SCOTTISH STATUTORY INSTRUMENTS

2003 No. 178

LEGAL AID AND ADVICE

The Civil Legal Aid (Scotland) (Fees) Amendment Regulations 2003

Made - - - -	*11th March 2003*
Laid before the Scottish Parliament - - - -	*11th March 2003*
Coming into force - -	*1st October 2003*

The Scottish Ministers, in exercise of the powers conferred 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 them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Civil Legal Aid (Scotland) (Fees) Amendment Regulations 2003 and shall come into force on 1st October 2003.

Application

2. These Regulations shall apply only to fees for work done and outlays incurred in relation to any case where civil legal aid is granted on or after 1st October 2003, except regulation 4, which shall apply to fees for work done and outlays incurred on or after 1st October 2003.

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

3. The Civil Legal Aid (Scotland) (Fees) Regulations 1989(**2**) are amended in accordance with the following regulations.

4. In regulation 4, for the words from "a solicitor" to the end substitute–

> "a solicitor shall be allowed such amount of fees and outlays as shall be determined by the Board to be reasonable remuneration for work actually, necessarily and reasonably done and outlays actually, necessarily and reasonably incurred, for conducting the proceedings in a proper manner, as between solicitor and client, third party paying".

(**1**) 1986 c. 47. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) S.I.1989/1490, amended by S.I. 1990/473, 1991/565, 1994/1015 and 1233, 1995/1044, 1997/689 and 1999/1042 and S.S.I. 2002/496.

5. For regulation 5(1) and (2) substitute –

"(1) A solicitor's fees in relation to proceedings in the Court of Session shall be calculated in accordance with Schedule 5.

(2) A solicitor's fees in relation to proceedings in the sheriff court–

(a) shall, subject to sub-paragraphs (b) and (c), be calculated in accordance with chapters I and II of Schedule 6;

(b) which are listed in Schedule 7 shall be calculated in accordance with Schedule 5; and

(c) which consist of a summary cause or executry business shall be calculated in accordance with chapter III or IV respectively of Schedule 2.

(2A) For the purpose of calculating the fees set out in Schedule 6, a unit has the value of £19.

(2B) Where a solicitor does work which comes within chapter I of Schedule 6 (undefended cases) and, in the same case, does work which comes within chapter II of that Schedule (defended cases) the fee for all work in that case shall be calculated on the basis of the fees set out in chapter II of that Schedule.

(2C) Subject to paragraph (2D), the Board may at its discretion allow a fee additional to the fees prescribed in chapter II of Schedule 6 where it is satisfied that any of the circumstances prescribed in chapter III of that Schedule exist, and have a significant effect on the conduct of the case.

(2D) The additional fee allowable in accordance with paragraph (2C) shall be 10 per cent of the fee authorised by chapter II of Schedule 6 in respect of each of the circumstances specified in chapter III of that Schedule, up to a maximum in any case of 40 per cent of that fee.

(2E) Fees for sequestration in bankruptcy (other than summary sequestrations) or proceedings under the Children (Scotland) Act 1995(**3**) shall be chargeable only on the basis of Schedule 3 and fees for summary sequestrations shall be chargeable only on the basis of 80 per cent of the fees in that Schedule.".

6. In regulation 5(3), for "Schedule 3" substitute "Schedule 5".

7. In regulation 5(4)–

(a) for "Schedules 1 or 3" substitute "Schedule 5 and not exceeding 50 per cent of those fees"; and

(b) omit "in a cause on the Ordinary Roll, not exceeding 50 per cent, and".

8. In regulation 5(6), for "Schedules 1 or 2" substitute "Schedules 1, 2 or 6".

9. In regulation 6, for "Schedule 3" substitute "Schedule 5 or 6".

10.—(1) Subject to paragraph (2), regulation 11 is amended as follows:–

(a) for paragraph (2) substitute–

"(2) When assessing the fee payable to a solicitor in respect of legal aid the Board may have regard to any payment, or payments, made to account under advice and assistance in relation to the same matter and, where the work in respect of which such payment, or payments, is made might reasonably have been carried out under legal aid, it may reduce the amount of the fee payable accordingly."; and

(b) omit paragraphs (3) and (4).

(**3**) 1995 c. 36.

(2) Regulation 11 is amended by paragraph (1) only insofar as it relates to payments to solicitors.

11. At the end insert the Schedules set out in the Schedule to these Regulations.

St Andrew's House, Edinburgh
11th March 2003

HUGH HENRY
Authorised to sign by the Scottish Ministers

SCHEDULE Regulation 11

NEW TABLES OF FEES TO BE INSERTED INTO THE LEGAL AID (SCOTLAND) (FEES) REGULATIONS 1989

"SCHEDULE 5 Regulations 5 and 6

TABLE OF DETAILED FEES CHARGEABLE BY SOLICITORS FOR PROCEEDINGS IN THE COURT OF SESSION, PROCEEDINGS LISTED AT REGULATION 5(3) AND PROCEEDINGS IN THE SHERIFF COURT LISTED IN SCHEDULE 7

1.	The fee for–	
	(a) Any time to the first half hour spent by a solicitor conducting a proof or hearing	£34.00
	(b) Each quarter hour (or part thereof) subsequent to the first half hour	£17.00
2.	The fee for–	
	(a) Each quarter hour (or part thereof) spent by a solicitor in carrying out work other than that prescribed in paragraphs 1 and 3 to 6 hereof, provided that any time is additional to the total time charged for under paragraph 1 above	£13.15
	(b) Each quarter hour (or part thereof) spent by a solicitor's clerk in carrying out work other than that prescribed in paragraphs 3 to 6 hereof	£6.50
3.	The fee for–	
	Framing affidavits – per sheet (or part thereof)	£11.15
4.	The fee for–	

	(a) Framing and drawing all necessary papers, other than affidavits or papers of a formal character	
	(b) Each citation of a party, witness or haver including execution thereof	
	(c) Instructing messengers-at-arms and sheriff officers, including examining execution and settling fee	
	(d) Agency accepting service of any writ	
	(e) Lodging first step of process	
	(f) Lengthy telephone calls (of over 4 minutes and up to 10 minutes duration)	
	(g) Letters, including instructions to counsel – per page (or part thereof), subject to paragraph 5(f) below	
	(h) Perusing any document (other than a letter) consisting of not more than 12 sheets – for the first 2 sheets and each 2 sheets thereafter–	
	Note: Where the document perused consists of more than 12 sheets the fee for perusing the whole document shall be charged in accordance with paragraph 2 above	
	in each of sub paragraphs (a)-(h).	£7.50
5.	The fee for–	