

EXECUTIVE NOTE

LEGAL AID REGULATIONS

DRAFT : The Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2007

The above instrument will be made in exercise of the powers conferred on Scottish Ministers by sections 36(1) and (2)(b) of the Legal Aid (Scotland) Act 1986 ('the 1986 Act'). The instrument is subject to the affirmative resolution procedure.

Policy Objective

Disposable Income Limits

The purpose of the instrument is to increase the disposable income limits for eligibility for civil legal aid under the 1986 Act. The income limits are increased to make eligible for civil legal aid persons with a yearly disposable income of not more than £10,074 (increased from £9,781) and to make eligible without payment of a contribution persons with a yearly disposable income of not more than £3,085 (increased from £2,995). The uprating of the financial eligibility limits will take effect from 9 April 2007.

The annual uprating of the income limits for civil legal aid is directly linked to increases in the level of income-related social security benefits. As announced by the Secretary of State for Social Security on 7 December 2006, income-based social security benefits have been uprated by the Rossi Index which this year stood at 3.0%. The Rossi Index is based on the Retail Price Index less housing costs.

Civil legal aid applications are assessed by the Scottish Legal Aid Board and the means assessment in these cases enables allowance to be made for rent, council tax etc. The disposable income limits for civil legal aid should be uprated by the Rossi Index, which excludes housing costs.

Disposable Capital Limits

This instrument will also increase the disposable capital limits for eligibility for civil legal aid. Both the upper and lower capital thresholds have been increased broadly in line with inflation which means that the lower limit of £6,640 will increase to **£6,879** and the upper limit of £11,070 will increase to **£11,402**.

The instrument also provides that The Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2006 are revoked except in relation to any case where an application for civil legal aid is made to the Scottish Legal Aid Board before 9 April 2007.

Consultation

The changes to disposable capital and income limits are part of the annual uplifting of financial eligibility where no public consultation is normally carried to this detailed secondary legislation by the Scottish Executive. The Law Society of Scotland are aware of the changes.

Financial Implications

The upratings are only keeping the disposable income and disposable capital limits up-to-date and therefore it is expected that the expenditure on the Legal Aid Fund will remain unchanged.

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