Draft Regulations laid before the Scottish Parliament under section 37(2) of the Legal Aid (Scotland) Act 1986 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

LEGAL AID AND ADVICE

The Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026

Made - - - - 2026

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 9, 21(2) and (3), 33(2), (3)(a), (b) and (f), (3A) and (3C) and 36(1), (2)(a), (b), (c), (d) and (e) of the Legal Aid (Scotland) Act 1986(**a**) and all other powers enabling them to do so.

In accordance with section 37(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament(**b**).

Citation and commencement

1.—(1) These Regulations may be cited as the Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026.

(2) With the exception of regulations 3(2) and 4 to 10, these Regulations come into force on 1 April 2026.

(3) Regulations 3(2) and 4 to 10 come into force on 14 December 2026.

Application

2.—(1) Regulation 3(3) applies only in relation to cases where the work is done on or after 1 April 2026.

(2) Regulations 3(2) and 4 to 10 apply only in relation to criminal legal assistance provided in respect of proceedings where the complaint was served on or after 14 December 2026.

(**a**) 1986 c. 47 ("the 1986 Act"). Section 33(2) of the 1986 Act was amended by section 67(7)(b) of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5). Section 33(3A) was inserted by section 51 of the Crime and Punishment (Scotland) Act 1997 (c. 48). Section (3C) was inserted by the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7). Section 36(2)(b) was amended by section 23(9) of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3). 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).

(**b**) The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

Amendment of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989

3.—(1) The Criminal Legal Aid (Scotland) (Fees) Regulations 1989(**a**) are amended as follows.

(2) At the start of regulation 6 (duty solicitors' fees), insert—

"(A1) This regulation does not apply to summary proceedings where—

(a) a complaint has been served on an accused person, and

(b) the accused person either—

(i) is in custody, or

(ii) has been released from police custody on an undertaking given under section 25(2)(a) of the Criminal Justice (Scotland) Act 2016 (liberation by police).".

(3) In schedule 1A (fees of solicitors), in paragraph 5 (preparation fee) of Part 2 of the Table of Fees (fees for solemn first instance proceedings)—

(a) in sub-paragraph (a)(i) after "trial", insert—

"including where the court discharges a trial diet and appoints an earlier diet in accordance with section 75A(5) of the 1995 Act",

(b) in sub-paragraph (b), for "way of a hearing under" substitute—

"a plea of guilty accepted at any diet prior to an appointed trial diet, including a diet arranged in accordance with".

Amendment of the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993

4. In regulation 3(c) (financial limit) of the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993(**b**), omit sub-paragraphs (iv) and (v).

Amendment of the Advice and Assistance (Scotland) Regulations 1996

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

(2) Omit regulation 14A (change of solicitor etc.).

(3) In schedule 3 (table of fees allowable to solicitors), in the table of fees in Part 1, omit—

(a) "(b) fees, as undernoted, for work other than or subsequent to that described in schedule 1B of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999—",

(b) paragraph 1A (supplementary fee at a holiday court sitting).

Amendment of the Criminal Legal Aid (Scotland) Regulations 1996

6.—(1) The Criminal Legal Aid (Scotland) Regulations 1996(**d**) are amended as follows.

(2) In regulation 4(1) (distinct proceedings for criminal legal aid)—

(a) in sub-paragraph (c), omit "or (j) below",

(b) omit sub-paragraphs (d) and (j),

(c) in sub-paragraph (e), omit from "other than" to the end.

(3) In regulation 7A(3)(a) (applications to the Board), for the words after "must be made" substitute—

"—

(**a**) S.I. 1989/1491. Schedule 1A was inserted by S.S.I. 2023/135.
(**b**) S.I. 1993/3187. Paragraph (c) of regulation 3 was inserted by S.S.I. 2008/251.
(**c**) S.I. 1996/2447. Regulation 14A was inserted by S.S.I. 2008/240. The table of fees in schedule 3 was substituted by S.S.I. 2023/135.
(**d**) S.I. 1996/2555. Regulation 7A was inserted by S.S.I. 2010/377.

(i) as soon as practicable following the commencement of proceedings, failing which within 14 days after the date on which the solicitor in the case was first instructed, or

(ii) by such other date or stage in proceedings as the Board may specify in writing before the end of the 14 days;".

