

EXECUTIVE NOTE

THE ADVICE AND ASSISTANCE AND LEGAL AID (ONLINE APPLICATIONS ETC.) (SCOTLAND) REGULATIONS 2011

SSI 2011/161

These Regulations amend the Advice and Assistance (Scotland) Regulations 1996, the Criminal Legal Aid (Scotland) Regulations 1996, the Legal Aid in Contempt of Court Proceedings (Scotland) Regulations 1992, the Legal Aid (Scotland) (Children) Regulations 1997, the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 and the Civil Legal Aid (Scotland) Regulations 2002

Policy Objective

The policy objective behind the Regulations is to allow the Scottish Legal Aid Board (“the Board”) to make the operational decision of requiring in what form applications for advice and assistance and legal aid and the majority of post-application procedures to the Board should be made. The Regulations specify that the form in which the Board may require applications and other materials to be made includes an online form. This is in the context of the Board’s intention to require, from 1 April 2011, that all applications for Advice & Assistance (A&A) and legal aid be made using the Board’s online system. Currently, over 85% of legal aid firms use Legal Aid Online, with around 90% of A&A applications and 75% of civil legal aid and summary criminal legal aid applications being made via the online system.

Provision made

The Regulations prescribe that specific applications and other materials referred to in the instruments above and made by solicitors to the Board require to be made in such form as is required by the Board, which may include them being made online. The Regulations also remove from the various instruments the restrictions which currently prevent the applications and other materials from being made in an online form.

Consultation

The Scottish Government has consulted the Board in relation to the Regulations. The Board set out, in a mail shot at the beginning of last year to all legal aid practitioners, that in the interests of efficiency and cost-effectiveness it intended to discontinue many of its paper based applications and other materials as of 1 April 2011. The Board’s mail shot (dated 26th January 2010) can be accessed from its website:

<http://www.slab.org.uk/profession/mailshots/2010/Switch%20off%20letter%20-%2025%20Jan%202010.pdf>.

The Board has been in regular dialogue with legal aid practitioners since January 2010 about the move to online. An online learning pack has been made available by the Board to assist those new to the system, members of the Board have made clear that they are happy to visit firms to give free training and the Board has set up a helpline so that staff can talk

practitioners through any problems. On the basis that the Board has been in regular contact with practitioners over a long period of time in relation to the move to online and given that this is essentially an operational decision for the Board which these Regulations merely facilitate, no Business and Regulatory Impact Assessment has been carried out.

Financial Implications

There are no direct financial implications as a result of these Regulations. However, the Board's decision to move to online is enabling the Board to reduce its running costs and make savings for the taxpayer. The Board's Grant-in-Aid budget is being reduced by £1.1 million in 2011-12. The move to online will make a substantial contribution towards these savings. These savings are a part of the legal aid savings made in response to the Budget Bill.

Scottish Government
February 2011