EXECUTIVE NOTE

DRAFT : THE ADVICE AND ASSISTANCE AND CIVIL LEGAL AID (FINANCIAL CONDITIONS AND CONTRIBUTIONS) (SCOTLAND) REGULATIONS 2010

The Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2010 ("the Regulations") will, if approved, be made in exercise of the powers conferred on the Scottish Ministers by sections 11(2), 17(2)(a) and 36(2)(b) of the Legal Aid (Scotland) Act 1986 ("the 1986 Act") and all other powers enabling them to do so.

The Regulations are subject to the affirmative resolution procedure.

Policy Objective

The policy objective is to maintain, broadly in line with inflation, financial eligibility for advice and assistance and civil legal aid and the financial thresholds beyond which recipients of advice and assistance and civil legal aid are required to contribute towards the cost of the assistance received.

This is to be achieved by increasing the prescribed limits of disposable capital and of weekly disposable income above which a person is not eligible for advice and assistance. The value of weekly disposable income above which a person will be required to make a contribution towards the cost of advice and assistance is also to be increased.

Similarly, the upper disposable income and disposable capital limits for financial eligibility for civil legal aid will be increased. The maximum contributable proportion of disposable income exceeding the prescribed threshold (which is to be raised to £3,415 per annum) is to remain 67.1%, as previously prescribed in the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2009 (S.S.I. 2009/143). The maximum contributable proportion of disposable income will not be collected in every case. Last year the Scottish Government sent guidance to the Scottish Legal Aid Board under section 3(4) of the 1986 Act setting out how the amount of contributable disposal income to be collected should be calculated. If the Regulations are approved, that guidance will be updated to reflect the inflationary increases which the Regulations effect.

Consultation

The increases described above take place annually and are designed to maintain the existing financial eligibility thresholds in real terms. Formal consultation is not normally carried out.

Financial Implications

Because the draft Regulations are intended to maintain, rather than to change, the financial eligibility limits for advice and assistance and civil legal aid they are not expected to have an impact on expenditure.

Scottish Government
8 February 2010