SCOTTISH STATUTORY INSTRUMENTS

2026 No. 267

LEGAL AID AND ADVICE

The Criminal Legal Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026

Made - - - - *22nd September 2026*

Laid before the Scottish Parliament *24th September 2026*

Coming into force in accordance with regulation 1(2) and (3)

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 33(2), (3)(b), (3)(f) and (3A) of the Legal Aid (Scotland) Act 1986(**a**) and all other powers enabling them to do so.

Citation and commencement

1.—(1) These Regulations may be cited as the Criminal Legal Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026.

(2) Subject to paragraph (3), these Regulations come into force on 19 November 2026.

(3) Regulations 4 and 5 come into force on 14 December 2026.

Application

2.—(1) Regulation 3(2)(a) applies to any case where the grant of assistance by way of representation was made on or after 1 September 2026.

(2) Regulation 3(2)(b) applies to fees for work done or outlays incurred on or after 1 September 2026.

(3) For the purposes of paragraph (2), where work for a fee prescribed in regulation 3(2)(b) 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.

Amendment of the Advice and Assistance (Scotland) Regulations 1996

3.—(1) The Advice and Assistance (Scotland) Regulations 1996(**b**) are amended as follows.

(2) In schedule 3 (table of fees allowable to solicitors)—

(**a**) 1986 c. 47. Section 33(2) was amended by section 67(7)(b) of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). Section 33(3A) was inserted by section 51 of the Crime and Punishment (Scotland) Act 1997 (c. 48).

(**b**) S.I. 1996/2447 (as renamed by S.I. 1997/726); relevant amending instruments are S.I. 1997/726, S.S.I. 2004/262, S.S.I. 2005/171, S.S.I. 2006/233, S.S.I. 2008/240, S.S.I. 2010/312, S.S.I. 2011/41, S.S.I. 2013/144, S.S.I. 2013/250, S.S.I. 2014/257, S.S.I. 2017/466, S.S.I. 2019/78, S.S.I. 2020/191, S.S.I. 2021/368, S.S.I. 2021/55, S.S.I. 2022/30, S.S.I. 2021/56 and S.S.I. 2023/135. Prospectively amended by S.S.I. 2026/144.

(a) In Part 7(**a**) (table of fees allowable to solicitors for assistance by way of representation for proceedings under schedule 6 of the National Security Act 2023)—

(i) in paragraphs (a) and (c), for "£62.59" substitute "£70.73",

(ii) in paragraph (b), for "£93.87" substitute "£106.08",

(iii) in paragraph (d), for "£7.28" substitute "£8.23",

(b) In Part 8(**b**) (table of fees allowable to solicitors for advice and assistance in relation to section 27 and schedule 6 of the National Security Act 2023)—

(i) in paragraph 3(a) (standard rate), for "£143.93" substitute "£162.65",

(ii) in paragraph 3(a) (higher rate), for "£191.42" substitute "£216.31",

(iii) in paragraph 3(b)(i) (standard rate), for "£250.29" substitute "£282.83",

(iv) in paragraph 3(b)(i) (higher rate), for "£332.89" substitute "£376.17",

(v) in paragraph 3(b)(ii) (standard rate), for "£62.59" substitute "£70.73",

(vi) in paragraph 3(b)(ii) (higher rate), for "£83.24" substitute "£94.07",

(vii) in paragraph 4 (standard rate), for "£37.56" substitute "£42.45",

(viii) in paragraph 4 (higher rate), for "£49.95" substitute "£56.45",

(ix) in paragraphs 5(a) and (b) (standard rate), for "£14.53" substitute "£16.42",

(x) in paragraphs 5(a) and (b) (higher rate), for "£19.33" substitute "£21.85".

Amendment of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999

4.—(1) The Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999(**c**) are amended as follows.

(2) In regulation 4 (fixed payments allowable to solicitors)—

(a) at the beginning of paragraph (1A)(**d**), insert "Subject to paragraph (7B),",

(b) at the beginning of paragraph (1BA)(a)(ii), insert "subject to paragraph (1BA)(a)(iii)",

(c) after paragraph (1BA)(a)(ii)(**e**), insert—

"(iii) where work has been carried out in respect of more than one of paragraphs 1(a), (b) and 3 of Part 2 of Schedule 3, only the highest fee payable in respect of the work carried out is to be paid,",

(d) in paragraph (7)—

(i) in the opening words, omit "there shall be paid to each of the solicitors who act for the assisted person in the relevant proceedings",

