
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 57

LEGAL AID AND ADVICE

**The Advice and Assistance and Civil Legal Aid
(Priority of Debts) (Scotland) Regulations 2010**

Made - - - - 18th February 2010
*Laid before the Scottish
Parliament* - - - - 19th February 2010
Coming into force - - 12th April 2010

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 12(3) and 17(2B) 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 Advice and Assistance and Civil Legal Aid (Priority of Debts) (Scotland) Regulations 2010 and come into force on 12th April 2010.

Application

2.—(1) Regulation 3 applies only in relation to any case where an application for advice and assistance is made on or after 12th April 2010.

(2) Regulation 4 applies only in relation to any case where an application for civil legal aid is made on or after 12th April 2010.

Amendment of the Advice and Assistance (Scotland) Regulations 1996

3. In regulation 16(2)(b) of the Advice and Assistance (Scotland) Regulations 1996, for “£5,259” substitute “£5,338”⁽²⁾.

(1) 1986 c.47; section 12(3) was amended the Crime and Punishment (Scotland) Act 1997 (c.48), Schedule 1 paragraph 12 and by the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), section 67(5). Section 17(2B) was inserted by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), Schedule 8 paragraph 36(6). 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) The figure in regulation 16(2)(b) of the Advice and Assistance (Scotland) Regulations 1996 (S.I. 1996/2447) was last amended by S.S.I. 2009/49.

Amendment of the Civil Legal Aid (Scotland) Regulations 2002

4. In regulation 33(b) of the Civil Legal Aid (Scotland) Regulations 2002, for “£5,259” substitute “£5,338”(3).

Revocation

5.—(1) The Advice and Assistance and Civil Legal Aid (Priority of Debts) (Scotland) Regulations 2009(4) are revoked.

(2) Despite paragraph (1), those Regulations continue to apply in relation to advice and assistance, or as the case may be civil legal aid, for which the relative application was made before 12th April 2010.

St Andrew’s House,
Edinburgh
18th February 2010

KENNY MACASKILL
A member of the Scottish Executive

(3) The figure in regulation 33(b) of the Civil Legal Aid (Scotland) Regulations 2002 ([S.S.I. 2002/494](#)) was last amended by [S.S.I. 2009/49](#).

(4) [S.S.I. 2009/49](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make the following changes:—

- (a) Regulation 3 amends the Advice and Assistance (Scotland) Regulations 1996 to provide that a solicitor's right to prior payment of fees and outlays out of any property recovered or preserved for a client in respect of advice and assistance shall not apply to the first £5,338 (increased from £5,259) recovered or preserved by virtue of certain family proceedings.
- (b) Regulation 4 amends the Civil Legal Aid (Scotland) Regulations 2002 to provide that the requirement on a person in receipt of civil legal aid to pay the amount of any net liability of the Scottish Legal Aid Fund, shall not apply to the first £5,338 (increased from £5,259) recovered or preserved by virtue of certain family proceedings.

Those changes only apply in relation to advice and assistance, or as the case may be civil legal aid, applied for on or after 12th April 2010 (regulation 2).

The Advice and Assistance and Civil Legal Aid (Priority of Debts) (Scotland) Regulations 2009, which previously amended the figures increased by these Regulations, are revoked. That revocation does not have effect in relation to advice and assistance and civil legal aid applied for before 12th April 2010 (regulation 5).