SCOTTISH STATUTORY INSTRUMENTS

2002 No. 496

LEGAL AID AND ADVICE

The Civil Legal Aid (Scotland) (Fees) Amendment Regulations 2002

Made - - - -	*6th November 2002*
Laid before the Scottish Parliament - - - -	*7th November 2002*
Coming into force - -	*1st December 2002*

The Scottish Ministers, in exercise of the powers conferred by section 33(2)(a) and (3) 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 2002 and shall come into force on 1st December 2002.

Commencement Information

I1 Reg. 1 in force at 1.12.2002, see **reg. 1**

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

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

3. In regulation 2(1) (interpretation), in the definition of "auditor" omit ", Restrictive Practices Court".

4. For regulation 3(2) there is substituted–

> "(2) Subject to paragraphs (3)(b), (4) and (5), solicitors shall be paid fees and outlays, and counsel shall be paid fees, in accordance with regulations 4 to 12 of, and the Schedules to, these Regulations.

(**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.

(3) Where fees and outlays are recovered by virtue of an award of expenses in favour of a person who has received legal aid or of an agreement as to expenses in favour of such a person–

(a) accounts of such fees and outlays, where they are taxed, shall be taxed as if the work done for that person were not legal aid; and

(b) the Board may, subject to paragraphs (4) and (5), instead of making payment in accordance with paragraph (2), pay to the solicitor (and counsel as the case may be) who acted for that person, the amount of any fees and outlays so recovered.

(4) The Board shall only make payment in accordance with paragraph (3)(b) where–

(a) it receives a request for such payment from the solicitor who, at the conclusion of the proceedings, was acting for the person in receipt of legal aid; and

(b) that solicitor has consulted with any counsel who was acting for that person at the conclusion of the proceedings regarding that request.

(5) The Board shall deduct from the sum payable in accordance with paragraph (3)(b) the amount of any payment made, or due to be made, by it to the solicitor or counsel referred to in paragraph (4), or to any other solicitor or counsel who previously acted for that person, in respect of those proceedings.".

5. In regulation 5(3) (fees and outlays allowable to solicitors)–

(a) omit "Restrictive Practices Court,"; and

(b) after "Lands Tribunal for Scotland" insert ", or before the Child Support Commissioners or the Social Security Commissioners,".

6. In regulation 10(2) (fees allowable to counsel in certain proceedings)–

(a) omit "Restrictive Practices Court"; and

(b) after "Lands Tribunal for Scotland" insert ", or before the Child Support Commissioners or the Social Security Commissioners,".

Commencement Information

I2 Reg. 2 in force at 1.12.2002, see **reg. 1**

I3 Reg. 3 in force at 1.12.2002, see **reg. 1**

I4 Reg. 4 in force at 1.12.2002, see **reg. 1**

I5 Reg. 5 in force at 1.12.2002, see **reg. 1**

I6 Reg. 6 in force at 1.12.2002, see **reg. 1**

St Andrew's House,
Edinburgh
6th November 2002

R J SIMPSON
Authorised to sign by the Scottish Ministers