
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make changes to existing regulations which respectively concern financial limits, financial conditions and assistance by way of representation.

Regulation 2 provides for new financial limits (which apply under section 10(2) of the Legal Aid (Scotland) Act 1986) relating to advice and assistance, and assistance by way of representation, in various types of summary and solemn criminal case.

Regulation 3 provides for a scale of contributions to apply in relation to advice and assistance in certain types of summary criminal case.

Regulation 4 makes changes in relation to assistance by way of representation in certain types of summary criminal case. References to the ‘summary justice pilot courts’ are removed so that the representation presently available in those courts is available generally. There is added, to the list of things for which the assistance is available in non-custody cases, representation at a diet to which a case has been adjourned without plea. For non-custody cases, the assistance is to be available subject to an ‘interests of justice’ test. For custody cases, a solicitor other than the duty solicitor is to be able to provide the representation only if, where instructed directly in the context of a demonstrable solicitor and client relationship, available to act immediately (whether in person or, in certain circumstances, through another solicitor). Otherwise, it is to be the duty solicitor only (as part of the duty solicitor scheme) who may provide the representation.