
STATUTORY INSTRUMENTS

1989 No. 389 (S.43)

LEGAL AID AND ADVICE, SCOTLAND

The Legal Aid (Scotland) (Fees in Civil Proceedings) Amendment Regulations 1989

<i>Made</i>	- - - -	<i>9th March 1989</i>
<i>Laid before Parliament</i>		<i>10th March 1989</i>
<i>Coming into force</i>	- -	<i>1st April 1989</i>

The Secretary of State, in exercise of the powers conferred on him by sections 14A and 15 of the Legal Aid (Scotland) Act 1967(1) as read with section 45 of, and paragraph 3(1) of Schedule 4 to, the Legal Aid (Scotland) Act 1986(2), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

1.—(1) These Regulations may be cited as the Legal Aid (Scotland) (Fees in Civil Proceedings) Amendment Regulations 1989 and shall come into force on 1st April 1989.

(2) In these Regulations “the principal Regulations” means the Legal Aid (Scotland) (Fees in Civil Proceedings) Regulations 1984(3).

2. For the Table of Fees in Schedule 3 to the principal Regulations there shall be substituted the Table of Fees set out in the Schedule to these Regulations.

3. The amendments to the principal Regulations made by regulation 2 of these Regulations shall apply only to fees in relation to work done on or after 1st April 1989.

St Andrew’s House,
Edinburgh
9th March 1989

James Douglas-Hamilton
Parliamentary Under Secretary of State, Scottish
Office

(1) 1967 c. 43; section 14A was inserted by section 3 of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12)
(2) 1986 c. 47
(3) S.I.1984/519; the relevant amending instruments are S.I. 1985/557, 1986/681, 1987/825 and 1988/422

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 2

TABLE OF FEES

CHAPTER I

JUNIOR COUNSEL

PART I — UNDEFENDED ACTIONS OF DIVORCE OR SEPARATION-AFFIDAVIT PROCEDURE

1. *Summons or other initiating writ*
- (a) (a) Subject to subparagraph (b) below the fees shall be—
 - (i) Where the facts set out in section 1(2)(b) (unreasonable behaviour) of the Divorce (Scotland) Act 1976(4) are relied on £24.50
 - (ii) Where the facts set out in section 1(2)(a) (adultery) or section 1(2)(c) (desertion) of the said Act are relied on and the action is not straightforward £24.50
 - (iii) Where the facts set out in the said section 1(2)(a) (adultery) or section 1(2)(c) (desertion) are relied on and the action is straightforward £20.00
 - (iv) Where the facts set out in section 1(2)(d) (2 years' non-cohabitation and consent) or 1(2)(e) (5 years' non-cohabitation) of the said Act are relied on £20.00
 - (b) (b) Where common law interdict and/or any order under the Matrimonial Homes (Family Protection)

(4) 1976 c. 39

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART I — UNDEFENDED ACTIONS OF DIVORCE OR SEPARATION-AFFIDAVIT PROCEDURE

(Scotland) Act
1981(5) or any other
ancillary order is
also sought, the fee
shall be within the
following range:—

From £24.50

To £46.00

2.

Minute

(a) (a) Minute £18.00
involving
arrangements for a
child or children and/
or financial provision

(b) (b) Any other £14.00
minute

3.

By Order Roll Appearance £14.00

4.

All other work

The fees specified in Part IV
shall apply.

PART II — CONSISTORIAL ACTIONS OTHER THAN THOSE TO WHICH PART I APPLIES

1.

Summons or other initiating writ

The fees specified in Part I
shall apply.

2.

Minute for pursuer relating to custody, aliment or access £20.50

3.

Defences or answers

(a) (a) Defences or £11.50
answers in purely
skeleton form to
preserve rights of
parties

(b) (b) Answers to £18.00
minute

(c) (c) The fee
for defences or
answers to which
sub-paragraph (a) or
(b) does not apply

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART I — UNDEFENDED ACTIONS OF DIVORCE OR SEPARATION-AFFIDAVIT PROCEDURE

shall be within the following range:—

- | | | |
|----|---|--------|
| | From | £20.00 |
| | To | £41.00 |
| 4. | <i>Joint minute regulating custody, aliment or access</i> | |
| | Framing or adjusting the minute | £17.50 |
| 5. | <i>By Order Roll appearance</i> | £14.00 |
| 6. | <i>All other work</i> | |
- The fees specified in Part IV shall apply

PART III — PETITIONS

1. *Petition (including any revisals thereto)*
 - (a) (a) Petition for interdict £52.00
 - (b) (b) Other Outer House petitions £34.50
 - (c) (c) Inner House petition: such fee shall be allowed as appears to the auditor to provide reasonable remuneration for the work.

2. *Answers (including any revisals thereto)*
 - (a) (a) Petition for interdict £52.00
 - (b) (b) Other Outer House petitions £32.00
 - (c) (c) Inner House petitions: such fee shall be allowed as appears to the auditor to provide reasonable remuneration for the work.

3. *All other work*

The fees specified in Part IV shall apply.

