

2001 No. 307

LEGAL AID AND ADVICE

**The Criminal Legal Aid (Fixed Payments) (Scotland)
Amendment Regulations 2001**

<i>Made</i>	<i>10th September 2001</i>
<i>Laid before the Scottish Parliament</i>	<i>12th September 2001</i>
<i>Coming into force</i>	<i>15th October 2001</i>

The Scottish Ministers, in exercise of the powers conferred by sections 33 and 41A of the Legal Aid (Scotland) Act 1986(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 2001 and shall come into force on 15th October 2001.

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

2. The Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999(b) shall be amended in accordance with the following regulations.

3. In the definition of “excluded proceedings” in regulation 2(1)–
- (a) at the end of sub-paragraph (c) there shall be inserted–
“, except where those proceedings are before a court which has been designated as a drug court by the sheriff principal”; and
 - (b) after sub-paragraph (h) there shall be inserted–
“;
(i) proceedings under section 9 of the Extradition Act 1989(c);
(j) proceedings under section 5 of the International Criminal Court Act 2001(d)”.

4.—(1) Regulation 4 shall be amended in accordance with the following paragraphs.

- (2) In paragraph (6), for “Schedule 1” there shall be substituted “Part 1 of Schedule 1”.
- (3) At the end there shall be inserted–

“(9) Where a solicitor represents an assisted person in a court which has been designated as a drug court by the sheriff principal–

- (a) Part 1 of Schedule 1 shall not apply to those proceedings; and

(a) 1986 c.47. Sections 33(3A) and 41A were inserted by the Crime and Punishment (Scotland) Act 1997 (c.48), sections 51 and 54 respectively. Section 33(3C) to (3K) and section 33(3AA) to (3AC) were inserted by the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7), sections 7 and 8 respectively. 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).

(b) S.I. 1999/491, as amended by S.I. 1999/1820 and S.S.I. 1999/48.

(c) 1989 c.33. Section 9 was amended by the Criminal Justice and Public Order Act 1994 (c. 33) and the Access to Justice Act 1999 (c.22), and S.I. 1997/1178 and 1999/1750.

(d) 2001 c.17.

- (b) where that assisted person has been remanded in custody at or subsequent to the first calling at the case and is at any time during that remand under 21 years of age, there shall be payable in addition to the fixed payments specified in Part 2 of Schedule 1 a payment of £100.”.

5. Schedule 1 shall be renamed Part 1 of Schedule 1 and at the end there shall be inserted–

“PART 2

Where professional services are provided in relation to proceedings in a sheriff court which has been designated as a drug court by the sheriff principal

- | | |
|---|--------|
| 1. All work done under section 22(1)(c) of the Act up to and including the first appearance of an assisted person; | £100 |
| 2. All work done (other than work done in terms of paragraph 1) in connection with any appearance of an assisted person (per appearance); | £50.”. |

JAMES WALLACE
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
10th September 2001

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 (“the 1999 Regulations”) so as to provide that–

- (a) fixed payment criminal legal aid shall not apply to proceedings under section 9 of the Extradition Act 1989 or section 5 of the International Criminal Court Act 2001(regulation 3(b));
- (b) the fixed payments set out in Part 1 of Schedule 1 to the 1999 regulations shall not apply to proceedings which take place before a court which has been designated as a drug court by the sheriff principal (“a drug court”) (regulation 4);
- (c) there shall be a fixed payment of £100 in respect of all work done up to and including the first appearance from custody, and of £50 in respect of any other appearance, of an assisted person before a court which has been designated as a drug court (regulation 5);
- (d) there shall be an additional fixed payment of £100 where an assisted person appearing before the drug court is under 21 years of age and is remanded in custody (regulation 4(3)).

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