STATUTORY INSTRUMENTS

1984 No. 520 (S. 60)

LEGAL AID AND ADVICE, SCOTLAND

The Legal Aid (Scotland) (Fees in Criminal Proceedings) Regulations 1984

Made - - - -	*9th April* 1984
Laid before Parliament	*10th April* 1984
Coming into Operation	*1st May* 1984

In exercise of the powers conferred upon me by sections 14A and 15 of the Legal Aid (Scotland) Act 1967**(a)**, and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Legal Aid (Scotland) (Fees in Criminal Proceedings) Regulations 1984 and shall come into operation on 1st May 1984.

Interpretation

2.— (1) In these regulations, unless the context otherwise requires—

"the Act" means the Legal Aid (Scotland) Act 1967;

"appeal certificate" means a certificate issued under Part VI of the Scheme;

"auditor" means the appropriate auditor of court specified in regulation 16;

"duty solicitor" means a solicitor acting under a duty plan in terms of the Scheme;

"High Court" means the High Court of Justiciary;

"interim appeal certificate" means a certificate issued under regulation 8(2) or 9(3) of the 1975 Regulations;

"interim solicitor" means a solicitor appointed under regulation 8(4) of the 1975 Regulations;

"nominated solicitor" means a solicitor appointed to act for an assisted person under article 17 of the Scheme or under the article as read with regulation 8(7) of the 1975 Regulations;

"outlays" does not include fees payable to counsel;

(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).

"the 1975 Regulations" means the Legal Aid (Scotland) (Criminal Proceedings) Regulations 1975(**a**);

"the Scheme" means the Legal Aid (Scotland) (Criminal Proceedings) Scheme 1975(**b**) made by the Law Society under section 8 of the Act.

(2) In these regulations, unless the context otherwise requires, any reference to a numbered regulation is to one of these regulations and any reference to a numbered Schedule is to a Schedule to these regulations.

Fees and outlays to which the regulations apply

3. These regulations shall regulate the fees and outlays allowable to solicitors, and the fees allowable to counsel, from the legal aid fund in respect of legal aid in criminal proceedings, upon any taxation in accordance with regulation 16, wherein the proceedings are concluded on or after 1st May 1984:

Provided that regulation 16 shall regulate also the taxation after 1st May 1984 of such fees and outlays in relation to proceedings concluded before that date, but the fees and outlays allowable on such taxation shall be those which would have been allowable before that date.

Fees allowable to solicitors: general provisions

4.— (1) Subject to the following provisions of this regulation and to regulations 12 and 13, the fees allowable to solicitors shall be those specified in regulations 5 to 11.

(2) Where a nominated solicitor or interim solicitor represents two or more persons charged in the same indictment or complaint, or appealing against conviction or sentence in respect of the same indictment or complaint—

(a) he shall submit one account in respect of all those persons; and

(b) the maximum fees specified in regulations 6 to 11 shall—

(i) in a case where he represents two such persons, be increased by 40 per cent;

(ii) in a case where he represents more than two such persons, be increased in respect of each such additional person by 20 per cent.

(3) Where a nominated solicitor requires another solicitor, whether an Edinburgh solicitor in connection with an appeal or on a remit for sentence, or a solicitor at the place of the prison or the court, or a local solicitor for the purpose of local precognitions or inquiry, nevertheless only one account shall be submitted by the nominated solicitor (payment of the other solicitor being a matter for adjustment between the nominated solicitor and the other solicitor out of the fees payable hereunder), but in determining the sum to be allowed to the nominated solicitor account shall be taken also of the work carried out by that other solicitor.

(**a**) S.I. 1975/717, amended by S.I. 1982/1553.
(**b**) Amended by the Legal Aid (Scotland) (Criminal Proceedings) Variation Scheme 1981, the Legal Aid (Scotland) (Criminal Proceedings) Variation No. 2 Scheme 1981 and the Legal Aid (Scotland) (Legal Aid, Legal Advice and Assistance and Criminal Proceedings) Variation Scheme 1982.

