

## **POLICY NOTE**

### **THE LEGAL AID AND ADVICE AND ASSISTANCE (SCOTLAND) (MISCELLANEOUS AMENDMENTS) REGULATIONS 2019**

#### **SSI 2019/78**

The above instrument was made in exercise of the powers conferred by sections 33(2), (3) and (3A) of the Legal Aid (Scotland) Act 1986. The instrument is subject to negative procedure.

#### **Policy Objectives**

This SSI will apply a 3% increase to fees and outlays paid to solicitors and counsel for providing work under publicly funded legal assistance (legal aid and legal advice and assistance).

Regulation 2 provides—

- that the amendments made by regulations 3, 4, 5, and 6(2), (3) and (5) apply only to fees for work done or outlays incurred on or after the 26 April 2019. Where work for a fee prescribed in schedules 1 to 11 is conducted over more than one date, the work is deemed to have been done on the day on which the work comes to an end.
- that the amendments made by regulations 6(4) and 7 apply only in relation to a case where the criminal legal assistance concerned is granted or made available on or after 26 April 2019.

#### **Consultation**

No formal consultation has been conducted on these regulations but the Minister for Community Safety has discussed the 3% increase with representatives of the Faculty of Advocates and the Law Society of Scotland. These regulations form part of the Scottish Government response to the independent review of legal aid in Scotland.

#### **Impact Assessments**

The following impact assessments were considered:

Child Rights & Wellbeing Impact Assessment – no CRWIA required.

Equality Impact Assessment – no negative impacts on groups with protected characteristics. Stage 1 completed.

Business & Regulatory Impact Assessment – additional spend to the legal aid fund identified and a partial BRIA has been completed.

Fairer Scotland Duty – not required

Strategic Environmental Assessment – not required

Data Protection Impact assessment – not required

## **Financial Effects**

Based on current levels of business we can anticipate the following additional spend to the Legal Aid Fund in Scotland – an additional £2.3m in 2019/20, £3.1m in 2020/21 and £3.2m thereafter. The delay in full spend is due to the length of time it takes some civil cases to conclude.

Scottish Government  
Justice Directorate  
21 February 2019