
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulations made under the Legal Aid (Scotland) Act 1986.

Regulation 2 amends the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993 to specify a financial limit in respect of an inclusive fee under regulation 17(1B) of the Advice and Assistance (Scotland) Regulations 1996 (“the 1996 Regulations”) provided for by regulation 3 of these Regulations.

Regulation 3 amends the 1996 Regulations to make provision for an inclusive fee to be payable to a defence solicitor instead of the fee otherwise payable for advice and assistance where a criminal case in which the solicitor has been instructed ends prior to trial. This is intended to facilitate the early resolution of summary criminal cases where appropriate. Provision is also made for cases where more than one solicitor has been instructed or a solicitor acts for more than one client.

Regulation 4 amends the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003 to allow for early settlement in summary criminal proceedings by making provision for assistance by way of representation to be available (in addition to existing provision for guilty pleas) where in a case in which no plea has previously been tendered the prosecutor either accepts a plea of not guilty when the case calls with the effect that the case is concluded, or prior to calling the case accepts such a plea or otherwise determines that the case will not proceed.

A business and regulatory impact assessment has not been prepared in relation to these Regulations as no, or no significant impact upon business, charities or voluntary bodies is foreseen.