*PART I — UNDEFENDED ACTIONS OF DIVORCE OR SEPARATION-AFFIDAVIT
PROCEDURE*

PART IV — ORDINARY ACTIONS

1. *Summons (including any
revisals thereto)*
 - (a) (a) Straightforward cases £43.50
 - (b) (b) Other cases £57.00

2. *Defences (including any
revisals thereto)*
 - (a) (a) Where purely skeleton form to preserve rights of parties in £11.50
 - (b) (b) Otherwise the fee shall be within the following range, having regard to nature of summons:
—
From £43.50
To £57.00

3. *Adjustment of record*
 - (a) (a) Adjustment fee (each occasion) £18.00
 - (b) (b) Additional adjustment fee, where skeleton defences require to be amplified, where additional parties are introduced, etc. £43.50

4. *Specification of documents*

Standard calls only £18.00

5. *Minutes, etc.*
 - (a) (a) Formal amendments or answers £16.50
 - (b) (b) Amendments or answers other than formal £29.00
 - (c) (c) Revising and signing tender or acceptance £7.50

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

*PART I — UNDEFENDED ACTIONS OF DIVORCE OR SEPARATION-AFFIDAVIT
PROCEDURE*

- (d) (d) Note of £18.00 exceptions
- (e) (e) Abandonment, £9.00 sist, restriction, etc.
- (f) (f) Issue or £9.00 counter issue

6.

Notes

- (a) (a) Note on £46.00 quantum only
- (b) (b) Note advising £52.00 on tender or extra-judicial offer, where not merely confirming advice at consultation
- (c) (c) Note on line of £52.00 evidence
- (d) (d) The fee for other types of note shall be within the following range:—

From	£17.50
To	£52.00

7.

Consultations

- (a) (a) Before proof or trial, or otherwise involving a significant degree of preparation or lengthy discussion—
 - (i) Junior alone £63.50
 - (ii) Junior with Senior £34.50
- (b) (b) Other consultations—
 - (i) Junior alone £52.00
 - (ii) Junior with Senior £29.00

8.

Motions

- (a) (a) Unopposed £9.00 motions on By Order (Adjustment) Roll, etc.

PART I — UNDEFENDED ACTIONS OF DIVORCE OR SEPARATION-AFFIDAVIT PROCEDURE

	(b) (b) Opposed motions—	
	Attendance for up to half hour	£18.00
	Attendance for each subsequent half hour or part thereof	£14.00
	(c) (c) Motions on By Order Roll (including advice)	£16.50
9.	<i>Procedure Roll, proof or jury trial</i>	£189.00
	(a) (a) Junior alone – per day	
	(b) (b) Junior with Senior – per day	£143.50
10.	<i>Inner House</i>	
	(a) (a) Single Bills	
	(i) Unopposed	£14.00
	(ii) Opposed—	
	Attendance for each half hour or part thereof	£20.50
	(b) (b) Reclaiming motion	
	(i) Junior opening or appearing alone – per day	£201.00
	(ii) Junior otherwise – per day	£155.50
	(c) (c) Motion for new trial	
	(i) Junior alone – per day	£201.00
	(ii) Junior with Senior – per day	£155.50
11.	<i>Attendance at judgement</i>	£16.50
	(a) (a) Outer House	
	(b) (b) Inner House	£20.50

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

CHAPTER II SENIOR COUNSEL

CONSISTORIAL ACTIONS, PETITIONS AND ORDINARY ACTIONS

1. *Revisal of pleadings*
 - (a) (a) Revisal of £75.50
summons, defences,
petition or answers
 - (b) (b) Adjustment £29.00
fee (open record)
(each occasion)
2. *Minutes, etc. – revisal fees*
 - (a) (a) Amendments £32.00
(other than formal) or
answers
 - (b) (b) Admissions, £9.00
tender or acceptance
(in appropriate cases)
 - (c) (c) Note of £9.00
exceptions
3. *Notes*
 - (a) (a) Note on £69.00
quantum only
 - (b) (b) Advice £75.50
on tender or
extra-judicial offer
where not merely
confirming advice at
consultation
 - (c) (c) Note on line of £75.50
evidence (revisal)
 - (d) (d) The fee for
other notes shall be
within the following
range:—

From	£23.50
To	£75.50
4. *Consultations*
 - (a) (a) Before £91.00
proof or trial, or
otherwise involving
a significant degree
of preparation or
lengthy discussion

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

CONSISTORIAL ACTIONS, PETITIONS AND ORDINARY ACTIONS

	(b)	(b)	Other	£75.50
			consultations	
5.			<i>Day in court</i>	
	(a)	(a)	Inner House –	£270.00
			per day	
	(b)	(b)	Outer House –	£252.00
			per day	

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Legal Aid (Scotland) (Fees in Civil Proceedings) Regulations 1984 so as to increase the fees allowable to counsel for legal aid in civil proceedings given under the Legal Aid (Scotland) Act 1967. The increased fees will apply to fees for work done on or after 1st April 1989.

The Legal Aid (Scotland) Act 1967 continues in effect, despite its general repeal by the Legal Aid (Scotland) Act 1986, in respect of legal aid applications which were granted before commencement of the 1986 Act on 1st April 1987. (See paragraph 3(1) of Schedule 4 to the 1986 Act.) It is thus only in respect of work done following upon such applications that these Regulations increase the fees.

The overall increase is around 6 per cent.