one of these Regulations.

### Marginal Citations

**M1** 1995 c.46.

**M2** Section 22(1)(da) was inserted by 1995 c.40, section 5 and Schedule 4.

**M3** Section 22(1)(db) was inserted by 1995 c.40, section 5 and Schedule 4.

**M4** S.I. 1996/2555.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**M5** EEC Treaty has the meaning assigned to it in Schedule 1 to the European Communities Act 1972 c.68.

## Application

**3.—(1)** For the purposes of these regulations, the references in section 33(3A) and (3B) of the Act <sup>M6</sup> to criminal legal assistance relate to relevant criminal legal aid.

(2) These Regulations shall apply—

- (a) in respect of relevant criminal legal aid first made available in terms of sections 22 or 24(7) of the Act, only in relation to any case where criminal legal aid is first so available on or after 1st April 1999; and
- (b) in respect of relevant criminal legal aid first made available otherwise, only in relation to any case where an application for criminal legal aid is granted on or after that date.

## Marginal Citations

**M6** Section 33(3A) and (3B) were inserted by the [Crime and Punishment \(Scotland\) Act 1997 \(c.48\)](#), section 51.

## Fixed payments allowable to solicitors

**4.—(1)** There shall be made to a solicitor who provides relevant criminal legal aid in summary proceedings, in respect of the professional services provided by him and the outlays specified in paragraph (2) below, and in accordance with the provisions of this regulation, the fixed payments specified in Schedule 1.

(2) The outlays specified in this paragraph are all outlays in connection with—

- (a) the taking, drawing, framing and perusal of precognitions;
- (b) the undertaking by another solicitor of any part of the work; and
- (c) photocopying.

(3) Except where proceedings have been brought under section 185 of the 1995 Act, the reference to summary proceedings in paragraph (1) above is a reference to proceedings on a single summary complaint or on complaints which arise out of the same incident.

(4) Where in such proceedings a solicitor acts for more than one assisted person a separate fixed payment shall be made to him in respect of each such assisted person, in accordance with paragraph (5) below.

(5) Where a solicitor represents 2 or more assisted persons he shall be paid in respect of the first assisted person 100% of such of the fixed payments specified in Schedule 1 as are appropriate to that assisted person, in respect of a second assisted person 40% of the appropriate fixed payments, and in respect of a third and each subsequent assisted person 20% of those payments.

(6) Where a solicitor represents an assisted person who has been remanded in custody at or subsequent to the first calling of the case and that assisted person is at any time during that remand under 21 years of age the fixed payment specified in paragraph 1 of Schedule 1 shall be increased by £100.

(7) Where the Board grants an application for a change of solicitor under regulation 17(3) of the Criminal Legal Aid (Scotland) Regulations 1996 there shall be paid to each of the solicitors who act for the assisted person in the relevant proceedings an equal part of the total amount payable in respect of those proceedings by virtue of paragraph (1) above and for the purposes of calculating that total amount paragraph (5) shall not apply.

(8) Where the work done by a solicitor constitutes a supply of services in respect of which value added tax is chargeable, there may be added to the amount of payments allowed to the solicitor an amount equal to the amount of value added tax chargeable.

### Submission of accounts

5.—(1) A claim for a fixed payment in accordance with these Regulations shall be made by submitting to the Board not later than 6 months after the date of conclusion of the proceedings in respect of which the relevant legal aid was granted, an account specifying the fixed payments which are claimed in relation to the proceedings, together with any fees and outlays which are claimed in relation to those proceedings by virtue of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989<sup>M7</sup>.

(2) The Board may accept accounts submitted later than the 6 months referred to in paragraph (1) if it considers that there is special reason for late submission.

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#### Marginal Citations

M7 S.I. 1989/1491, amended by S.I. 1991/566, 1992/374, 1994/1019, 1997/719.

### Consequential

6. In the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 at the beginning of regulation 3 (fees and outlays to which the Regulations apply) insert—

“Subject to the provisions of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999,”.

St Andrew’s House, Edinburgh  
28th February 1999

*Henry McLeish*  
Minister of State, Scottish Office

### Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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### Changes and effects yet to be applied to :

