
 STATUTORY INSTRUMENTS

1984 No. 210 (S. 14)

LEGAL AID AND ADVICE, SCOTLAND

**The Legal Advice and Assistance (Scotland)
Amendment Regulations 1984**

<i>Made</i>	- - - -	23rd February 1984
<i>Laid before Parliament</i>		9th March 1984
<i>Coming into Operation</i>		1st April 1984

In exercise of the powers conferred upon me by sections 14A and 15 of the Legal Aid (Scotland) Act 1967(a), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

1.—(1) These regulations may be cited as the Legal Advice and Assistance (Scotland) Amendment Regulations 1984 and shall come into operation on 1 April 1984.

(2) In these regulations the expression “the principal regulations” means the Legal Advice and Assistance (Scotland) Regulations 1973(b).

2. In regulation 4(2) of the principal regulations, for the words “the Schedule” there shall be substituted the words “Schedule 1”.

3. In regulation 5 of the principal regulations paragraphs (7), (8), (8A) and (9) shall be deleted.

4. In regulation 7 of the principal regulations, paragraphs (2) and (3) shall be deleted.

5. After regulation 8 of the principal regulations there shall be added the following regulations:—

“Fees and outlays of solicitors

9. The fees and outlays allowable to a solicitor upon any assessment or taxation mentioned in regulation 10 or 11 of these regulations in respect of advice or assistance shall, and shall only, be—

(a) 1967 c. 43; section 14A was inserted by section 3 of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12); sections 14A and 15 were extended by section 6 of the Legal Advice and Assistance Act 1972 (c. 50) as amended by the said Act of 1983, section 6(1) and Schedule 1, paragraph 17.

(b) S.I. 1973/390; the relevant amending instrument is S.I. 1982/622.

- (a) fees for work necessarily and reasonably done in connection with the matter upon which advice or assistance was given calculated in accordance with the Table of Fees in Schedule 2 to these regulations; and
- (b) outlays necessarily and reasonably incurred in connection with that matter.

Assessment and taxation of fees and outlays

10.—(1) Where the solicitor who gave the advice or assistance considers that there is a deficiency in the fees and outlays properly chargeable for that advice or assistance, after deduction of any contribution payable by the client under the provisions of section 4 of the Act and any expenses or property recovered or preserved under the provisions of section 5 of that Act, he shall submit an account to the appropriate local committee or to the Central Committee in accordance with the Legal Advice and Assistance (Scotland) Scheme 1973 and, where it is submitted to the appropriate local committee, that committee shall transmit the account to the Central Committee.

(2) Where the Central Committee receive an account in accordance with paragraph (1) above, they shall assess the fees and outlays allowable to the solicitor for the advice or assistance in accordance with regulation 9 of these regulations and shall determine accordingly any deficiency payable out of the fund and pay it to the solicitor.

(3) If any solicitor is dissatisfied with any assessment of fees and outlays by the Central Committee under paragraph (2) above, he may require taxation of his account by the auditor; the auditor shall tax the fees and outlays allowable to the solicitor for the advice or assistance in accordance with regulation 9 of these regulations; and such taxation shall be conclusive of the fees and outlays so allowable.

11.—(1) In any case where there is no such deficiency as is mentioned in regulation 10(1) of these regulations and any fees and outlays in respect of the advice or assistance are payable by the client under the provisions of section 4 of the Act or constitute a first charge for the benefit of the solicitor on any property recovered or preserved for the client under the provisions of section 5 of the Act, the client may, if he is dissatisfied with the amount of those fees and outlays, require taxation of those fees and outlays by the auditor; the auditor shall tax the fees and outlays allowable to the solicitor in respect of the advice or assistance in accordance with regulation 9 of these regulations; and such taxation shall be conclusive of the amount of the fees and outlays so allowable.

(2) In any case where the fees and outlays allowable to a solicitor in respect of advice or assistance in accordance with regulation 9 of these regulations are less than any contribution paid by the client under section 4 of the Act, the solicitor shall refund the excess contribution.