(4) Where the work done by a solicitor constitutes a supply of services in respect of which value added tax is chargeable, there may be added to the amount of fees allowed to the solicitor an amount equal to the amount of value added tax chargeable.

Solicitors' fees for identification parades and judicial examinations

5.— (1) The duty solicitor or the nominated solicitor shall be allowed in respect of attendance at an identification parade to which section 1(5)*(b)* of the Act(**a**) applies, fees at the following rates—

First hour of attendance—£47.50

Each subsequent half hour—£11.50.

(2) The duty solicitor or the nominated solicitor shall be allowed in respect of representing an accused person at a judicial examination (whether a first examination or a further examination) to which sections 20, 20A and 20B of the Criminal Procedure (Scotland) Act 1975(**b**) apply—

(a) fees in accordance with the rates specified in regulation 6(1); and

(b) fees in respect of any necessary waiting time or any other necessary work relating to the judicial examination determined in accordance with regulation 12.

(3) Any fees allowed to a nominated solicitor under this regulation shall be in addition to any fees allowed to him under regulation 7, 8 or 9.

Duty solicitors' fees

6.— (1) There shall be allowed to the duty solicitor representing accused persons in the sheriff or district court on rota in terms of article 6 of the Scheme fees on the following scales:—

(a) For attendance at the first session of a court for the day, a sessional fee of £28.00 for the first case and £3.75 for each additional case, subject to a maximum total fee of £60.50 for the session until its termination on completion of business for the day or on adjournment by the court, whichever is the earlier;

(b) For attendance at any other session of that court on the same day, a sessional fee of £28.00 for the first case and £3.75 for each additional case, subject to a maximum total fee of £40.50 for each such other session:

Provided that the fee according to the foregoing scale shall cover the appearance in court of the duty solicitor on behalf of the accused as well as any interview or interviews with the accused or others whether such interview or interviews take place during the same or another session.

(2) Where, following a plea of guilty, one or more adjournments are ordered

(**a**) Section 1(5) was substituted by section 10(4) of the Criminal Justice (Scotland) Act 1980 (c.62).

(**b**) 1975 c.21; section 20 was amended by, and sections 20A and 20B inserted by, section 6 of the Criminal Justice (Scotland) Act 1980 (c.62).

by the Court, and the duty solicitor requires to appear again, then an additional fee shall be payable to the duty solicitor in respect of—

(a) additional interviews with the accused or others; and

(b) attendances at court other than during the course of the duty solicitor's period of duty.

The amount of such additional fee shall be such sum not exceeding £68.50 as shall form reasonable remuneration having regard to the additional work and time involved.

Nominated solicitors' fees for summary proceedings

7. There shall be allowed to the nominated solicitor acting for an accused person to whom legal aid has been granted in summary proceedings a fee of not less than £40.50 and not exceeding £312.00, and a further fee not exceeding £100.50 in respect of every day on which an adjourned hearing takes place.

Nominated solicitors' fees for solemn proceedings in the sheriff court

8.— (1) There shall be allowed to the nominated solicitor acting for an accused person to whom legal aid has been granted in solemn proceedings in the sheriff court a fee of not less than £51.00 and not exceeding £513.50.

(2) Where a trial has not been concluded on the day on which it started there shall be allowed to the solicitor in addition to the fee allowed under the foregoing paragraph a daily fee in respect of the second and every subsequent day—

(a) where counsel has not been instructed, not exceeding £147.00;

(b) where counsel has been instructed; not exceeding £100.50.

(3) Where an accused person is convicted and thereafter instructs the nominated solicitor to appeal, and the solicitor undertakes work necessary to the preparation of the appeal, he shall be allowed for any such work undertaken by him during the period between the date he is so instructed and the date of the grant or refusal of a legal aid appeal certificate

(a) in respect of an appeal against conviction or against conviction and sentence, a fee not exceeding the sum of £147.50;

(b) in respect of an appeal against sentence only, a fee not exceeding the sum of £50.00.