- Sch 1 Pt 1 para 9 am by S.S.I. 2002/247 regs 24
- sch 1 am by S.S.I. 2006/234 reg 3
- Sch 1 renumbered (as Sch 1, Pt 1) by S.S.I. 2001/307 regs 25
- sch. 1 substituted by S.S.I. 2019/78 sch. 15
- Sch. 1 Pt. 1 para. 2 word substituted by S.S.I. 2014/366 reg. 9(3)(b)
- Sch. 1 Pt. 1 para. 2 word substituted by S.S.I. 2014/366 reg. 9(3)(d)
- Sch. 1 Pt. 1 para. 2 words inserted by S.S.I. 2014/366 reg. 9(3)(a)
- Sch. 1 Pt. 1 para. 2 words inserted by S.S.I. 2017/466 reg. 6(4)(b)
- Sch. 1 Pt. 1 para. 2 words omitted by S.S.I. 2017/466 reg. 6(4)(a)
- Sch. 1 para. 1 words substituted by S.S.I. 2011/162 reg. 7(a)(i)
- Sch. 1 para. 1 words substituted by S.S.I. 2011/162 reg. 7(a)(ii)
- Sch. 1 para. 1 words substituted by S.S.I. 2011/162 reg. 7(a)(iii)
- Sch. 1 Pt. 1 para. 2 words substituted by S.S.I. 2014/366 reg. 9(3)(c)
- reg 2 defn(s) added by S.S.I. 2004/51 regs 23(a)
- reg 2 defn(s) added by S.S.I. 2005/93 regs 23
- reg 2 defn(s) am by S.S.I. 2001/307 regs 23
- reg 2 defn(s) am by S.S.I. 2002/442 reg 2
- reg 2 am by S.S.I. 2004/51 regs 23(b)
- reg.2 amended by S.S.I. 1999/48 reg.2(2)
- reg. 2 words inserted by S.S.I. 2022/30 reg. 7(2)(a)
- reg. 2 words inserted by S.S.I. 2022/30 reg. 7(2)(b)
- reg. 2(1) comma substituted for full stop by S.I. 2013/7 art. 17(a)
- reg. 2(1) words inserted by S.S.I. 2008/240 reg. 2(2)(a)
- reg. 2(1) words inserted by S.S.I. 2008/240 reg. 2(2)(b)
- reg. 2(1) words inserted by S.S.I. 2008/240 reg. 2(2)(c)
- reg. 2(1) words inserted by S.S.I. 2017/466 reg. 6(2)
- reg. 2(1) words inserted by S.I. 2013/7 art. 17(b)
- reg. 2(1) words substituted by S.S.I. 2014/366 reg. 4
- reg. 2(1) words substituted by S.I. 2012/1809 Sch. Pt. 3
- reg. 3(1) words inserted by S.S.I. 2008/240 reg. 2(3)(a)
- reg 4 am by S.S.I. 2001/307 regs 24
- reg 4 am by S.S.I. 2010/237 reg 3
- reg 4 am by S.S.I. 2010/312 reg 4
- reg. 4(1) words inserted by S.S.I. 2008/240 reg. 2(4)(a)
- reg. 4(3) substituted by S.S.I. 2004/263 reg. 3(a)
- reg. 4(5) words omitted by S.S.I. 2008/240 reg. 2(4)(c)
- reg. 4(6) sum substituted by S.S.I. 2019/78 reg. 7(2)
- reg. 4(6) sum substituted by S.S.I. 2021/56 reg. 7(2)(a)
- reg. 4(6) sum substituted by S.S.I. 2022/30 reg. 7(3)(a)
- reg. 4(7) substituted by S.S.I. 2004/263 reg. 3(b)
- reg. 5(1) words inserted by S.S.I. 2008/240 reg. 2(5)(a)(ii)
- reg. 5(1) words inserted by S.S.I. 2008/240 reg. 2(5)(a)(iii)
- reg. 5(1) words substituted by S.S.I. 2008/240 reg. 2(5)(a)(i)
- reg. 5(2) words substituted by S.S.I. 2008/240 reg. 2(5)(b)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch 1 Pt 2 added by S.S.I. 2001/307 2, 5
- Sch 1 Pt I paras 4A4B added by S.S.I. 2005/93 regs 24
- Sch. 1 para. 10ZA inserted by S.S.I. 2011/162 reg. 7(c)
- Sch 1 Pt I subst by S.S.I. 2004/126 regs 23 Schedule
- Sch 1 Pt I subst by S.S.I. 2004/51 regs 24 Schedule
- Sch. 1 Pt. 1 substituted by S.S.I. 2004/263 Sch. 1
- Sch. 1 Pt. 1 word substituted by S.S.I. 2008/240 reg. 2(6)(c)(i)
- Sch. 1 Pt. 1 word substituted by S.S.I. 2008/240 reg. 2(6)(c)(ii)
