

**2004 No. 51**

**LEGAL AID AND ADVICE**

**The Criminal Legal Aid (Fixed Payments) (Scotland)  
Amendment Regulations 2004**

*Made* - - - - - *10th February 2004*

*Laid before the Scottish Parliament* *10th February 2004*

*Coming into force* - - - *11th March 2004*

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 2004 and shall come into force on 11th March 2004.

**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 regulation 2—

(a) in paragraph (1) (interpretation)—

(i) after the definition of “assisted person” insert—

““continued diet” means a diet which takes place on a separate date from the diet at which a victim statement is laid before the court;”,

(ii) after the definition of “excluded proceedings” insert—

““proof in mitigation” includes those diets where a proof in mitigation takes place at the same time as a proof of a victim statement;” and

(iii) at the end insert

““victim statement” means a statement made for the purposes of section 14 of the Criminal Justice (Scotland) Act 2003(c)”.

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(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, 2001/307 and 2002/247 and 442.

(c) 2003 asp 7.

(b) for paragraph (3) substitute–

“(3) For the purposes of these Regulations, a trial, proof in mitigation or proof of a victim statement shall be taken to commence when the first witness is sworn.”**(a)**.

4. For Part 1 of Schedule 1 substitute the provisions set out in the Schedule to these Regulations.

St Andrew’s House,  
Edinburgh  
10th February 2004

*HUGH HENRY*  
Authorised to sign by the Scottish Ministers

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**(a)** Regulation 2(3) was inserted by S.S.I. 1999/48.

## SCHEDULE

Regulation 4

### PROVISIONS SUBSTITUTED FOR THE TABLE SET OUT IN PART 1 OF SCHEDULE 1 OF THE CRIMINAL LEGAL AID (FIXED PAYMENTS) (SCOTLAND) REGULATIONS 1999

#### “SCHEDULE 1

Regulation 4

#### PART 1

	<i>Where professional services are provided in relation to proceedings in the District Court (other than where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court (other than proceedings in a Court specified in Schedule 2) or the District Court (where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court and those proceedings are brought in a Court specified in Schedule 2</i>
1. All work up to and including:  (i) any diet at which a plea of guilty is made and accepted or plea in mitigation is made;	£300 (where criminal legal aid has been made available in the circumstances referred to in paragraphs 10 or 11 below £275)	£500 (where criminal legal aid has been made available in the circumstances referred to in paragraphs 10 or 11 below £475)	£550 (where criminal legal aid has been made available in the circumstances referred to in paragraphs 10 or 11 below £525)

	<i>Where professional services are provided in relation to proceedings in the District Court (other than where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court (other than proceedings in a Court specified in Schedule 2) or the District Court (where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court and those proceedings are brought in a Court specified in Schedule 2</i>
(ii) the first 30 minutes of conducting a proof in mitigation, or a proof of a victim statement, other than in the circumstances where paragraph (2) below applies; and			
(iii) the first 30 minutes of conducting any trial			
together with any subsequent or additional work other than that specified in paragraphs 2 – 12 below.			
2. All work done in connection with a grant of legal aid under section 23(1)(b) of the Act including the first 30 minutes of conducting a proof in mitigation, or a proof of a victim statement.	£25	£50	£50
3. Conducting a trial or proof in mitigation for the first day (after the first 30 minutes).	£50	£100	£100

	<i>Where professional services are provided in relation to proceedings in the District Court (other than where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court (other than proceedings in a Court specified in Schedule 2) or the District Court (where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court and those proceedings are brought in a Court specified in Schedule 2</i>
4. Conducting a trial or proof in mitigation for the second day.	£50	£200	£200
5. Conducting a trial or proof in mitigation for the third and subsequent days (per day).	£100	£400	£400
6. Representation in court at a continued diet following a victim statement having been laid before the court where the court determines sentence or fixes a proof of a victim statement, or adjourns such a proof without hearing evidence.	-	£50	-
7. Conducting a proof of a victim statement where there has been no trial or proof in mitigation for the first day (after the first 30 minutes), and thereafter for subsequent days (per day).	-	£200	-
8. Conducting a proof of a victim statement at a continued diet following a concluded trial or proof in mitigation (per day).	-	£200	-
9. Representation in court at a diet of deferred sentence.	£25	£50	£50

	<i>Where professional services are provided in relation to proceedings in the District Court (other than where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court (other than proceedings in a Court specified in Schedule 2) or the District Court (where proceedings are set down to proceed before a Stipendiary Magistrate)</i>	<i>Where professional services are provided in relation to proceedings in the Sheriff Court and those proceedings are brought in a Court specified in Schedule 2</i>
10. All work done where the accused is in custody and has tendered a plea of not guilty until determination of the application for legal aid.	£25	£25	£25
11. All work done by virtue of section 24(7) of the Act until determination of the application for legal aid.	£25	£25	£25
12. All work done in connection with a bail appeal under section 32 of the 1995 Act.	£50	£50	£50

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## **EXPLANATORY NOTE**

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

These Regulations amend the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 to provide fixed payments in respect of work done in connection with consideration by a prescribed sheriff court of a victim statement produced in terms of section 14 of the Criminal Justice (Scotland) Act 2003. The prescribed sheriff courts which can consider victim statements are Ayr, Edinburgh and Kilmarnock in terms of the Victim Statements (Prescribed Courts) (Scotland) Order 2003.

£3.00

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ISBN 0-11-062623-0

Printed in the UK by The Stationery Office Limited  
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland  
150 02/04 19593

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