Nominated solicitors' fees for solemn proceedings in the High Court

9. – (1) There shall be allowed to the nominated solicitor acting for an accused person to whom legal aid has been granted in solemn proceedings in the High Court a fee of not less than £64.00 and not exceeding £1,000.00.

(2) Where a trial has not been concluded on the day in which it started there shall be allowed to the solicitor in addition to the fee allowed under the foregoing paragraph a daily fee in respect of the second and every subsequent day not exceeding £100.50.

(3) Where an accused person is convicted and thereafter instructs the nominated solicitor to appeal and the solicitor undertakes work necessary to the preparation of the appeal, he shall be allowed for any such work undertaken by him during the period between the date he is so instructed and the date of the grant or refusal of a legal aid appeal certificate—

(a) in respect of an appeal against conviction or against conviction and sentence, a fee not exceeding the sum of £126.00;

(b) in respect of an appeal against sentence only, a fee not exceeding the sum of £59.00.

Interim solicitors' fees

10. There shall be allowed to the interim solicitor nominated under an interim appeal certificate a fee in respect of work done under the certificate not exceeding £147.50:

Provided that when the interim solicitor becomes the nominated solicitor, the fee specified in this regulation shall not be allowed, and the fee allowed to that solicitor under regulation 11 shall include any work done by him as interim solicitor.

Nominated solicitors' fees for appeals

11.— (1) There shall be allowed to the nominated solicitor acting for an accused person to whom an appeal certificate has been granted in connection with an appeal from proceedings in any court a fee of not less than £51.00 and not exceeding £513.50.

(2) Where the hearing of an appeal has not been concluded on the day on which it started there shall be allowed to the nominated solicitor in addition to the fee allowed under the foregoing paragraph a daily fee in respect of the second and every subsequent day not exceeding £100.50.

Determination of amount of solicitors' fees allowable under regulations 5(2)(b) and 7 to 11

12.— (1) Subject to regulation 13 the amount of any fee allowable to a solicitor in terms of regulation 5(2)*(b)* or regulations 7 to 11 shall be determined in accordance with paragraphs (2) and (3) of this regulation but shall be subject to any limitation on the amount of fees specified in regulations 7 to 11, as read where appropriate with regulation 4(2).

(2) A solicitor shall be allowed such amount as may be determined to be reasonable remuneration, calculated in accordance with paragraph (3) of this regulation, for work actually and reasonable done, due regard being had to economy:

Provided that in determining such amount there shall be taken into account all the relevant circumstances, including the nature, importance, complexity or difficulty of the work and the time involved, including—

(a) time necessarily spent at the court on any day in waiting for the case or for the appeal to be heard, where such time has not been occupied in waiting for or conducting another case; and

(b) time necessarily spent in travelling to and from the court at which the accused appears or the trial or appeal takes place (not being a court in the town or place where the solicitor has a place of business) and to and from the prison and any place visited for the purpose of preparing or conducting the defence or appeal.

(3) Reasonable remuneration for the purpose of paragraph (2) of this regulation shall be calculated—

(a) in the case of proceedings in the High Court, on the basis of the fees set out in Schedule 1; and

(b) in the case of any other proceedings, on the basis of the fees set out in Schedule 2.

Removal of limitations on amount of solicitors' fees under regulations 7 to 11 and increase of such fees in exceptional circumstances

13.— (1) The counsel or solicitor representing an accused person at any trial (whether under solemn or summary procedure) may, immediately on the conclusion of the trial, make an oral application to the presiding judge for a certificate certifying that the case has necessarily been of exceptional length or complexity or difficulty, and the judge may either grant or refuse the application. If the judge refuses the application or if no such application is made, the counsel or solicitor may make, within a period of 14 days after the date on which the trail in question was concluded, a written application to the judge for such a certificate in the form of a note specifying the grounds of the application, and the judge may either grant or refuse the application, but shall not refuse it without giving the counsel or solicitor an opportunity of being heard in support of the application within a period of 14 days after the date on which it was made, and at any such hearing the prosecutor shall be given an opportunity of being heard in relation to the application. In determining an application for a certificate certifying that the case has necessarily been of exceptional length, the judge shall have regard to the time necessarily spent in preparation for the trial. In determining an application for a certificate certifying that the case has necessarily been of exceptional complexity or difficulty, the judge shall have regard to the number of accused persons represented by the solicitor in question.

