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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 584**

**LEGAL AID AND ADVICE**

**The Criminal Legal Aid (Scotland) (Fees)  
Amendment (No. 2) Regulations 2005**

*Made* - - - - - *17th November 2005*  
*Laid before the Scottish*  
*Parliament* - - - - - *18th November 2005*  
*Coming into force* - - - - - *10th December 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 33(2)(a) and (3), and 36(1) and (2)(a) of the Legal Aid (Scotland) Act 1986(1) 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 (Scotland) (Fees) Amendment (No. 2) Regulations 2005 and shall come into force on 10th December 2005.

**Application**

2.—(1) Subject to paragraph (2), these Regulations apply only in respect of proceedings concluded on or after 4th April 2005.

(2) These Regulations do not apply in respect of proceedings concluded on or after 4th April 2005 but before 10th December 2005 where such application would result in a lesser sum being payable in respect of any item in the Table of Fees than would have been payable if these Regulations did not apply.

**Amendment of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989**

3. The Criminal Legal Aid (Scotland) (Fees) Regulations 1989(2) are amended in accordance with the following regulations.

4. In paragraph 5 of Schedule 2(3), for “6” substitute “5A”.

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(1) 1986 c. 47. Sections 33 and 36 were amended for purposes not relevant to these Regulations. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1988 (c. 46).  
(2) S.I.1989/1491 as relevantly amended by S.I. 1991/566, 1992/374 and 1997/719, and by S.S.I. 2004/264 and 2005/113.  
(3) Schedule 2 was substituted by S.S.I. 2005/113, regulation 7.

5. After paragraph 5 of Schedule 2, insert–

“**5A.** Where a hearing as specified in paragraph 2(b) or (c) of Chapter 1 or 2 of Part II of the Table of Fees is set down for half a day, or longer, then the fee allowable for that hearing shall be the same as that specified in paragraph 2(a) of Chapter 1 or 2 of Part II of the Table of Fees. For cases in which the provisions of paragraph 5 above apply, the maximum fee allowable shall be as prescribed in paragraph (f) of Chapter 3 of Part II of the Table of Fees.”.

6. For paragraph 18 of Schedule 2 substitute–

“**18.** Where counsel claims a fee in respect of paragraph 2 of Chapter 1 or 2 of Part I, or paragraph 1 of Chapter 1 or 2 of Part III, of the Table of Fees–

- (a) subject to sub paragraph (b) below, no fee shall be payable under paragraph 1, 3 or 4 of each Chapter of Part I, or paragraph 2 or 3 of each Chapter of Part III, of the Table of Fees; but
- (b) a fee shall be payable for all post conviction hearings including hearings for which a prescribed fee is set out in paragraphs 4(j), (k), (l) and (m) of each Chapter of Part I, and paragraphs 3(j), (k), (l) and (m) of each Chapter of Part III, of the Table of Fees.”.

7. For paragraph 19(b) and (c) of Schedule 2 substitute–

- “(b) the fee excludes travel costs which shall be a chargeable outlay;
- (c) counsel shall, if required, produce records certifying the travel undertaken;”.

8. At the end of paragraph 19 of Schedule 2, insert–

- “(e) the fee is chargeable only once where counsel makes the outward and return journeys on the same day; and
- (f) the fee is chargeable twice where, on cause shown and subject to the provisions of the other sub paragraphs of this paragraph, counsel is required to travel and make the return journey on different days.”.

9. After paragraph 19 of Schedule 2, insert–

“**19A.** The payment for necessary accommodation and subsistence specified under paragraph 8 of Chapters 1 and 2 of Part I, and paragraph 7 of the Chapters of Part III, of the Table of Fees is chargeable only in circumstances where a supplementary fee for travel is chargeable and on cause shown. Counsel shall, if required, produce records certifying the accommodation and subsistence costs incurred.”.

10. For paragraph 4(j) of Chapter 1 of Part I of the Table of Fees in Schedule 2 substitute–

- “(j) confiscation diet in which substantial evidence is led or where full settlement is agreed where the confiscation proceedings follow acceptance of a guilty plea to the charge or charges categorised as below or follow a trial as specified in this Chapter in–

(i) paragraph 3(a)	£750.00	£650.00	£450.00
(ii) paragraph 3(b)	£617.50	£535.00	£375.00
(iii) paragraph 3(c)	£455.00	£395.00	£275.00
(iv) paragraph 3(d)	£362.50	£315.00	£225.00”.

11. For paragraph 4(k) of Chapter 1 of Part I of the Table of Fees in Schedule 2 substitute–

“(k) confiscation diet where no substantial evidence is led	£360.00	£315.00	£225.00”.
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12. For paragraph 5 of Chapter 1 of Part I of the Table of Fees in Schedule 2 substitute–

“5. <i>Fee for consultations, accused and counsel meetings and locus visits</i>	£177.00	£154.00	£108.00”.
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13. In paragraph 7 of Chapter 1 of Part I of the Table of Fees, omit–

“, with the exception of paragraph 5(b) and (c),”.

14. After paragraph 7 of Chapter 1 of Part I of the Table of Fees in Schedule 2, insert–

“8. <i>Accommodation and associated subsistence</i>			
Payment of necessary accommodation and associated subsistence per day	£75.00	£75.00	£75.00”.

