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Justice Committee

Legal Aid (Scotland) Act 1986 Amendment Regulations 2016



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Justice Committee

Remit: To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice.



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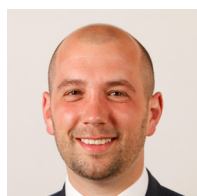
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Oliver Mundell
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Scottish Conservative
and Unionist Party



Stewart Stevenson
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Introduction

1. At its meeting on 4 October 2016 the Committee considered the following instrument—

Legal Aid (Scotland) Act 1986 Amendment Regulations 2016 [draft].

2. The instrument was referred to the Justice Committee as lead committee and was subject to affirmative procedure. The Minister for Community Safety and Legal Affairs, Annabelle Ewing, attended the meeting to give evidence on the instrument and also to move the relevant motion recommending approval of the instrument¹.

Legal Aid (Scotland) Act 1986 Amendment Regulations 2016 [draft]

3. The instrument is made under section 13(4) of the Legal Aid (Scotland) Act 1986. The Regulations adapt the framework and arrangements in existing legal aid regulations to accommodate the new tribunal structure being implemented from 1 December 2016.

Scrutiny by the Delegated Powers and Law Reform Committee

4. The Delegated Powers and Law Reform Committee considered the draft instrument at its meeting on 20 September 2016 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

Justice Committee consideration

5. The Justice Committee considered the draft instrument at its meeting on 4 October 2016, when Annabelle Ewing, Minister for Community Safety and Legal Affairs, attended to give evidence on the instrument.
6. Ms Ewing explained that the Regulations make provision for legal aid to be available in the new Upper Tribunal for Scotland when the first of the jurisdictions covering housing matters transfers to the Scottish tribunals on 1 December 2016. She confirmed that, as legal aid is available for appeals to the sheriff court in the two housing jurisdictions that are transferring to the Scottish Tribunals, there was a commitment to allow the status quo to continue. The Minister also confirmed that the fees would be the existing fees.
7. The Minister further explained that provisions would be made to make legal aid available for judicial review when the judicial review function is moved, in due course, from the Court of Session to the Upper Tribunal.

8. Ms Ewing moved the motion lodged in her name: S5M-01596—That the Justice Committee recommends that the Legal Aid (Scotland) Act 1986 Amendment Regulations 2016 [draft] be approved.
9. The motion was agreed to.

Recommendation

The Justice Committee recommends to the Parliament that it approve the draft instrument.

¹ Scottish Parliament Justice Committee. *Official Report 4 October 2016* Cols 2-3. Available at: <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10567&mode=pdf>