(2) If a solicitor has done work for an accused person in any proceedings, including proceedings on petition, and those proceedings do not, for any reason, lead to the trial of that person, the solicitor may make a written application to a single judge of the court concerned for a certificate certifying that the work has necessarily been of exceptional length, or complexity, or difficulty; and the provisions of paragraph (1) of this regulation shall apply to any such application as they apply to a written application under that paragraph.

(3) If such a certificate as is referred to in the foregoing paragraphs of this regulation is granted, than any limitation contained in regulations 7 to 11, or such of them as are referred to in such certificate, as read where appropriate with regulation 4(2), on the amount of any fee allowable under those regulations shall not apply and the amount of any such fee shall be determined in accordance with paragraph (2) and (3) of regulation 12 without regard to such limitation.

(4) Where a certificate has been granted under paragraph (1) or (2) of this regulation upon the ground that the case has necessarily been of exceptional complexity of difficulty, or upon grounds which include either or both of these grounds, and the certificate so discloses, there shall be added to the amount of any fee allowable under regulations 7 to 11, determined in accordance with regulation 12(2) and (3) as read with paragraph (3) of this regulation, such further sum in respect of such exceptional complexity or difficulty as appears in the particular circumstances to be appropriate, being a sum of up to, but not exceeding, 25 per cent of the amount of such fee determined as aforesaid.

Fees allowable to counsel

14.— (1) Counsel shall be allowed such fee as appears to the auditor to represent reasonable remuneration, calculated in accordance with Schedule 3, for work actually and reasonably done, due regard being had to economy.

(2) Where work done by counsel constitutes a supply of services in respect of which value added tax is chargeable, there may be added to the amount of fees allowable to counsel an amount equal to the amount of value added tax chargeable.

Outlays allowable to solicitors

15.— (1) A solicitor shall be allowed the following outlays:—

(a) Expenses actually and reasonably incurred by himself or his clerk in travelling to and from the court at which the accused person appears or the trial or appeal takes place (not being a court in the town or place where the solicitor has a place of business) and to and from the prison and any place visited for the purpose of preparing or conducting the defence or appeal:

Provided that where public transport is not used a reasonable mileage allowance shall be treated as an outlay;

(b) Fees paid to witnesses who are not on the Crown list, which fees shall not exceed the sums payable from time to time by the Crown to witnesses of the same categories; and

(c) Any other out of pocket expenses actually and reasonably incurred.

(2) Where a witness is a professional person giving evidence of fact or expert evidence and value added tax is chargeable in respect of giving that evidence, and the witness adds an amount equal to the tax chargeable to his note of fee, the amount so added may be allowed to the solicitor as an outlay.

Taxation of fees and outlays

16.— (1) If any question or dispute arises between the Law Society and a solicitor or counsel as to the amount of fees or outlays allowable to the solicitor, or as to the amount of fees allowable to counsel, from the legal aid fund in respect of legal aid in criminal proceedings in the High Court, including appeals, the matter shall be referred for taxation to the Auditor of the Court of Session:

Provided that the Law Society and any other party to a reference to the Auditor under this paragraph shall have the right to state written objections

to the High Court in relation to the report of the Auditor under this paragraph within fourteen days of the date of issue of such report and the Law Society and any such other party may be heard thereon.

(2) If any question or dispute arise between the Law Society and a solicitor or counsel as to the amount of fees and outlays allowable to the solicitor, or as to the amount of fees allowable to counsel, from the legal aid fund in respect of legal aid in criminal proceedings in the sheriff or district court, the matter shall be referred for taxation to the auditor of the sheriff court for the district in which those proceeding took place:

Provided that the Law Society and any other party to a reference to an auditor under this paragraph shall have the right to state written objections to the sheriff in relation to the report of the auditor under this paragraph within fourteen days of issue of such report and the Law Society and any such other party may be heard thereon.