(4) After regulation 7A, insert—

"Criminal legal aid available automatically in summary proceedings: notice to the Board

7B.—(1) Subject to paragraph (2), where a solicitor acts for an accused person by virtue of section 22(1)(c), (d), (da) or (db) of the Act (automatic availability of criminal legal aid), they must give notice to the Board that they are so acting as soon as practicable, failing which within 14 days of first taking instructions.

(2) Paragraph (1) does not apply where the solicitor has given notice to the Board in accordance with regulation 17(5)(**a**) that they intend to cease, or have ceased, acting for the accused person.

Criminal legal aid in summary proceedings: stage from when available

7C. Criminal legal aid is available in connection with summary criminal proceedings from the date on which the complaint in those proceedings is served.".

(5) In regulation 15 (matters of special urgency)—

(a) at the start, insert—

"(A1) Where an accused person ("P") seeks legal aid in a matter of special urgency before an application under section 24 of the Act is determined (whether or not such application has yet been made), the Board may, if it thinks fit, make criminal legal aid available if satisfied that the following conditions are met—

(a) a complaint has been served on P,

(b) P has been cited to appear at court on a date in the next 7 days (whether or not that date has been continued),

(c) section 24(1)(b) (it is in the interests of justice that legal aid should be made available) applies in respect of P,

(d) it is necessary in the circumstances for work to be undertaken in the period before an application for summary criminal legal aid will be determined by the Board,

(e) either—

(i) P's solicitor has intimated to the Board that—

(aa) P has instructed them to tender a plea of guilty at the relevant pleading diet (whether or not continued), and

(bb) they reasonably consider that such delay in so pleading as would be caused by seeking a continuation to allow time for the Board to determine an application for summary criminal legal aid would be materially contrary to P's best interests, or

(ii) an application for summary criminal legal aid has not been made, or has been made but not yet determined, and P's solicitor has intimated to the Board that—

(aa) a continuation to allow time for an application for summary criminal legal aid to be determined has been refused by the court,

(bb) the court has continued the case, and

(**a**) Regulation 17(5) is inserted by paragraph (6) below.

(cc) the solicitor will require to undertake substantive work in the case before an application for summary criminal legal aid can be determined,

(f) the solicitor reasonably assesses (and where the Board requires has so certified) that section 24(1)(a) (undue hardship) applies in respect of P, and

(g) an application for summary criminal legal aid, if not already made, will be made as soon as practicable, and failing which within 14 days following the date of commencement of the work (or such other date as the Board may in writing agree before those 14 days have passed).

(A2) Where criminal legal aid is made available under paragraph (A1) above, the Board may—

(a) specify that it is available only for such limited purposes as it thinks appropriate in the circumstances,

(b) specify that it is available only for such duration as it thinks appropriate in the circumstances,

(c) attach such conditions as it thinks appropriate in the circumstances.",

(b) after paragraph (2)(a), insert—

"(ab) specify that it is available only for such duration as it thinks appropriate in the circumstances,

(ac) attach such conditions as it thinks appropriate in the circumstances,",

(c) after paragraph (2), insert—

"(3) Where criminal legal aid is made available under paragraph (A1) or (1) above, the Board may require the assisted person to submit an application under section 24, including where the proceedings in respect of which criminal legal aid was made available have concluded.".

(6) After regulation 17(3) (changes of solicitor), insert—

"(4) Paragraph (5) applies where—

(a) a solicitor acts in summary criminal proceedings for a person who is in receipt of criminal legal aid by virtue of section 22(1)(c), (d), (da) or (db) of the Act, or regulation 15(A1),

(b) the solicitor determines that they will cease to act for that person, and

(c) an application for legal aid has not been granted under section 24 of the Act.

(5) Where this paragraph applies, the solicitor must, as soon as practicable, and failing which within 14 days after the date on which they cease to act, provide to the Board—

(a) notice that they intend to cease, or as the case may be have ceased, acting for the person,

(b) the date on which they began to provide criminal legal assistance (of any type),

(c) the date on which they ceased to so act, and

(d) such other information as the Board may require.".

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

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

(2) In regulation 2 (interpretation)—

(**a**) S.I. 1999/491. Relevantly amended by S.S.I. 2008/240, S.S.I. 2013/92 and S.S.I. 2014/366. The definition of "relevant ABWOR" in regulation 2, regulations 3(3), 4(1A) to (1D), (7), (7B) and (10), 4A(10) and (11) and schedule 1B were inserted by S.S.I. 2008/240. Regulation 4A was inserted by S.S.I. 2002/247.