(ii) in sub-paragraph (a)—

(aa) at the beginning, insert "there shall be paid to each of the solicitors who act for the assisted person in the relevant proceedings",

(bb) omit "paragraph 1 of" the second time it occurs,

(iii) in sub-paragraph (b), for "13" substitute "10",

(iv) in sub-paragraph (c)—

(**a**) Part 7 of schedule 3 was inserted by S.S.I. 2023/313.
(**b**) Part 8 of schedule 3 was inserted by S.S.I. 2023/313.
(**c**) S.I. 1999/491. Relevantly amended by S.S.I. 2008/240, S.S.I. 2010/237, S.S.I. 2013/92, S.S.I. 2014/366, S.S.I. 2023/135, S.S.I. 2026/107 and S.S.I. 2026/144.
(**d**) Paragraph (1A) was inserted by S.S.I. 2008/240 and relevantly amended by S.S.I. 2023/135 and S.S.I. 2026/107.
(**e**) Paragraph (1BA) was inserted by S.S.I. 2026/107.

(aa) for "paragraph 1 of Schedule 1A" substitute "that schedule",

(bb) for "paragraphs 10, 10AA and 13" substitute "paragraphs 6, 7 and 10",

(v) for sub-paragraph (d), substitute—

"(d) where Schedule 3 applies—

(i) there shall be paid to each of the solicitors who act for the assisted person in the relevant proceedings an equal part of the total amount payable under paragraph 1 of Part 1, or as the case may be, paragraphs 1 or 3 of Part 2, of that Schedule;

(ii) the amount payable under paragraphs 2 to 5 of Part 1 of Schedule 3 is payable to the solicitor who carries out the work described in those paragraphs;

(iii) the amount payable under one or both of paragraphs 2 and 4 of Part 2 of Schedule 3 is payable to the solicitor who carries out the work described in those paragraphs.",

(vi) in sub-paragraph (f)(i), at the beginning insert "there shall be paid to each of the solicitors who act for the assisted person in the relevant proceedings",

(e) After paragraph (7A)(**a**) insert—

"(7B) Paragraph (1A) does not apply to payments made under paragraphs (7AA) or (7AB).".

Amendment of the Criminal Legal Assistance (Fees and Information etc.) (Scotland) Regulations 2008

5.—(1) The Criminal Legal Assistance (Fees and Information etc.) (Scotland) Regulations 2008(**b**) are amended as follows.

(2) In regulation 7(**c**) (single payment in summary criminal cases), after paragraph (5)(c) insert—

"(d) the provision of criminal legal aid by more than one solicitor under regulation 4(7AA) or (7AB) of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999.".

KIRSTEN OSWALD
Authorised to sign by the Scottish Ministers

St Andrew's House
Edinburgh
22nd September 2026

(**a**) Paragraph (7A) was inserted by S.S.I. 2008/240.
(**b**) S.S.I. 2008/240.
(**c**) Regulation 7 was relevantly amended by S.S.I. 2026/107.

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulation 3 amends the Advice and Assistance (Scotland) Regulations 1996 ("the 1996 Regulations") to increase fees and outlays for assistance by way of representation, and advice and assistance, provided under the National Security Act 2023 by 13%. This aligns the fees under Parts 7 and 8 of schedule 3 of the 1996 Regulations with the fee increase introduced by the Legal Aid and Advice and Assistance (Fees) (Miscellaneous Amendment) (Scotland) Regulations 2026 which came into force on 1 September 2026.

Regulation 2 provides that the fee increase provided for in regulation 3 will apply retrospectively from 1 September 2026.

Regulation 4 amends the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 ("the 1999 Regulations") in relation to the fixed payments provided for solicitors who have carried out criminal legal aid work in summary proceedings. It provides that where fees are payable in respect of more than one of paragraphs 1(a), (b) or (3) of Part 2 of schedule 3 of the 1999 Regulations, only the highest fee payable in respect of the work carried out is to be paid. It also disapplies the rule that fixed payments are only payable from one schedule in the 1999 Regulations where there has been a change of solicitors working on a case, and certain types of work has been carried out by each solicitor. Regulation 4 also makes a number of minor and technical amendments.

Regulation 5 amends the Criminal Legal Assistance (Fees and Information etc.) (Scotland) Regulations 2008 to ensure that where there is a change of solicitor and work carried out is payable as different types of criminal legal assistance, under regulation 4(7AB) or (7AB) of the 1999 Regulations, the fees are paid to each solicitor.

Regulations 4 and 5 come into force on 14 December 2026 to align with relevant amendments being introduced by the Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026.

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