
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 240

The Criminal Legal Assistance (Fees and Information etc.) (Scotland) Regulations 2008

Fees etc.

Advice and assistance

3.—(1) The Advice and Assistance (Scotland) Regulations 1996 are amended as follows.

(2) After regulation 8B insert—

“Information to be recorded in criminal matters

8C. Where advice and assistance is given in relation to a criminal matter, the solicitor must record—

- (a) whether the matter is one as regards which—
 - (i) a complaint has been served;
 - (ii) a fixed penalty, compensation or work offer has been made under section 302, 302A or 303ZA of the Criminal Procedure (Scotland) Act 1995;
 - (iii) liability for another non-court penalty has arisen;
- (b) if not such a matter, a note of the details of the event to which the advice and assistance relates;
- (c) a summary of the nature and content of the advice and assistance;
- (d) any relevant case or other reference number.”.

(3) In regulation 13 (giving of advice and assistance on the same matter)—

- (a) in paragraph (3), after “allowable” insert “in relation to a civil matter”;
- (b) after paragraph (5) add—

“(6) A client is not to be given advice and assistance by the same solicitor in relation to the same criminal matter (whether or not at the relevant time the subject of proceedings) more than once without the prior approval of the Board.

(7) The Board may (on an application for the purpose of paragraph (6) above)—

- (a) refuse to give its approval; or
- (b) give its approval unconditionally or on such conditions as it may impose.”.

(4) After regulation 14 insert—

“Change of solicitor etc.

14A.—(1) Where the solicitor who is providing assistance by way of representation in relation to a summary criminal matter has been required by the client to cease to act (other than where paragraph (2) below applies), the solicitor is to—

- (a) notify the Board of that fact; and
 - (b) provide it with a statement of the circumstances so far as known to the solicitor.
- (2) Where a client who is being provided assistance by way of representation in relation to a summary criminal matter wishes to have it provided by a different solicitor, the client is to—
 - (a) apply to the Board for authority to have that solicitor provide the assistance; and
 - (b) inform it of any reason for the application.
- (3) The Board may grant an application under paragraph (2) above if it is satisfied that there is a good reason for the application.”.
- (5) In regulation 15A(1) (supply of information by clients), after “assistance” insert “in relation to a civil matter”.
- (6) In regulation 17 (fees and outlays of solicitor), after paragraph (2) add—
 - “(3) In the application of paragraph (1) above so far as concerning assistance by way of representation in relation to a summary criminal matter, there is to be taken into account time necessarily spent in travelling to and from the relevant court (other than one in the town or other place where the solicitor has a place of business) or any other place visited for the purpose of preparing or conducting the defence.
 - (4) Paragraph (3) above does not apply if it would have been more economical to use a local solicitor (where that would have been reasonable in the interests of the client).
 - (5) This regulation (so far as concerning criminal matters) is subject to the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999.”.
- (7) In Schedule 2 (assessment of disposable capital and disposable income)—
 - (a) in paragraph 2, after “Schedule” in the first place where it occurs there is inserted “in relation to a civil matter”;
 - (b) after paragraph 2 insert—
 - “**2A.**—(1) Any question arising under this Schedule in relation to a criminal matter is to be decided by the solicitor in accordance with paragraphs (2) and (3) below.
 - (2) The solicitor must, for the purpose of ascertaining the capital and income of the person concerned—
 - (a) so far as necessary and practicable, obtain from that person financial or other documentation; and
 - (b) take such other reasonable steps as are necessary.
 - (3) The solicitor must have regard to any guidance issued by the Board regarding the application of this Schedule.”.
- (8) In Part 1 of Schedule 3 (table of fees allowable to solicitors)—
 - (a) omit paragraph 1(a) and the corresponding entries “£70.00” and “£44.40”;
 - (b) in paragraph 1(b), for “(a) above” substitute “Schedule 1B to the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999”.
- (9) In Part 2 of Schedule 3—
 - (a) in paragraph 1, for “Subject to paragraph 2 of this Part, the” substitute “The”;
 - (b) in entries A to E of paragraph 1, in the column which specifies sums for criminal matters—
 - (i) for “£10.55” in the first place where it occurs substitute “£11.60”;
 - (ii) for “£5.25” substitute “£5.77”;
 - (iii) for “£2.40” substitute “£2.64”;

- (iv) for “£6.00” substitute “£6.60”;
 - (v) for “£21.05” in the first place where it occurs substitute “£23.15”;
 - (vi) for “£21.05” in the second place where it occurs substitute “£23.15”;
 - (vii) for “£10.55” in the second place where it occurs substitute “£11.60”;
 - (viii) in entry E, for “8 pence” substitute “9 pence” and for “copies” substitute “copied”;
- (c) omit paragraph 2.