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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 212**

**The Criminal Legal Aid (Scotland) (Fees)  
Amendment (No. 2) Regulations 2010**

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

**4.—**(1) The Criminal Legal Aid (Scotland) (Fees) Regulations 1989 are amended in accordance with paragraphs (2) to (6).

(2) For regulation 5, substitute—

“**5.—**(1) For attending an identification parade to which section 21(4)(b) of the 1986 Act<sup>(1)</sup> applies, a solicitor shall be allowed a fee at the following rates:—

- (a) where paragraph (2) applies—
  - (i) £114.00 for the first hour; and
  - (ii) £12.67 for each subsequent quarter of an hour; or
- (b) where paragraph (2) does not apply—
  - (i) £93.80 for the first hour; and
  - (ii) £11.82 for each subsequent quarter of an hour.

(2) This paragraph applies where a solicitor represents an accused person at an identification parade in connection with or in contemplation of solemn criminal proceedings if—

- (a) when the identification parade is held, criminal legal aid has been made available in respect of those proceedings and the solicitor is the nominated solicitor; or
- (b) after the identification parade has been held, criminal legal aid is made available in respect of those proceedings and the solicitor becomes the nominated solicitor.

(3) In paragraphs (1) and (2) “a solicitor” means the duty solicitor or, where criminal legal aid may be provided by a solicitor other than the duty solicitor, the nominated solicitor.

(4) For the purposes of paragraph (1), where attendance at an identification parade is required on more than one occasion each occasion is a separate identification parade.

(5) Subject to paragraph (6), the duty solicitor shall be allowed in respect of representing an accused person at a judicial examination (whether a first examination or a further examination) to which sections 35 to 39 of the Criminal Procedure (Scotland) Act 1995<sup>(2)</sup> apply—

- (a) fees in accordance with the rates specified in regulation 6(1); and
- (b) fees in respect of any necessary waiting time or any other necessary work relating to the judicial examination, determined in accordance with regulation 7.

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(1) Section 21(4)(b) of the 1986 Act (meaning the Legal Aid (Scotland) Act 1986) was amended by paragraph 63(2) of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40).

(2) 1995 c.40.

- (6) No fee shall be allowed under paragraph (5) if the duty solicitor goes on to become the accused person's nominated solicitor in respect of the same proceedings and entitled to a fee in accordance with paragraph 1 of Part 2 of the Table of Fees set out in Schedule 1."
- (3) In regulation 7, omit—
- (a) in paragraph (1) "and paragraph (2) of this regulation,"; and
  - (b) paragraph (2).
- (4) For regulation 8(1)(a) substitute—
- "(a) travelling expenses actually and reasonably incurred by himself or his clerk in connection with travel for which a fee for travelling time is chargeable and, in calculating the travelling expenses due, paragraph 5(4) of the notes on the operation of Schedule 1 applies to those expenses as it applies to the fee for travelling time;"
- (5) After regulation 10 insert—

**"Work actually and reasonably done**

- 10A.** In determining whether work has been actually and reasonably done for the purposes of these Regulations the Board, or as the case may be the auditor, is to deem solicitors and counsel to be as up to date with the substantive and procedural law of the field in which they practise as a competent solicitor or counsel practising in that field."
- (6) For Schedule 1(3) substitute the Schedule to these Regulations.