(a) in the definition of "excluded proceedings"—

(i) omit sub-paragraphs (c) to (e),

(ii) in sub-paragraph (f), after "15" insert "(1)",

(b) omit the definition of "relevant ABWOR".

(3) In regulation 3 (application)—

(a) in paragraph (1), omit "and relevant ABWOR",

(b) omit paragraph (3).

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

(a) in paragraph (1), for "or 1A" substitute ", 1A, 3 or 4",

(b) in paragraph (1A)—

(i) in sub-paragraph (a), after "Schedule 1" insert ", where criminal legal aid is provided in accordance with section 24 of the Act,",

(ii) in each of sub-paragraphs (a)(ii) and (b), omit "the JP court or",

(iii) in sub-paragraph (b), after "Schedule 1A" insert ", where legal aid is provided in accordance with section 24 of the Act,",

(iv) after sub-paragraph (b), insert—

"(c) subject to paragraph (1BA), Schedule 3 is for the purpose of cases in the JP court or the sheriff court where legal aid is provided in accordance with section 22(1)(c) to (db) of the Act (automatic availability of criminal legal aid);

(d) subject to paragraph (1BA), Schedule 4 is for the purpose of cases in the JP court or the sheriff court where legal aid is provided in accordance with regulation 15(A1) of the Criminal Legal Aid (Scotland) Regulations 1996 (special urgency in certain cases).".

(c) after paragraph (1B), insert—

"(1BA) In respect of—

(a) Schedule 3—

(i) if the proceedings are concluded within the period in which legal aid is automatically available by way either of a plea of guilty or the Crown exercising a discretion or power to take or allow a step that concludes the proceedings (including not calling the case or accepting a not guilty plea), the payments will be those specified in Part 1 of Schedule 3,

(ii) if head (i) does not apply, the payments will be those specified in Part 2 of Schedule 3,

(b) Schedule 4—

(i) if the proceedings are concluded by way either of a plea of guilty or the Crown exercising a discretion or power to take or allow a step that concludes the proceedings (including not calling the case or accepting a not guilty plea), the payments will be those specified in Part 1 of Schedule 4 where the proceedings so conclude during the period in which special urgency legal aid is available (see head (iii)),

(ii) if head (i) does not apply, the payments will be those specified in Part 2 of Schedule 4,

(iii) the period in which special urgency legal aid referred to in (i) is available is the period starting on the date on which the Board notifies the accused person that legal aid may be provided under regulation 15(A1) of the Criminal Legal Aid (Scotland) Regulations 1996, or such other date as the Board may specify, until the earliest of—

(aa) the date of conclusion of the case,

(bb) the date of determination by the Board of the application for legal aid (whether by grant or refusal),

(cc) the date on which the Board notifies the accused person that legal aid will cease to be provided under regulation 15(A1) of the Criminal Legal Aid (Scotland) Regulations 1996.",

(d) omit paragraphs (1C) and (1D),

(e) in paragraph (7)—

(i) for "the Board grants an application for" substitute "there is",

(ii) for the words from "under" (the first time it occurs) to "1996" substitute "in any case, subject to paragraphs (7AA) and (7AB) and to regulation 7 of the Criminal Legal Assistance (Fees and Information) (Scotland) Regulations 2008,",

(iii) after sub-paragraph (c), insert—

"(d) subject to sub-paragraph (e), where Schedule 3 applies an equal part of the total amount payable under paragraph 1 of Part 1, or as the case may be of Part 2, of that Schedule;

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

(f) where Schedule 4 applies—

(i) an equal part of the total amount payable under paragraph 1 of Part 1 or, as the case may be, Part 2 of that Schedule,

(ii) where paragraph 2 of Part 1 or Part 2 applies, the amount is payable to the solicitor who carries out the work described in those paragraphs.",

(f) after paragraph (7), insert—

"(7AA) Where there is a change of solicitor in a case and any solicitor acting prior to that change has carried out work on the basis described in sub-paragraph (b), the amount payable for work a solicitor taking on the case carries out on the basis described in sub-paragraph (a) will be the relevant fixed payment due, less such amount as is payable to any previous solicitor (or solicitors) under sub-paragraph (b)—

(a) criminal legal aid under—

(i) section 24 of the Act,

(ii) section 22 of the Act where the work is payable under Part 1 of Schedule 3, or

(iii) regulation 15(A1) of the Criminal Legal Aid (Scotland) Regulations 1996 where the work is payable under Part 1 of Schedule 4,

(b) criminal legal aid for which payment is due on any basis other than that described in sub-paragraph (a).