- Sch. 1 Pt. 1 word substituted by S.S.I. 2008/240 reg. 2(6)(d)(i)
- Sch. 1 Pt. 1 word substituted by S.S.I. 2008/240 reg. 2(6)(d)(ii)
- Sch. 1 Pt. 1 para. 10ZA words inserted by S.S.I. 2014/366 reg. 9(4)
- Sch. 1 para. 10 words substituted by S.S.I. 2011/162 reg. 7(b)
- Sch. 1 Pt. 1 words substituted by S.S.I. 2014/366 reg. 9(2)(a)
- Sch. 1 Pt. 1 words substituted by S.S.I. 2014/366 reg. 9(2)(b)
- Sch. 1 Pt. 1 para. 10AA inserted by S.S.I. 2008/240 reg. 2(8)
- Sch. 1 Pt. 1 para. 2 substituted by S.S.I. 2008/240 reg. 2(7)
- sch. 1 Pt. 1 substituted by S.S.I. 2021/56 sch. 15 Pt. 1
- sch. 1 Pt. 1 substituted by S.S.I. 2022/30 sch. 15 Pt. 1
- Sch. 1 Pt. 1 Table substituted by S.S.I. 2023/135 Sch. 12
- Sch. 1 Pt. 1 para. 1 word omitted by S.S.I. 2008/240 reg. 2(6)(a)(i)
- Sch. 1 Pt. 1 para. 1 word substituted by S.S.I. 2008/240 reg. 2(6)(b)(i)
- Sch. 1 Pt. 1 para. 1 word substituted by S.S.I. 2008/240 reg. 2(6)(b)(ii)
- Sch. 1 Pt. 1 para. 6 words inserted by S.S.I. 2003/249 reg. 4(2)
- Sch. 1 Pt. 1 para. 1 words inserted by S.S.I. 2008/240 reg. 2(6)(a)(ii)
- sch. 1 Pt. 2 substituted by S.S.I. 2021/56 sch. 15 Pt. 2
- sch. 1 Pt. 2 substituted by S.S.I. 2022/30 sch. 15 Pt. 2
- schs 1A1B rev in pt and am by S.S.I. 2010/237 reg 3
- Sch. 1A inserted by S.S.I. 2008/240 reg. 2(10)(a)Sch.
- schs 1A1B mod by S.S.I. 2010/267 reg 2
- sch. 1A substituted by S.S.I. 2019/78 sch. 16
- sch. 1A substituted by S.S.I. 2021/56 sch. 16
- sch. 1A substituted by S.S.I. 2022/30 sch. 16
- Sch. 1A Table substituted by S.S.I. 2023/135 Sch. 13
- Sch. 1A para. 2 word substituted by S.S.I. 2014/366 reg. 10(3)(c)
- Sch. 1A para. 2 words inserted by S.S.I. 2014/366 reg. 10(3)(a)
- Sch. 1A Pt. 1 para. 2 words inserted by S.S.I. 2017/466 reg. 6(5)(b)
- Sch. 1A Pt. 1 para. 2 words omitted by S.S.I. 2017/466 reg. 6(5)(a)
- Sch. 1A para. 1 words substituted by S.S.I. 2011/162 reg. 8(a)
- Sch. 1A para. 1 words substituted by S.S.I. 2011/162 reg. 8(b)
- Sch. 1A words substituted by S.S.I. 2014/366 reg. 10(2)
- Sch. 1A para. 2 words substituted by S.S.I. 2014/366 reg. 10(3)(b)
- Sch. 1B inserted by S.S.I. 2008/240 reg. 2(10)(b)Sch.
- Sch. 1B para. 8A inserted by S.S.I. 2011/162 reg. 9(c)
- sch. 1B substituted by S.S.I. 2019/78 sch. 17
- Sch. 1B Pt. 1 para. 1 words inserted by S.S.I. 2014/366 reg. 11(3)
- Sch. 1B Pt. 1 para. 2(c) words inserted by S.S.I. 2014/366 reg. 11(4)
- Sch. 1B Pt. 1 para. 3 words inserted by S.S.I. 2014/366 reg. 11(5)(a)
- Sch. 1B Pt. 1 para. 8A words inserted by S.S.I. 2014/366 reg. 11(7)
- Sch. 1B Pt. 1 para. 3 words inserted by S.S.I. 2017/466 reg. 6(6)(b)
- Sch. 1B Pt. 1 para. 4-7 words omitted by S.S.I. 2014/366 reg. 11(6)
- Sch. 1B Pt. 1 para. 12 words omitted by S.S.I. 2014/366 reg. 11(6)
- Sch. 1B Pt. 1 para. 13 words omitted by S.S.I. 2014/366 reg. 11(6)
- Sch. 1B Pt. 1 para. 3 words omitted by S.S.I. 2017/466 reg. 6(6)(a)
- Sch. 1B Pt. 1 words substituted by S.S.I. 2011/162 reg. 9(a)
- Sch. 1B Pt. 1 words substituted by S.S.I. 2011/162 reg. 9(b)

