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SCOTTISH STATUTORY INSTRUMENTS

2010 No. 267

LEGAL AID AND ADVICE

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

<i>Made</i>	- - - -	<i>24th June 2010</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>25th June 2010</i>
<i>Coming into force</i>	- -	<i>4th July 2010</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 33(3A) and (3AA) of the Legal Aid (Scotland) Act 1986(1) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Criminal Legal Aid (Fixed Payments) (Scotland) Amendment (No. 2) Regulations 2010 and come into force on 4th July 2010.

Amendment of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999

2.—(1) The Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999(2) are amended in accordance with regulation 3(4) and (5)(a) of the Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 2010(3) in relation to proceedings to which paragraph (2) applies.

(2) This paragraph applies to proceedings commenced on or after 11th June 2010 and before 5th July 2010 if the proceedings commenced on, or were continuing as at, 4th July 2010.

(1) 1986 c.47. Section 33(3A) was inserted by the Crime and Punishment (Scotland) Act 1997 (c.48), section 51. Section 33(3AA) was inserted by the Convention Rights Compliance (Scotland) Act 2001 (asp 7), section 7. 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. 1999/491; amended by S.I. 1999/1820 and S.S.I. 1999/48, 2001/307, 2002/247 and 442, 2003/249, 2004/51, 126 and 263, 2005/93, 2006/234 and 2008/240.

(3) S.S.I. 2010/237.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

St Andrew's House,
Edinburgh
24th June 2010

KENNY MACASKILL
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend the effect of amendments made to the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 (“the principal Regulations”) by the Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 2010 (“the 2010 Regulations”).

Regulations 3(4) and (5)(a) of the 2010 Regulations amend the principal Regulations to allow a fixed payment to solicitors for all work done in connection with a bail appeal under section 32 or 201(4) of the Criminal Procedure (Scotland) Act 1995 (c.46). The amendments made by those regulations apply to all proceedings commenced on or after 5th July 2010. By virtue of regulation 2(2) of the 2010 Regulations they also apply in relation to proceedings commenced on or after 30th June 2008 and before 5th July 2010, provided the proceedings were continuing on 10th June 2010 (which is the date on which the 2010 Regulations were made).

The drafting of regulation 2(2) of the 2010 Regulations is defective to the extent that proceedings commenced between 11th June 2010 and before 5th July 2010 (“the relevant period”) cannot satisfy the requirement of being continuing proceedings as at 10th June 2010. These Regulations remedy that defect by applying the amendments made by regulations 3(4) and (5)(a) of the 2010 Regulations in respect of proceedings commenced during the relevant period, provided those proceedings are continuing as at 4th July 2010.