POLICY NOTE

THE CRIMINAL LEGAL ASSISTANCE (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2026

SSI 2026/267

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

Summary Box

Insert one or two sentences to explain what the purpose of the instrument is.

The Criminal Legal Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026 makes provision to implement an increase of 13% to two types of legal aid omitted from previous regulations. It also makes some technical changes relating to the fees payable in summary criminal proceedings where there has been a change of solicitors.

Policy Objectives

This instrument is required to increase the fees prescribed in Parts 7 and 8 of schedule 3 of the Advice and Assistance (Scotland) Regulations 1996[1] (S.I. 1996/2447). These fees were intended to be included in fees increases that were made by the Legal Aid and Advice and Assistance (Fees) (Miscellaneous Amendment) (Scotland) Regulations 2026[2] (S.S.I. 2026/144) but were inadvertently omitted.

The instrument is also required to make amendments to the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999[3] (S.I. 1999/491) and the Criminal Legal Assistance (Fees and Information etc.) (Scotland) Regulations 2008[4] (S.S.I. 2008/240) following amendments to both by the Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026[5] (S.S.I. 2026/107). These changes primarily seek to clarify how fees are apportioned when there is a change of solicitor in summary criminal proceedings.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 ('the Act'), the Scottish Ministers certify that, in their view, the Criminal Legal Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

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[1] https://www.legislation.gov.uk/uksi/1996/2447/contents
[2] https://www.legislation.gov.uk/ssi/2026/144/contents/made
[3] https://www.legislation.gov.uk/ssi/1999/48/contents/made
[4] https://www.legislation.gov.uk/ssi/2008/240/made
[5] https://www.legislation.gov.uk/ssi/2026/107/contents

EU Alignment Consideration
This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation
The Scottish Legal Aid Board made the Scottish Government aware of the issues being rectified by this instrument. The Scottish Government consulted with representatives of the legal aid profession during 2025 in relation to the wider policy intent in respect of all regulations are that are being amended.

Impact Assessments
Impact assessments were done for the Legal Aid and Advice and Assistance (Fees) (Miscellaneous Amendment) (Scotland) Regulations 2026 and the Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026. We are satisfied that these impact assessments remain accurate, and the changes to be applied are in line with those assessed in relation to the earlier SSI and the practical impact of these further changes is expected to be marginal. A Child Rights and Wellbeing Impact Assessment (CRWIA) has been completed for this instrument to comply with the statutory requirement, and a Business and Regulatory Impact Assessment (BRIA) was considered appropriate. As this instrument addresses inadvertent omissions affecting a very small and limited number of cases, and no negative impacts on groups with protected characteristics are anticipated, an Equality Impact Assessment (EQIA) was not required.

Financial Effects
A BRIA was done for the Legal Aid and Advice and Assistance (Fees) Miscellaneous Amendment) (Scotland) Regulations 2026 and the Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026 which these regulations amend. Whilst the regulations are making minor amendments to ensure a fee uplift to all legal aid fees, and other changes to the legal aid framework, can operate as intended, a BRIA was still completed for these regulations to assess their impact. The impact of this policy on business is minimal, but is likely to be positive to the relevant stakeholders.

Scottish Government
Justice Directorate

September 2026