- Sch. 1B Pt. 1 words substituted by S.S.I. 2014/366 reg. 11(2)
- Sch. 1B Pt. 1 para. 3 words substituted by S.S.I. 2014/366 reg. 11(5)(b)
- sch. 1B Pt. 1 substituted by S.S.I. 2021/56 sch. 17 Pt. 1
- sch. 1B Pt. 1 substituted by S.S.I. 2022/30 sch. 17 Pt. 1
- Sch. 1B Pt. 1 Table substituted by S.S.I. 2023/135 Sch. 14 Pt. 1
- sch. 1B Pt. 2 substituted by S.S.I. 2021/56 sch. 17 Pt. 2
- sch. 1B Pt. 2 substituted by S.S.I. 2022/30 sch. 17 Pt. 2
- Sch. 1B Pt. 2 Table substituted by S.S.I. 2023/135 Sch. 14 Pt. 2
- Sch.2 rev.inpt. and amended by S.S.I. 1999/48 reg.2(3)
- reg. 2(1)(h) inserted by S.I. 1999/1820 Sch. 2 para. 168
- reg. 3(3) added by S.S.I. 2008/240 reg. 2(3)(b)
- reg. 4(1A)-(1D) inserted by S.S.I. 2008/240 reg. 2(4)(b)
- reg. 4(1A)(a) words omitted by S.S.I. 2023/135 reg. 8(2)(a)(i)
- reg. 4(1A)(a) words omitted by S.S.I. 2023/135 reg. 8(2)(a)(ii)
- reg. 4(1A)(b) words omitted by S.S.I. 2023/135 reg. 8(2)(a)(ii)
- reg. 4(1D) words omitted by S.S.I. 2023/135 reg. 8(2)(b)
- reg. 4(3)(b) substituted by S.S.I. 2011/162 reg. 4
- reg. 4(3)(b) substituted by S.S.I. 2014/366 reg. 5
- reg. 4(3)(b) words inserted by S.S.I. 2017/466 reg. 6(3)(b)
- reg. 4(3)(b) words omitted by S.S.I. 2017/466 reg. 6(3)(a)
- reg. 4(4)-(6ZA) omitted by S.S.I. 2023/135 reg. 8(2)(c)
- reg. 4(5A)(b) substituted by S.S.I. 2014/366 reg. 6
- reg. 4(5B) substituted by S.S.I. 2014/366 reg. 7
- reg. 4(5B) words substituted by S.S.I. 2020/191 reg. 5(2)
- reg. 4(5C)(5D) inserted by S.S.I. 2020/191 reg. 5(3)
- reg. 4(5C) words omitted by S.S.I. 2022/229 reg. 5(a)
- reg. 4(5D) omitted by S.S.I. 2022/229 reg. 5(b)
- reg. 4(6A)-(6C) revoked by S.S.I. 2011/333 reg. 3
- reg. 4(6ZA) inserted by S.S.I. 2011/162 reg. 6
- reg. 4(6ZA) sum substituted by S.S.I. 2019/78 reg. 7(2)
- reg. 4(6ZA) sum substituted by S.S.I. 2021/56 reg. 7(2)(a)
- reg. 4(6ZA) sum substituted by S.S.I. 2022/30 reg. 7(3)(a)
- reg. 4(7)(a) words inserted by S.S.I. 2008/240 reg. 2(4)(d)(i)
- reg. 4(7)(b) words inserted by S.S.I. 2008/240 reg. 2(4)(d)(ii)
- reg. 4(7)(c) and word added by S.S.I. 2008/240 reg. 2(4)(d)(iii)
- reg. 4(7A)-(7B) inserted by S.S.I. 2008/240 reg. 2(4)(e)
- reg. 4(9) words inserted by S.S.I. 2008/240 reg. 2(4)(f)
- reg. 4(9)(b) sum substituted by S.S.I. 2021/56 reg. 7(2)(b)
- reg. 4(9)(b) sum substituted by S.S.I. 2022/30 reg. 7(3)(b)
- reg. 4(10) inserted by S.S.I. 2008/240 reg. 2(4)(g)
- reg 4A added by S.S.I. 2002/247 regs 23
- reg. 4A(1) words inserted by S.S.I. 2013/92 reg. 2(2)(a)
- reg. 4A(1) words inserted by S.S.I. 2014/366 reg. 8
- reg. 4A(1) words substituted by S.S.I. 2013/92 reg. 2(2)(b)
- reg. 4A(5) words inserted by S.S.I. 2013/92 reg. 2(3)
- reg. 4A(5)(a)(i) words inserted by S.S.I. 2011/161 reg. 6(a)
- reg. 4A(6)(a) omitted by S.S.I. 2011/161 reg. 6(b)
- reg. 4A(10)(11) inserted by S.S.I. 2013/92 reg. 2(4)
- reg. 5A inserted by S.S.I. 2011/162 reg. 5
- reg. 10A omitted by S.S.I. 2008/240 reg. 2(9)