STATUTORY INSTRUMENTS

1988 No. 422 (S.44)

LEGAL AID AND ADVICE, SCOTLAND

The Legal Aid (Scotland) (Fees in Civil Proceedings) Amendment Regulations 1988

Made - - - -	*5th March 1988*
Laid before Parliament	*10th March 1988*
Coming into force	*1st April 1988*

The Secretary of State, in exercise of the powers conferred on him by sections 14A and 15 of the Legal Aid (Scotland) Act 1967(**a**) as read with section 45 of, and paragraph 3(1) of Schedule 4 to, the Legal Aid (Scotland) Act 1986(**b**), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

1.—(1) These Regulations may be cited as the Legal Aid (Scotland) (Fees in Civil Proceedings) Amendment Regulations 1988 and shall come into force on 1st April 1988.

(2) In these Regulations "the principal Regulations" means the Legal Aid (Scotland) (Fees in Civil Proceedings) Regulations 1984(**c**).

2. For the Table of Fees in Schedule 3 to the principal Regulations there shall be substituted the Table of Fees set out in the Schedule to these Regulations.

3. The amendments to the principal Regulations made by regulation 2 of these Regulations shall apply only to fees in relation to work done on or after 1st April 1988.

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

New St Andrew's House, Edinburgh
5th March 1988

(**a**) 1967 c.43; section 14A was inserted by section 3 of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c.12).
(**b**) 1986 c.47.
(**c**) S.I. 1984/519; the relevant amending instruments are S.I. 1985/557, 1986/681 and 1987/825.

SCHEDULE

Regulation 2

TABLE OF FEES

CHAPTER I - JUNIOR COUNSEL

PART I - UNDEFENDED ACTIONS OF DIVORCE OR SEPARATION-AFFIDAVIT PROCEDURE

1. *Summons or other initiating writ*

(a) Subject to sub-paragraph (b) below the fees shall be–

(i) Where the facts set out in section 1(2)(b) (unreasonable behaviour) of the Divorce (Scotland) Act 1976(**a**) are relied on	£23.00
(ii) Where the facts set out in section 1(2)(a) (adultery) or section 1(2)(c) (desertion) of the said Act are relied on and the action is not straightforward	£23.00
(iii) Where the facts set out in the said section 1(2)(a) (adultery) or section 1(2)(c) (desertion) are relied on and the action is straightforward	£19.00
(iv) Where the facts set out in section 1(2)(d) (2 years' non-cohabitation and consent) or 1(2)(e) (5 years' non-cohabitation) of the said Act are relied on	£19.00

(b) Where common law interdict and/or any order under the Matrimonial Homes (Family Protection) (Scotland) Act 1981(**b**) or any other ancillary order is also sought, the fee shall be within the following range:–

From	£23.00
To	£43.50

2. *Minute*

(a) Minute involving arrangements for a child or children and/or financial provision	£17.00
(b) Any other minute	£13.00

3. *By Order Roll appearance* £13.00

4. *All other work*

The fees specified in Part IV shall apply.

PART II - CONSISTORIAL ACTIONS OTHER THAN THOSE TO WHICH PART I APPLIES

1. *Summons or other initiating writ*

The fees specified in Part I shall apply.

2. *Minute for pursuer relating to custody, aliment or access* £19.50

3. *Defences or answers*

(a) Defences or answers in purely skeleton form to preserve rights of parties	£11.00
(b) Answers to minute	£17.00

(c) The fee for defences or answers to which sub-paragraphs (a) or (b) do not apply shall be within the following range:–

From	£19.00
To	£38.50

4. *Joint minute regulating custody, aliment or access*

Framing or adjusting the minute £16.50

5. *By Order Roll appearance* £13.00

6. *All other work*

The fees specified in Part IV shall apply.

(**a**) 1976 c.39.
(**b**) 1981 c.59.

PART III - PETITIONS

1. *Petition (including any revisals thereto)*

(a) Petition for interdict	£49.00
(b) Other Outer House petitions	£32.50
(c) Inner House petition: such fee shall be allowed as appears to the auditor to provide reasonable remuneration for the work.	

2. *Answers (including any revisals thereto)*

(a) Petition for interdict	£49.00
(b) Other Outer House petitions	£30.00
(c) Inner House petitions: such fee shall be allowed as appears to the auditor to provide reasonable remuneration for the work.	