(3) A reference to an auditor under this regulation may be made at the instance of the solicitor concerned or, where the question in dispute affects the fees allowable to counsel, of the counsel concerned, or of the Law Society, and the auditor concerned shall give reasonable notice of the diet of taxation to the solicitor or counsel as appropriate and the Law Society.

Revocation

17. Regulation 10 of the 1975 Regulations(**a**) is hereby revoked.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St Andrew's House,
Edinburgh.
9th April 1984.

(**a**) S.I. 1975/717, amended by S.I. 1982/1553.

Regulation 12(3) SCHEDULE 1

TABLE OF FEES APPLICABLE FOR CALCULATING REMUNERATION OF SOLICITORS IN PROCEEDINGS IN THE HIGH COURT

1. *(a)* Framing precognitions and other papers, not drawn by counsel—per sheet £3.50

(b) Framing formal documents such as inventories, title pages and accounts of expenses—per sheet £1.50

Notes: (i) The sheet throughout this Table shall consist of 250 words or numbers.

(ii) The solicitor shall be entitled to charge for copies of the precognitions for the use of counsel and himself.

(iii) Where a skilled witness prepares his own precognition or report the solicitor shall be allowed half drawing fees for revising and adjusting it.

(iv) Where the business can properly be performed by a local solicitor the auditor shall allow such expenses as would have been incurred if it had been done by the nearest local solicitor, including fees for instructing and corresponding with him, unless the auditor is satisfied that it was in the interests of the client that the solicitor in charge of the case should attend personally.

2. Copying papers by any means

1st copy—per sheet £0.70
Additional copies—per sheet £0.30

Note: When copied by photostatic or similar process each page shall be charged as one sheet.

3. Revising papers drawn by counsel for each five sheets or part thereof £1.50

4. *Citation of witnesses, instructions to messengers-at-arms*

Each witness £3.00
Instructing messenger-at-arms including examining execution and settling fee £3.00

5. *Time Charges*

(a) Attendances at meetings, preparation for trial or other hearing, attendance at court, consultation with counsel, etc.—

Per half hour £11.00
or such other sum as in the opinion of the auditor is justified.

(b) Perusal of documents—
Per half hour £6.00
or such other sum as in the opinion of the auditor is justified.

(c) Allowance for time of clerk—one half of the fee specified in subparagraph *(a)* or *(b)* above.

(d) Attendance at court offices for performance of formal work £1.50

Note: In the event of an accused person in a trial being represented by one counsel only, allowances may be made to the solicitor should the case warrant it for the attendance of a clerk at one-half the rate chargeable for the solicitors attendance.

6. *Correspondence*

Letters (save as provided below) including instructions to counsel—each page of 125 words £3.00
Formal letters £0.70
Telegrams or telephone calls, including letters confirming £1.50

Regulation 12(3) SCHEDULE 2

TABLE OF FEES APPLICABLE FOR CALCULATING REMUNERATION OF SOLICITORS IN PROCEEDINGS IN THE SHERIFF OR DISTRICT COURT

1.	Attendance at court conducting trial or other hearing—per half hour	£15.00
2.	Time occupied in the performance of all other work including attendances with client and others and attendances at court in all circumstances, except as otherwise specifically provided—	
	(a) Solicitor—per half hour	£11.00
	(b) Allowance for time of clerk—one half of above.	
3.	Drawing all necessary papers (the sheet throughout this Table to consist of 250 words or numbers)—per sheet	£3.50
4.	Revising papers where revisal ordered—for each five sheets	£1.50
5.	*Copying all necessary papers by any means*	
	First copy—per sheet	£0.70
	Additional copies—per sheet	£0.30
Note:	When copied by photostatic or similar process each page shall be charged as one sheet.	
6.	Perusing any document (other than a letter) not exceeding 2 sheets in length	£3.00
	For each 2 sheets thereafter	£3.00
7.	*Lodging in court*	
	Each necessary lodging in or uplifting documents from court or each necessary enquiry for documents due to be lodged	£1.50
8.	*Correspondence, intimations, etc.*	
	(a) Formal letters and intimations	£0.70
	(b) Letters other than above—per page of 125 words	£3.00
	(c) Telephone calls except those to which subparagraph *(d)* below applies	£1.50
	(d) Telephone calls (lengthy) to be treated as attendance or long letters.	
9.	*Citations*	
	Each citation of witness including execution thereof	£3.00
10.	Instructions to officers	£1.50

SCHEDULE 3 Regulation 14

FEES OF COUNSEL

1. Subject to the following provisions of this Schedule, fees shall be calculated in accordance with the Table of Fees in this Schedule.

