

1988 No. 1109 (S.111)

LEGAL AID AND ADVICE, SCOTLAND

**The Criminal Legal Aid (Scotland) (Fees) Amendment
(No.2) Regulations 1988**

<i>Made</i> - - - -	<i>24th June 1988</i>
<i>Laid before Parliament</i>	<i>11th July 1988</i>
<i>Coming into force</i>	<i>1st August 1988</i>

The Secretary of State, in exercise of the powers conferred upon him by section 33 of the Legal Aid (Scotland) Act 1986(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Criminal Legal Aid (Scotland) (Fees) Amendment (No.2) Regulations 1988 and shall come into force on 1st August 1988.

(2) In these Regulations “the principal Regulations” means the Criminal Legal Aid (Scotland) (Fees) Regulations 1987(b).

Amendment of principal Regulations

2. In each of regulation 4A(1) and (2) delete the words “3 months” and insert the words “6 months”.

3. In regulation 6 of the principal Regulations—

(a) in paragraph (2), after the words “additional fee” where they appear for the second time, there shall be inserted the words “calculated on the basis of the fees set out in Schedule 1”; and

(b) the following paragraph shall be added after paragraph (2):—

“(3) There shall be allowed to the duty solicitor making, for an accused person in the sheriff or district court, a preliminary plea to the competency or relevancy of the petition or complaint, or conducting any plea in bar of trial or any mental health proof, an additional fee to be calculated on the basis of the fees set out in Schedule 1, the amount of such additional fee to be such sum not exceeding £81.55 as shall form reasonable remuneration having regard to the additional work and time involved.”.

4. In paragraph (3)(a) of regulation 11 of the principal Regulations for the fees of £19.80, £7.65, £4.35 and £1.75 there shall be substituted the fees of £20.50, £7.90, £4.50 and £1.80 respectively.

5. In the provisions of the principal Regulations listed in column 1 of Schedule 1 to these Regulations, for the amounts of the fees specified in those provisions and set out opposite

(a) 1986 c.47.

(b) S.I. 1987/365, the relevant amending instrument is S.I. 1987/1358.

in column 2 of Schedule 1, there shall be substituted the amounts specified opposite in column 3 of that Schedule.

6. For Schedule 1 to the principal Regulations there shall be substituted the Schedule set out in Schedule 2 to these Regulations.

7. The amendments to the principal Regulations made by regulations 2 to 6 of these Regulations shall apply only to accounts, fees and outlays in respect of proceedings concluded on or after 1st August 1988.

St. Andrew's House, Edinburgh
24th June 1988

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

SCHEDULE 1

Regulation 5

1 <i>(Provision of the principal Regulations)</i>	2 <i>(Old fee)</i>	3 <i>(New fee)</i>
	£	£
5(1)	60.60	62.70
	14.75	15.25
6(1)(a)	32.15	33.30
	4.35	4.50
	69.60	72.05
6(1)(b)	32.15	33.30
	4.35	4.50
	46.75	48.40
6(2)	78.80	81.55
7	52.15	54.00
	400.00	414.00
	128.50	133.00
8(1)	65.50	67.80
	657.00	680.00
8(2)(a)	187.90	195.00
8(2)(b)	128.50	130.00
9(1)	81.85	84.70
	1284.95	1330.00
9(2)	128.50	133.00
10(1)	65.50	67.80
	657.00	680.00
10(2)	128.50	133.00

NEW SCHEDULE 1 TO BE SUBSTITUTED IN PRINCIPAL REGULATIONS

"SCHEDULE 1

Regulations 6 and 11(3)

DESCRIPTION OF WORK AND FEES FOR CALCULATING
REMUNERATION OF SOLICITORS IN THE HIGH, SHERIFF AND
DISTRICT COURTS

1. The fee for—

- (a) any time up to the first half hour spent by a solicitor conducting a trial in court or conducting an other hearing shall be £20.50;
- (b) each quarter hour subsequent to the first half hour spent in so conducting a trial or other hearing shall be £10.25.

2. The fee for—

- (a) each quarter hour spent by a solicitor in performing work other than that prescribed in paragraphs 1, 3 and 4, provided that any time is additional to the total time charged for under paragraph 1 above, shall be £7.90.

The work referred to in this sub-paragraph other than prescribed in paragraphs 1, 3 and 4 shall include attending with clients and others, taking precognitions, perusing documents, telephone calls of over 10 minutes duration, preparing for trial and attending court in all circumstances;

- (b) each quarter hour spent by a solicitor's clerk in performing the work prescribed in sub-paragraph (a) shall be one half of the solicitor's fee.

3. The fee for—

- (a) each citation of a witness including execution thereof;
- (b) framing and drawing precognitions and other necessary papers, subject to paragraph 4(c) – per sheet;
- (c) instructing messengers-at-arms and sheriff officers, including examining execution and settling fee;
- (d) telephone calls other than formal (of up to 10 minutes duration); and
- (e) letters, including instructions to counsel – each page of 125 words, subject to paragraph 4(b) and (e);

shall be £4.50.

4. The fee for—

- (a) attendance at court offices for performance of formal work including each necessary lodging in or uplifting from court or each necessary enquiry for documents due to be lodged;
- (b) formal letters and intimations;
- (c) framing formal documents, including inventories and title pages – per sheet;
- (d) revising papers drawn by counsel or where revisal ordered by court – per 5 sheets or part thereof; and
- (e) formal telephone calls and letters confirming telephone calls;

shall be £1.80.

Interpretation

5. In this Schedule—

“court” means the High Court, the sheriff court or the district court as the case may be; and a “sheet” shall consist of 250 words or numbers.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Criminal Legal Aid (Scotland) (Fees) Regulations 1987 ("the principal Regulations"), principally so as to increase the fees allowable to solicitors for criminal legal aid by around 3½% (regulations 4, 5 and 6).

They also amend the requirement on a solicitor to submit accounts to the Scottish Legal Aid Board within a given time of the date of conclusion of the proceedings in respect of which legal aid was granted, by increasing the time limit from 3 months to 6 months (regulation 2). They confirm for the avoidance of doubt that the duty solicitor may undertake specified preliminary pleas and pleas in bar of trial including mental health proofs (regulation 3).

The amendments are to take effect for proceedings concluded on or after 1st August 1988 (regulation 7).

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