POLICY NOTE

THE LEGAL AID AND ADVICE AND ASSISTANCE (PHOTOCOPYING FEES AND WELFARE REFORM) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2013

SSI 2013/250

The above instrument was made by the Scottish Ministers in exercise of the powers conferred by section 12(3) and 33(2)(a) and (b) and (3) of the Legal Aid (Scotland) Act 1986 and by all other powers enabling them to do so. The instrument is subject to negative procedure.

Policy Objectives

The current statutory provision for photocopying fees, in which a charge of eight or nine pence per sheet can be made, is no longer sustainable.

The policy intention is to reduce the standard photocopying fee for chargeable work across all types of legal assistance to 5 pence per sheet, for a job of up to 10,000 sheets. Where the photocopying job involves copying in excess of 10,000 sheets, the fee will be 5 pence for the first 10,000 sheets, thereafter one penny per sheet. There is to be no fee for photocopying for the first 20 sheets copied in any combination (whether 20 of one sheet, 5 of 4) or where fewer than 20 sheets are copied at any one time.

In November 2009, the Scottish Legal Aid Board ("the Board") introduced a pilot scheme under which it offered to photocopy case related documents on behalf of solicitors free of printing and copying charges. The pilot scheme was in operation for over 2 years and showed that the use of the Board's facilities resulted in copying and printing being completed successfully for a fraction of the cost chargeable on a legal aid account.

Whilst the photocopying service provided by the Board is not a matter for the Regulations, the Board will continue to offer a free photocopying service for jobs of over 10,000 sheets, which the Board usually returns completed to the solicitor within a matter of days.

Welfare Reform

We have also taken the opportunity in these Regulations to amend the reference in the Advice and Assistance (Scotland) Regulations 1996 (the 1996 Regulations) in order to clarify the treatment of the Personal Independence Payment (PIP) in relation to payment of fees and outlays where property has been recovered or preserved.

Recent amendments to the 1996 Regulations, in response to UK welfare reform, have left some of the drafting in relation to PIP ambiguous. In relation to regulation 16 and circumstances in which the right to payment of fees or outlays out of any property recovered or preserved should not apply, the references should be to PIP as a whole. The recent amendments to regulation 16 have resulted in a reference to section 79 of the Welfare Reform Act 2012, which concerns only the mobility component of PIP. The specific reference to section 79 has therefore been replaced by a wider reference to Part 4 of the 2012 Act.

Consultation

Throughout the period where this policy was being decided, the Scottish Government worked with the Scottish Legal Aid Board and the Law Society of Scotland, which is the representative body for the legal profession in Scotland. The views of both bodies were taken into account when finalising this policy.

Impact Assessments

Equality impacts for this policy were considered as part of the equality impact assessment for the Legal Aid and Advice and Assistance (Photocopying Fees and Welfare Reform) (Miscellaneous Amendments) (Scotland) Regulations 2013 which is attached. No negative impacts were identified.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy on business is that it provides consistency across regulations which allow for solicitors to be remunerated for the copying of papers in publicly funded legal assistance. Alternatively, firms may choose to take advantage of the free service offered by the Board.

The reduction to the fees for photocopying costs should not impact adversely on either client care, which is fundamental to solicitors, or to the timeous preparation of documents required to be lodged in court.

Predicted savings are as follows:

	Saving in year per £k		
	Civil	Solemn	Total
2013/14	7	107	114
2014/15	46	751	797
2015/16	61	765	826
2016/17	69	765	834

Scottish Government
Justice Directorate

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