(7AB) Where there has been a change of solicitor in a case and any previous solicitor carried out work in that case on the basis described in (7AA)(a), the amount payable to each solicitor who has acted in the case will be an equal part of the total amount that would have been payable to a solicitor acting in the case on that basis alone.",

(g) omit paragraphs (7B) and (10).

(5) In regulation 4A (exceptional cases)—

(a) in each of paragraphs (1) and (5), omit each instance of "or relevant ABWOR",

(b) in paragraph (1), for "or Schedule 1B" substitute ", Schedule 3 or Schedule 4",

(c) in paragraph (8), for "Schedule 1" substitute "the relevant schedule of these Regulations",

(d) omit paragraphs (10) and (11).

(6) Omit schedule 1B.

(7) After schedule 2, insert schedules 3 and 4 in the schedule of these Regulations.

Amendment of the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003

8. In the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003(**a**) omit—

(a) regulation 3(a) (miscellaneous proceedings),

(b) regulations 6, 6A and 7 (summary criminal proceedings).

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

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

(2) In regulation 1A (interpretation), before the definition of "court holiday" insert—

""the Act" means the Legal Aid (Scotland) Act 1986,

"the 1996 Regulations" means the Criminal Legal Aid (Scotland) Regulations 1996,".

(3) In regulations 5, 6 and 7, for "Legal Aid (Scotland) Act 1986" substitute "Act".

(4) In regulation 6(1) (withholding payment in summary criminal matters)—

(a) in paragraph (a), for "assistance by way of representation has been provided" substitute "criminal legal aid has been made available under section 22(1)(c), (d), (da) or (db) of the Act or regulation 15(A1) of the 1996 Regulations (special urgency in certain cases)",

(b) in paragraph (b)—

(i) in head (i), for "that Act" substitute "the Act (including any requirement to give notice of any matter to the Board)",

(ii) in head (ii), for "any relevant factor" substitute—

"of—

(aa) any factor identified by the Board as relevant for the purposes of determining whether it is satisfied as to the matters specified in section 24(1)(a) or (b) of the Act, or

(bb) any other relevant factor).".

(5) In regulation 7 (single payment in summary criminal cases)—

(a) in each of paragraphs (1) and (5), for "(3) and (4)" substitute "(3) to (4A)",

(b) in paragraph (1), after "assistance" insert "in relation to summary criminal proceedings,",

(c) for paragraphs (2) to (4) substitute—

"(2) For the purposes of this regulation the relevant types of criminal legal assistance are (in order first to fifth)—

(a) advice and assistance (whether concerning a fixed penalty, compensation or work offer under section 302, 302A or 303ZA of the Criminal Procedure (Scotland) Act 1995 or any complaint or otherwise),

(b) criminal legal aid automatically available under section 22(1)(c) or (d) of the Act,

(c) criminal legal aid automatically available under section 22(1)(da) or (db) of the Act,

(d) criminal legal aid made available by virtue of regulation 15(A1) of the 1996 Regulations,

(e) criminal legal aid made available under section 24 of the Act.

(**a**) S.S.I. 2003/179. Regulation 6A was inserted by S.S.I. 2006/345.
(**b**) S.S.I. 2008/240. Regulation 1A was inserted by S.S.I. 2022/30.

(3) Where the fifth type of assistance and any other of the first to fourth types are provided, any entitlement to payment in respect of fees and outlays attributable to the provision (or payment of any fixed payment) is restricted to payment of the fifth type.

(4) Where the second and third types of assistance are provided, and the fixed payment for the second type is, or includes, the payment specified in Part 1 of Schedule 3 of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999, entitlement to payment is restricted to payment of the second type.

(4A) Subject to the other provisions of this regulation, where the first type is provided in addition to any other type or types, the payment is restricted to the payment due in respect of that other type or types.",

(d) in paragraph (7)—

(i) after "first", insert "to fourth",

(ii) for "second or third" substitute "fifth".