2. Where the Table of Fees in this Schedule does not prescribe a fee for any item of work the auditor shall allow such fee as appears to him appropriate to provide reasonable remuneration for the work with regard to all the circumstances, including the general levels of fees in the said Table of Fees.

3. The auditor shall have power to increase any fee set out in the Table of Fees in this Schedule where he is satisfied that because of the particular complexity or difficulty of the work or any other particular circumstances such an increase is necessary to provide reasonable remuneration for the work.

4. The auditor shall have power to reduce any fee set out in the Table of Fees in this Schedule where he is satisfied that because of any particular circumstances a reduced fee is sufficient to provide reasonable remuneration for the work.

TABLE OF FEES

CHAPTER I—JUNIOR COUNSEL

		Junior with Senior	*Junior Alone*
1.	*Trial per day*		
(a)	In Edinburgh	£110	£155
(b)	In Glasgow	£130	£190
(c)	Elsewhere within 60 miles journey by road from Edinburgh	£135	£195
(d)	In Aberdeen, Inverness or Dumfries	£185	£260
(e)	Elsewhere beyond 60 miles journey by road from Edinburgh: Such fee as the auditor considers appropriate with regard to the journey involved and the level of fees prescribed in this paragraph.		

TABLE OF FEES *(continued)*

CHAPTER I—JUNIOR COUNSEL

		Junior with Senior	*Junior Alone*
2.	*Appeals, etc.*		
(a)	Drafting grounds of appeal against convictions, including any note of appeal	£28	£40
(b)	Hearing in appeal against conviction—per day	£110	£155
(c)	Note of adjustments to stated case	£28	£40
(d)	Hearing on stated case or bill of suspension relating to conviction or conviction and sentence	£50	£65
(e)	Any appeal against sentence including fee for drafting note of appeal	£20	£45
(f)	Appeal relating to granting of bail	£15	£15
3.	*Consultations*		
(a)	In Edinburgh Additional fee if held in prison	£35 £5	£50 £5
(b)	Elsewhere within 60 miles journey by road from Edinburgh	£65	£85
(c)	In Aberdeen, Inverness or Dumfries	£130	£155
(d)	Elsewhere beyond 60 miles journey by road from Edinburgh: Such fee as the auditor considers appropriate with regard to the journey involved and the level of fees prescribed in this paragraph.		
4.	*Opinion on appeal, etc.*		£30
5.	*Revisal of stated case*		£30
6.	*Drafting bill of suspension*		£30
7.	*Remits for sentence and pleas in mitigation*		£30

CHAPTER 2—SENIOR COUNSEL

1.	*Trial—per day*	
(a)	In Edinburgh	£200
(b)	In Glasgow	£235
(c)	Elsewhere within 60 miles journey by road from Edinburgh	£240
(d)	In Aberdeen, Inverness or Dumfries	£325
(e)	Elsewhere beyond 60 miles journey by road from Edinburgh: Such fee as the auditor considers appropriate with regard to the journey involved and the level of fees prescribed in this paragraph.	
2.	*Appeal, etc*	
(a)	Revising grounds of appeal against conviction, including any note of appeal	£55
(b)	Hearing in appeal against conviction—per day	£200
(c)	Note of adjustments to stated case	£55
(d)	Hearing on stated case or bill of suspension relating to conviction or conviction and sentence	£100
(e)	Any appeal against sentence including revisal of note of appeal	£65
(f)	Appeal relating to granting of bail	£20
3.	*Consultations*	
(a)	In Edinburgh Additional fee if held in prison	£75 £5
(b)	Elsewhere within 60 miles journey by road from Edinburgh	£120
(c)	In Aberdeen, Inverness or Dumfries	£230
(d)	Elsewhere beyond 60 miles journey by road from Edinburgh: Such fee as the auditor considers appropriate with regard to the journey involved and the level of fees prescribed in this paragraph.	

