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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend a number of existing Regulations made under the Legal Aid (Scotland) Act 1986, to modify the provision of legal aid for the period during which the Coronavirus (Scotland) Act 2020 is in force.

Regulations 2 and 3 enable payments to be made from the Scottish Legal Aid Fund earlier than would otherwise be possible, to ensure access to funds for legal aid providers. The Civil Legal Aid (Scotland) (Fees) Regulations 1989 are amended to make provision for interim payments of fees for partially completed work in relation to defended civil actions in the Sheriff Court (regulation 2). The Criminal Legal Aid (Scotland) (Fees) Regulations 1989 are amended to provide that payment of counsel fees for separate preparation in respect of proceedings in the High Court of Justiciary (other than appeals) and the Sheriff Court may be made before the case to which the fee relates has been concluded (regulation 3).

Regulation 4 makes further provision in relation to interim payments provided for in the Coronavirus (Scotland) Act 2020, by amending the Advice and Assistance (Scotland) Regulations 1996 to provide that when assessing a claim for interim payment the Scottish Legal Aid Board need not take into account any property which may be recovered in the course of proceedings for the client to whom the advice and assistance has been provided. This regulation also makes provision for the recovery of interim sums paid out.

Regulation 5 amends the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999, in relation to the provisions in those Regulations which specify that the fee due will be halved where a duty solicitor makes an initial plea of not guilty on the instruction of another solicitor, and that solicitor later tenders a plea of guilty prior to trial. The Regulations are amended so that for the duration of the emergency period the fee is not halved for solicitors instructed by a person in receipt of legal aid with whom they have a pre-existing solicitor client relationship, meaning they will receive the full fee where they do not make an initial plea on their client's behalf in person.

Regulation 6 amends the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003, to provide for assistance by way of representation to be available to individuals in order to appeal against a special restriction or requirement imposed on them by virtue of the Coronavirus Act 2020.

Regulation 7 amends the Criminal Legal Assistance (Duty Solicitors) (Scotland) Regulations 2011, to provide that duty solicitors may represent persons prosecuted under summary procedure when authorised to do so by that person's appointed solicitor or a solicitor connected with the appointed solicitor's firm.

A Partial Business and Regulatory Impact Assessment has been prepared for these Regulations and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Justice Directorate, St Andrews House, Edinburgh, EH1 3DG.