12. Regulations 9 to 11 above shall not apply to the fees and outlays recoverable for advice or assistance to a client from a third party and, where such fees and outlays are to be taxed, they shall be taxed as if the advice or assistance were not advice or assistance under the Act.”.

6. In the Schedule to the principal regulations, for the heading “SCHEDULE” there shall be substituted the heading “SCHEDULE 1”.

7. After the Schedule to the principal regulations there shall be added the following Schedule:—

“SCHEDULE 2

Regulation 9

TABLE OF FEES ALLOWABLE TO SOLICITORS

1. Subject to paragraph 2 of this Schedule, the fees allowable to a solicitor shall be calculated as follows:—

- | | |
|--|--------|
| (a) For formal letters or formal telephone calls | £2.00 |
| (b) For taking and drawing precognitions: | |
| for the first sheet of 250 words or less | £13.00 |
| for each subsequent sheet of 250 words | £13.00 |
| for each subsequent sheet of less than 250 words | £6.50 |
| (c) For all other work, a fee calculated at a rate of £26 per hour (the fee for any part of an hour being the proportionate part of the hourly rate) | |

2. Where the fees which would be allowable to a solicitor in respect of the matter in respect of which advice or assistance was given, calculated in accordance with paragraph 1 above, would amount to less than £13 or where a solicitor elects to claim only the fee provided for in this paragraph, a fee of £13 shall be allowable in place of the fees so calculated.”.

8. The Legal Advice and Assistance (Scotland) Amendment Regulations 1982(a) are hereby revoked.

New St. Andrew’s House,
Edinburgh.
23rd February 1984.

George Younger,
One of Her Majesty’s
Principal Secretaries of State.

(a) S.I. 1982/622.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the provisions of the Legal Advice and Assistance (Scotland) Regulations 1973, as amended by the Legal Advice and Assistance (Scotland) Amendment Regulations 1982.

These regulations prescribe the fees and outlays allowable to solicitors in respect of legal advice or assistance given under the Legal Advice and Assistance (Scotland) Act 1972 upon an assessment of fees and outlays by the Central Committee of the Law Society of Scotland or a taxation by the auditor of the sheriff court. The fees and outlays prescribed by the regulations apply in all cases where fees are payable from the legal aid fund or by the legally assisted client or out of property recovered or preserved for the client. They do not apply where the fees and outlays are recoverable from a third party.

Previously the 1973 Regulations regulated fees and outlays only in cases where a claim was made on the legal aid fund.

These regulations provide that the fees and outlays allowable shall only be fees for work necessarily and reasonably done, calculated in accordance with a Table of Fees in a new Schedule 2 to the 1973 Regulations, and outlays necessarily and reasonably incurred.

Paragraph 1 of the new Table of Fees lays down specific fees for formal letters and telephone calls and for taking and drawing precognitions. For all other work, there will be a fee calculated at the rate of £26 per hour (the fee for part of an hour being the proportionate part of £26). These fees are subject to paragraph 2 of that Table which provides for a minimum fee in respect of each case of £13. A solicitor may opt to claim the minimum fee rather than the detailed fee under paragraph 1.

Previously, the 1973 Regulations as amended by the 1982 Regulations provided for fees for all work to be calculated at a rate not exceeding £6 per quarter hour (to the nearest quarter hour) and provided that, in cases of exceptional complexity or difficulty, fees might be allowed at such rate as the Central Committee of the Law Society of Scotland (or the auditor of the sheriff court in case of taxation) thought reasonable.

These regulations also replace the provisions in the 1973 Regulations relating to the assessment and taxation of fees and outlays. They provide that where a claim is made on the legal aid fund the fees and outlays shall be assessed in the first place by the Central Committee and thereafter, if required by the solicitor, shall be taxed by the auditor of the sheriff court. Where no claim is made on the legal aid fund but fees are payable by the legally assisted client or out of property recovered or preserved for him the client may request taxation by the auditor of the sheriff court.

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