Amendment of the Criminal Legal Assistance (Duty Solicitors) (Scotland) Regulations 2011

10. In regulation 7 of the Criminal Legal Assistance (Duty Solicitors) (Scotland) Regulations 2011(**a**) (duty solicitors: persons prosecuted under summary procedure)—

(a) in paragraph (2)(b)—

(i) in head (i), omit the words from "and does not" to "2003",

(ii) in head (ii), for "22(1)(a) of the Criminal Procedure (Scotland) Act 1995" substitute "25(2)(a) of the Criminal Justice (Scotland) Act 2016(**b**)",

(b) omit—

(i) paragraphs (3) to (5A),

(ii) paragraphs (7) and (8).

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

(**a**) S.S.I. 2011/163. Paragraph (5A) of regulation 7 was inserted by S.S.I. 2020/191. Paragraph (8) of regulation 7 was substituted by S.S.I. 2022/229.
(**b**) 2016 asp 1.

SCHEDULE

Regulation 7(7)

Schedules 3 and 4 of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999

"SCHEDULE 3

Regulation 4(1A)(c)

Payments in relation to work under section 22(1)(c) to (db) of the Act

PART 1

Where plea of guilty is tendered or case otherwise concludes (see regulation 4(1BA)(a)(i))

		Where professional services are provided in relation to proceedings in the JP court	Where professional services are provided in relation to proceedings in the sheriff court
1. All work, other than that specified in paragraphs 2 to 5 below, relating to legal aid provided by a solicitor in summary criminal proceedings in accordance with section 22(1)(c) to (db) of the Act in the circumstances described in regulation 4(1BA)(a)(i), including where proceedings conclude by way of any preliminary plea or plea in bar, and in relation to any appeal		£347.92	£572.00
2. Representation at a third or subsequent diet of deferred sentence		£28.40	£56.79
3. Representation at a first or second diet of deferred sentence (one only) at which the court considers a report required under section 203 of the 1995 Act and where the case is disposed of		£28.40	£28.40
4. All work done in connection with:			
(a)	a bail appeal under section 32 of the 1995 Act, or on appeal under section 201(4) of the 1995 Act, other than work under sub-paragraph (b) below	£56.79	£56.79
(b)	representation in an appeal of either type specified in sub-paragraph (a) above, or a continued diet of such an appeal, where counsel not employed (fee per appearance)	£34.08	£34.08
5. Supplementary fee, payable in addition to any fees under paragraphs 1 to 4 above, where at a holiday court sitting a solicitor acts for a person appearing from custody on the day on which that person is first brought to a court to answer to a complaint		£88.16	£88.16

PART 2

Where plea of not guilty is tendered or work under section 22 of the Act concludes before plea tendered

1. All work, excluding any work which would be payable under Part 1 or paragraphs 2 to 4 of this Part, carried out by a solicitor on behalf of an accused person by virtue of section 22(1)(c) or (d):		
(a)	where the case is continued without plea on the date the accused is first called upon to plead and any other work up to the earlier of either a plea of not guilty or the solicitor ceasing to act by virtue of section 22 of the Act	£150
(b)	where a plea of not guilty is tendered on the date the accused is first called upon to plead	£75
2. All work done in connection with:		
(a)	a bail appeal under section 32 of the 1995 Act, or on appeal under section 201(4) of the 1995 Act, other than work under sub-paragraph (b) below	£56.79
(b)	representation in an appeal of either type specified in sub-paragraph (a) above, or a continued diet of such an appeal, where counsel not employed (fee per appearance)	£34.08
3.	All work in relation to any preliminary plea, or plea in bar of trial, etc. (including any work carried out by a solicitor by virtue of section 22(1)(da) or (db))	£180
4. Supplementary payment, payable in addition to any payments under paragraphs 1 to 3, where at a holiday court sitting a solicitor acts for a person appearing from custody on the day on which that person is first brought to a court to answer to a complaint		£88.16

SCHEDULE 4

Regulation 4(1A)(d)

Payments for legal aid made available in summary proceedings under regulation 15(A1) (special urgency)

PART 1

Where plea of guilty tendered or the case otherwise concludes (see regulation 4(1BA)(b)(i))