CHAPTER 2—SENIOR COUNSEL *(continued)*

4.	*Opinion on appeal*	£45
5.	*Revisal of stated case*	£45
6.	*Revisal of bill of suspension*	£45
7.	*Remits for sentences and pleas in mitigation*	£45

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations regulate the fees and outlays of solicitors, and the fees of counsel, which an auditor of court may allow in taxing an account of fees and outlays claimed from the Legal Aid (Scotland) Fund by solicitors or counsel in respect of legal aid in criminal proceedings in any court in Scotland.

The provisions regulating the fees and outlays allowable apply only to proceedings concluded on or after 1st May 1984. The provisions regarding taxation apply also to fees and outlays for proceedings concluded before 1st May 1984 but such taxation will be on the basis of the fees and outlays allowable before that date.

The power to regulate fees and outlays for legal aid is now vested in the Secretary of State by virtue of section 14A of the Legal Aid (Scotland) Act 1967 (c.43), inserted by the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c.12). The 1983 Act also repealed section 16(2) of the 1967 Act which inter alia enabled the High Court of Justiciary to prescribe legal aid fees for criminal proceedings and repealed Schedule 2 to the 1967 Act which previously made provision regarding fees and outlays allowable for legal aid.

Previously the fees and outlays allowable to solicitors, and the fees allowable to counsel, for legal aid in criminal proceedings were regulated by the Act of Adjournal (Criminal Legal Aid Fees) 1964 (S.I. 1964/1410, as amended by S.I. 1968/1933, 1971/926, 1973/673, 1973/1145, 1975/836, 1976/339, 1979/95, 1981/388, 1982/121, 1983/972).

As regards solicitors' fees, regulations 4 to 13 reproduce, with drafting amendments, the provisions of the Act of Adjournal of 1964 as amended. The rates of fees are the same. The main difference in approach between the regulations and the Act of Adjournal of 1964 is in the provisions laying down the detailed scales upon which fees will be calculated. The regulations prescribe these scales expressly in Schedule 1 for proceedings in the High Court and in Schedule 2 for proceedings in the sheriff and district courts. Previously the Act of Adjournal of 1964 simply applied by reference the scales prescribed by Act of Sederunt for civil proceedings in the Court of Session and sheriff court. The amounts prescribed under Schedules 1 and 2 are the same as those previously allowable.

As regards counsel's fees, regulation 14 provides for counsel to be allowed such fee, calculated in accordance with Schedule 3, as appears to the auditor to represent reasonable remuneration for work actually and reasonably done, due regard being had to economy. Schedule 3 provides a new table of fees for legal aid in all criminal proceedings.

Paragraphs 2 to 4 of Schedule 3 give the auditor of court certain discretions. Where the Table does not prescribe a fee for the work concerned he may allow such fee as he considers gives reasonable remuneration for the work, having regard to the circumstances, including the general levels of fees in the Table of Fees. Paragraphs 3 and 4 give power to increase or decrease the prescribed fees in particular circumstances.

Regulation 14(2) allows counsel to add value added tax to their fees where appropriate.

Regulation 15 provides for the outlays allowable to solicitors. These are the same as previously under the Act of Adjournal of 1964.

Regulation 16 provides for taxation of fees and outlays by auditors of court. Taxation may be requested by the solicitor concerned or, where counsel's fees are involved, the counsel concerned, or by the Law Society of Scotland on behalf of the Legal Aid Fund. There is a right to make objection against the auditor's report to the appropriate court.

Regulation 17 makes a revocation consequential on the repeal by the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 of Schedule 2 to the Legal Aid (Scotland) Act 1967.

SI 1984/520
ISBN 0-11-046520-2