3. *All other work*

The fees specified in Part IV shall apply.

PART IV - ORDINARY ACTIONS

1. *Summons (including any revisals thereto)*

(a) Straightforward cases	£41.00
(b) Other cases	£54.00

2. *Defences (including any revisals thereto)*

(a) Where in purely skeleton form to preserve rights of parties	£11.00
(b) Otherwise the fee shall be within the following range, having regard to nature of summons:–	
From	£41.00
To	£54.00

3. *Adjustment of record*

(a) Adjustment fee (each occasion)	£17.00
(b) Additional adjustment fee, where skeleton defences require to be amplified, where additional parties are introduced, etc.	£41.00

4. *Specification of documents*

Standard calls only	£17.00

5. *Minutes, etc.*

(a) Formal amendments or answers	£15.50
(b) Amendments or answers other than formal	£27.50
(c) Revising and signing tender or acceptance	£7.00
(d) Note of exceptions	£17.00
(e) Abandonment, sist, restriction, etc.	£8.50
(f) Issue or counter issue	£8.50

6. *Notes*

(a) Note on quantum only	£43.50
(b) Note advising on tender or extra-judicial offer, where not merely confirming advice at consultation	£49.00
(c) Note on line of evidence	£49.00
(d) The fee for other types of note shall be within the following range:–	
From	£16.50
To	£49.00

7. *Consultations*

(a) Before proof or trial, or otherwise involving a significant degree of preparation or lengthy discussion–	
(i) Junior alone	£60.00
(ii) Junior with Senior	£32.50
(b) Other consultations–	
(i) Junior alone	£49.00
(ii) Junior with Senior	£27.50

8. *Motions*

(a) Unopposed motions on By Order (Adjustment) Roll, etc.	£8.50
(b) Opposed motions:–	
Attendance for up to half hour	£17.00
Attendance for each subsequent half hour or part thereof	£13.00
(c) Motions on By Order Roll (including advice)	£15.50

9. *Procedure Roll, proof or jury trial*

(a) Junior alone - per day	£178.50
(b) Junior with Senior - per day	£135.50

10. *Inner House*

(a) Single Bills	
(i) Unopposed	£13.00
(ii) Opposed–	
Attendance for each half hour or part thereof	£19.50
(b) Reclaiming motion	
(i) Junior opening or appearing alone - per day	£189.50
(ii) Junior otherwise - per day	£146.50
(c) Motion for new trial	
(i) Junior alone - per day	£189.50
(ii) Junior with Senior - per day	£146.50

11. *Attendance at judgement*

(a) Outer House	£15.50
(b) Inner House	£19.50

CHAPTER II - SENIOR COUNSEL

CONSISTORIAL ACTIONS, PETITIONS AND ORDINARY ACTIONS

1. *Revisal of pleadings*

(a) Revisal of summons, defences, petition or answers	£71.00
(b) Adjustment fee (open record) (each occasion)	£27.50

2. *Minutes, etc. - revisal fees*

(a) Amendments (other than formal) or answers	£30.00
(b) Admissions, tender or acceptance (in appropriate cases)	£8.50
(c) Note of exceptions	£8.50

3. *Notes*

(a) Note on quantum only	£65.00
(b) Advice on tender or extra-judicial offer where not merely confirming advice at consultation	£71.00
(c) Note on line of evidence (revisal)	£71.00
(d) The fee for other notes shall be within the following range:–	
From	£22.00
To	£71.00

4. *Consultations*

(a) Before proof or trial, or otherwise involving a significant degree of preparation or lengthy discussion	£86.00
(b) Other consultations	£71.00

5. *Day in court*

(a) Inner House - per day	£254.50
(b) Outer House - per day	£237.50

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Legal Aid (Scotland) (Fees in Civil Proceedings) Regulations 1984 so as to increase the fees allowable to counsel for legal aid in civil proceedings given under the Legal Aid (Scotland) Act 1967. The increased fees will apply to fees for work done on or after 1st April 1988.

The Legal Aid (Scotland) Act 1967 continues in effect, despite its general repeal by the Legal Aid (Scotland) Act 1986, in respect of legal aid applications which were granted before commencement of the 1986 Act on 1st April 1987. (See paragraph 3(1) of Schedule 4 to the 1986 Act.) It is thus only in respect of work done following upon such applications that these Regulations increase the fees.

The overall increase is around 4½ per cent.

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