EXECUTIVE NOTE

THE ADVICE AND ASSISTANCE AND CIVIL LEGAL AID (FINANCIAL CONDITIONS AND CONTRIBUTIONS) (SCOTLAND) REGULATIONS 2009 (SSI/2009/DRAFT)

These Regulations are made in exercise of the powers conferred on Scottish Ministers by sections 11(2), 17(2)(a) and 36(2)(b) of the Legal Aid (Scotland) Act 1986 ("the 1986 Act") and of all other powers enabling them to do so.

Policy Objective

The policy objective is to increase the upper disposable income limit for financial eligibility for civil legal aid beyond which individuals cease to be eligible. The upper disposable income limit will be increased to £25,000. Coupled with this it is also our intention to give guidance to the Board under section 3(4) of the 1986 Act setting out the contributions across 3 disposable income ranges. The rate of contributions will increase as those income ranges increase.

In addition, this instrument increases, broadly in line with inflation, the key figures used to calculate an applicant's financial eligibility for advice and assistance and the level of any contribution required. This type of assistance is available in relation to civil and criminal matters but does not usually cover representation in a court or at a tribunal. These increases are usually made every year.

Consultation

These proposals were considered by the 2004 Strategic Review of Legal Aid. The Advice for All consultation which formed part of the review asked a number of questions about financial eligibility for civil legal aid including whether a system of extended and tapered eligibility should be introduced.

Financial Implications

It is anticipated that increasing the upper disposable income limit for civil legal aid and changing the contribution ranges and rates will cost approximately £1.3 million a year.

Scottish Government
11 February 2009