		Where professional services are provided in relation to proceedings in the JP court	Where professional services are provided in relation to proceedings in the sheriff court
1. All work where legal aid is authorised by the Board under regulation 15(A1) (and subject to such limitations and conditions as the Board may impose on such authorisation) and is provided by a solicitor in summary criminal proceedings, and where during the period where such work was authorised, a plea or pleas of guilty were tendered and accepted,		£347.92	£572.00
2. All work done in connection with:			
(a)	a bail appeal under section 32 of the 1995 Act, or on appeal under section 201(4) of the 1995 Act, other than work under sub-paragraph (b) below	£56.79	£56.79
(b)	representation in an appeal of either type specified in sub-paragraph (a) above, or a continued diet of such an appeal, where counsel not employed (fee per appearance)	£34.08	£34.08

PART 2

Where plea of not guilty is tendered or work under regulation 15(A1) concludes before plea tendered

1. All work by a solicitor where:		
(a)	The case is continued without plea on the date the accused is first called upon to plead, and a plea of not guilty is tendered at a date thereafter	£150
(b)	A plea of not guilty is tendered on the date the accused is first called upon to plead	£75
2. All work done in connection with:		
(a)	a bail appeal under section 32 of the 1995 Act, or on appeal under section 201(4) of the 1995 Act, other than work under sub-paragraph (b) below	£56.79
(b)	representation in an appeal of either type	£34.08”

	specified in sub-paragraph (a) above, or a continued diet of such an appeal, where counsel not employed (fee per appearance)	

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"). They remove assistance by way of representation ("ABWOR") for summary criminal proceedings other than those following conviction, make summary criminal legal aid under section 24 of the 1986 Act the primary form of legal aid for such proceedings, amend some solemn procedure first instance preparation fees, and also make related provision including in respect of automatic legal aid and legal aid in matters of special urgency.

The changes to solemn fees made by regulation 3(3) apply to any case where work is done (e.g. where a guilty plea is made) on or after 1 April 2026. The rest of the amendments apply to proceedings where the complaint was served on or after 14 December 2026.

Regulation 3 amends the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 to disapply the fees in those Regulations relating to work carried out by duty solicitors in summary proceedings where a complaint has been served on an accused person who is either in custody or has been released from custody on an undertaking to appear at court and comply with any conditions imposed. Amendments are also made to the fees for solemn first instance proceedings, so where a plea of guilty is accepted at any diet prior to trial, the same preparation fee applies as currently provided for where intimation is given in accordance with section 76 of the Criminal Procedure (Scotland) Act 1995 that the accused desires to plead guilty.

Regulations 4 and 5 remove provisions in the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993 and the Advice and Assistance (Scotland) Regulations 1996 that relate to ABWOR in criminal proceedings.

Regulation 6 amends the Criminal Legal Aid (Scotland) Regulations 1996. It removes the limitation set in section 21(3) of the 1986 Act that criminal legal aid is not available in connection with summary criminal proceedings until the conclusion of the first diet at which the accused has tendered a plea of not guilty and provides that it is available from the date the complaint is served, removes certain proceedings from being treated as distinct for the purposes of criminal legal aid, introduces a requirement for solicitors to notify the Scottish Legal Aid Board ("SLAB") when they act for a person on the basis of automatic availability of legal aid under section 22 of the 1986 Act, provides for further circumstances in which legal aid is available on grounds of special urgency, and makes further provision in relation to changes of solicitor in summary criminal proceedings.

Regulation 7 amends the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 to apply fixed payments to criminal legal aid work where automatically available under section 22 of the 1986 Act and to legal aid available on the grounds of special urgency as introduced by these Regulations, and add provision in relation to the applicable fixed payments in these circumstances, including in respect of the allocation of payments where other types of legal aid are provided or where there is a change of solicitor in a case.

Regulation 8 amends the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003 to remove assistance by way of representation for all summary criminal proceedings.

Regulation 9 amends the Criminal Legal Assistance (Fees and Information etc.) (Scotland) Regulations 2008, in relation to the circumstances in and conditions under which payment in summary criminal matters may be withheld by SLAB, and amends provisions relating to the payment that is to apply where more than one type of criminal legal assistance is provided.

Regulation 10 amends the Criminal Legal Assistance (Duty Solicitors) (Scotland) Regulations 2011 to remove references to assistance by way of representation and remove provisions preventing accused persons in certain circumstances from choosing a solicitor other than that provided to them in accordance with those Regulations.

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