

Draft Regulations laid before the Scottish Parliament under section 37(2) of the Legal Aid (Scotland) Act 1986, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2015 No.

LEGAL AID AND ADVICE

**The Legal Aid and Advice and Assistance (Miscellaneous
Amendments) (Scotland) Regulations 2015**

<i>Made</i>	-	-	-	-	2015
					<i>22nd September</i>
<i>Coming into force</i>	-	-			2015

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 9, 33(2), (3) and (3A) and 36(2)(c) of the Legal Aid (Scotland) Act 1986⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 37(2) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Scotland) Regulations 2015 and come into force on 22nd September 2015.

Amendment of the Civil Legal Aid (Scotland) (Fees) Regulations 1989

2.—(1) The Civil Legal Aid (Scotland) (Fees) Regulations 1989⁽²⁾ are amended as follows.

(2) In Schedule 4, Table of Fees A⁽³⁾ (fees of counsel for proceedings in the Court of Session)—

(a) in Chapter 3 (petitions for judicial review) of Part 1 (junior counsel)—

(i) in paragraph 2 of the table, for “Motion for first orders” substitute “Oral hearing at permission stage or procedural hearing”; and

(1) 1986 c.47; section 33(2) was amended by the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), section 67. Section 33(3A) was inserted by the Crime and Punishment (Scotland) Act 1997 (c.48), section 51. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (c.46), section 53. The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(2) S.I. 1989/1490; relevant amending instruments are S.S.I. 2003/178, S.S.I. 2004/281, S.S.I. 2007/14, S.S.I. 2009/203, S.S.I. 2011/160 and 2013/144.

(3) Table of Fees A was substituted by S.S.I. 2011/160.

- (ii) in paragraph 3 of the table, for “First or second hearing” substitute “Substantive hearing”.
- (b) in Chapter 6 (ordinary actions) of Part 1 (junior counsel), after paragraph 9 of the table insert—

“9A. *Any other hearing where no other fee is specified*

- (a) where the hearing does not exceed 30 minutes £60.00
 - (b) where the hearing exceeds 30 minutes, for each subsequent half hour or part thereof £50.00”.
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- (3) In Schedule 4, Table of Fees B(4) (fees of counsel for proceedings in the sheriff court), in Part 1 (junior counsel), after paragraph 16 of the table insert—

“17. *Any other hearing where no other fee is specified*

Attendance for up to half hour, and for each subsequent half hour or part thereof £55.00”.

- (4) In Schedule 7(5) (sheriff court proceedings for which fees for work done shall only be payable under Schedule 5), at the appropriate place insert—

“proceedings in an all-Scotland sheriff court within the meaning of section 42(7) of the Courts Reform (Scotland) Act 2014(6);”.

- (5) The amendments made by paragraph (2)(a) do not apply in the case of petitions for judicial review lodged before 22nd September 2015.

Amendment of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989

- 3.—(1) The Criminal Legal Aid (Scotland) (Fees) Regulations 1989(7) are amended as follows.

- (2) In regulation 11(1)(a), after “appeals,” insert “or the Sheriff Appeal Court,”.

- (3) In paragraph 8 (interpretation) of Schedule 1(8), in the definition of “court”, after “Justiciary,” insert “the Sheriff Appeal Court,”.

- (4) In Schedule 2(9) (fees of counsel)—

- (a) in the notes on the operation of the Schedule—

- (i) in the heading before paragraph 4, omit the words “in the High Court of Justiciary”;
- (ii) in paragraph 6, for “6(a), (b) or (c)” substitute “6(a), (b), (c), (ca) or (cb)”;

- (b) in Chapter 1 of Part II (fees of junior counsel in appeal proceedings), in paragraph 5 of the table (appeals in relation to bail or interim liberation)—

- (i) in sub-paragraph (a), for “except (b)” substitute “except (ab) or (b)”;
- (ii) after sub-paragraph (a) insert—

(4) Table of Fees B was substituted by [S.S.I. 2011/160](#).

(5) Schedule 7 was inserted by [S.S.I. 2003/178](#) and amended by [S.S.I. 2004/281](#), [S.S.I. 2007/14](#), [S.S.I. 2009/203](#), and [S.S.I. 2013/144](#).

(6) [2014 asp 18](#).

(7) [S.I. 1989/1491](#); relevant amending instruments are [S.S.I. 2004/264](#), [S.S.I. 2005/113](#), [S.S.I. 2010/63](#) and [S.S.I. 2011/135](#).

(8) Schedule 1 was substituted by [S.S.I. 2004/264](#).

(9) Schedule 2 was substituted by [S.S.I. 2005/113](#); paragraph 4 to 11B and Chapters 1 and 2 of Part II were substituted by [S.S.I. 2010/63](#).