

EXECUTIVE NOTE

THE LEGAL AID AND ADVICE AND ASSISTANCE (SOLICITORS' TRAVEL FEES) (SCOTLAND) REGULATIONS 2011

SSI 2011/41

The above Regulations amend the Civil Legal Aid (Scotland) (Fees) Regulations 1989, the Criminal Legal Aid (Scotland) (Fees) Regulations 1989, the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992 and the Advice and Assistance (Scotland) Regulations 1996 to prescribe fees for time spent travelling by solicitors and their clerks.

Policy Objective

The Regulations are designed to deliver savings in the Scottish Legal Aid Fund to ensure that legal aid and advice can be targeted at those most in need.

Given the £1.3 billion cut to Scotland's budget next year, it has been necessary to make difficult decisions to reduce the level of spending in many areas. This includes legal aid and advice, where we have worked with stakeholders to identify areas where savings can be made. These savings will be designed to preserve access to justice as much as possible. The legal aid and advice budget for financial year 2011-12 has been set at £142.3m, compared to £155m in 2010-11, which is an overall reduction of 8.2%. The Scottish Legal Aid Board is being asked to make savings of £1.1m (8.5%) in 2011-12 on its administration costs. This is a bigger proportion of savings than will be delivered on the Fund.

The main policy objective of the Regulations is to reduce the fees paid to solicitors and solicitors' clerks for travelling when providing advice and assistance (including assistance by way of representation), criminal and civil legal aid. Currently, there is not a specific prescribed fee for travelling time. Solicitors are paid a non-advocacy rate which differs depending on the aid type. The Regulations alter the fees payable across all the aid types (advice and assistance, criminal and civil legal aid) by introducing a specific fee for time spent travelling which is one half of the applicable non-advocacy rate. This change will bring travel fees in Scotland more into line with fees paid in other jurisdictions, such as England and Wales.

Consultation

The Scottish Government has consulted the Scottish Legal Aid Board and the Law Society of Scotland in relation to the Regulations. The Law Society's legal aid negotiating team consult with the Scottish Government on behalf of the profession. In this respect, no Business and Regulatory Impact Assessment (BRIA) has been carried out.

Financial Implications

It is anticipated that the Regulations will deliver savings of approximately £1.75 million in financial year 2011/12 and approximately £2.884 million in 2012/13 and in each year going forward.

Justice Directorate, Scottish Government
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