15. For paragraph 4(j) of Chapter 2 of Part I of the Table of Fees in Schedule 2 substitute–

“(j) confiscation diet in which substantial evidence is led or where full settlement is agreed where the confiscation proceedings follow acceptance of a guilty plea to the charge or charges categorised as below or follow a trial as specified in this Chapter in–

(i) paragraph 3(a)	£900.00
(ii) paragraph 3(b)	£700.00
(iii) paragraph 3(c)	£515.00
(iv) paragraph 3(d)	£410.00”.

16. For paragraph 4(k) of Chapter 2 of Part I of the Table of Fees in Schedule 2 substitute–

“(k) confiscation diet where no substantial evidence is led	£410.00”.
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17. For paragraph 5 of Chapter 2 of Part I of the Table of Fees in Schedule 2 substitute–

“5. <i>Fee for consultations, accused and counsel meetings and locus visits</i>	£200.00”.
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18. In paragraph 7 of Chapter 2 of Part I of the Table of Fees in Schedule 2, omit—  
 “, with the exception of paragraph 5(b) and (c),”.

19. After paragraph 7 of Chapter 2 of Part I of the Table of Fees in Schedule 2, insert—

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“8. *Accommodation and associated subsistence*

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Payment of necessary accommodation and associated subsistence per day      £75.00”.

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20. For paragraph 2(c) of Chapter 1 of Part II of the Table of Fees in Schedule 2 substitute—

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“(c)      hearing in appeal      £41.00      £91.00”.

            against      sentence  
             including fee for  
             drafting note of  
             appeal

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21. For paragraph 2(c) of Chapter 2 of Part II of the Table of Fees in Schedule 2 substitute—

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“(c)      hearing in appeal against      £132.00”.

            sentence including revisal of note of  
             appeal

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22. For paragraph (g) of Chapter 3 of Part II of the Table of Fees in Schedule 2 substitute—

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“(g)      hearing      £225.00      £300.00      £475.00”.

            on stated  
             case or bill  
             of  
             suspension  
             related to  
             conviction  
             or  
             conviction  
             and  
             sentence

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23. For paragraph (h) of Chapter 3 of Part II of the Table of Fees in Schedule 2 substitute—

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“(h)      appeal      £225.00      £300.00      £475.00”.

            against  
             sentence  
             including  
             drafting  
             note of  
             appeal

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24. For paragraph 3(j) of Chapter 1 of Part III of the Table of Fees in Schedule 2 substitute—

“(j) confiscation diet in which substantial evidence is led or where full settlement is agreed where the confiscation proceedings follow acceptance of a guilty plea to the charge or charges categorised as below or follow a trial as specified in this Chapter in–

(i) paragraph 2(a)	£647.50	£575.00	£360.00
(ii) paragraph 2(b)	£495.00	£430.00	£300.00
(iii) paragraph 2(c)	£345.00	£300.00	£210.00”.

25. For paragraph 3(k) of Chapter 1 of Part III of the Table of Fees in Schedule 2 substitute–

“(k) confiscation diet where no substantial evidence is led	£288.00	£252.00	£180.00”.
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26. For paragraph 4 of Chapter 1 of Part III of the Table of Fees in Schedule 2 substitute–

“4. Fee for consultations, accused and counsel meetings and locus visits	£142.00	£123.00	£86.00”.
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27. In paragraph 6 of Chapter 1 of Part III of the Table of Fees in Schedule 2, omit–

“, with the exception of paragraph 4(b) and (c),”.

28. After paragraph 6 of Chapter 1 of Part III of the Table of Fees in Schedule 2, insert–

“7. Accommodation and associated subsistence	£75.00	£75.00	£75.00”.
Payment of necessary accommodation and associated subsistence per day			

29. For paragraph 3(j) of Chapter 2 of Part III of the Table of Fees in Schedule 2 substitute–

“(j) confiscation diet in which substantial evidence is led or where full settlement is agreed where the confiscation proceedings follow acceptance of a guilty plea to the charge or charges categorised as below or follow a trial as specified in this Chapter in–

(i) paragraph 2(a)	£720.00	
(ii) paragraph 2(b)	£560.00	

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(iii) paragraph 2(c) £328.00”.

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**30.** For paragraph 3(k) of Chapter 2 of Part III of the Table of Fees in Schedule 2 substitute–

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“(k) confiscation diet where no £328.00”.  
substantial evidence is led

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**31.** For paragraph 4 of Chapter 2 of Part III of the Table of Fees in Schedule 2 substitute–

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“4. *Fee for consultations, accused and  
counsel meetings and locus visits*

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£160.00”.

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**32.** In paragraph 6 of Chapter 2 of Part III of the Table of Fees in Schedule 2, omit–

“, with the exception of paragraph 4(b) and (c),”.

**33.** After paragraph 6 of Chapter 2 of Part III of the Table of Fees in Schedule 2 insert–

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“7. *Accommodation and associated  
subsistence*

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Payment of necessary accommodation and £75.00”.  
associated subsistence per day

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St Andrew’s House, Edinburgh  
17th November 2005

*HUGH HENRY*  
Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

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

These Regulations amend the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 so as to modify the method by which fees and outlays of Counsel are determined for work undertaken in connection with certain hearings under section 76 of the Criminal Procedure (Scotland) Act 1995 (c. 46), confiscation hearings, appeals and for travel, accommodation and subsistence.