

Equalities, Human Rights and Civil Justice Committee  
Tuesday 24 February 2026  
6th Meeting, 2026 (Session 6)

## **Note by the Clerk on the Legal Aid and Advice and Assistance (Fees) (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft]**

### **Overview**

1. At this meeting, the Committee will take evidence from the Minister for Victims and Community Safety and officials on the draft Legal Aid and Advice and Assistance (Fees) (Miscellaneous Amendment) (Scotland) Regulations 2026 before debating a motion in the name of the Minister inviting the Committee to recommend approval of the instrument.
2. This is a draft Scottish Statutory Instrument (SSI), which requires approval by resolution of the Parliament before it can become law. Further information about the instrument is summarised below:

**Title of instrument:** [The Legal Aid and Advice and Assistance \(Fees\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2026 \[draft\]](#)

**Laid under:** [Legal Aid \(Scotland\) Act 1986](#)

**Laid on:** 28 January 2026

**Procedure:** Affirmative

**Lead committee to report by:** 8 March 2026

**Commencement:** If approved, the instrument comes into force on 1 June 2026, with the exception of:

- Regulations 3 to 8 and schedules 1 to 14 come into force on 1 September 2026; and
- Regulation 11 and schedule 15 come into force on 14 December 2026.

### **Procedure**

3. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.
4. Once laid, the instrument is referred to:
  - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and

- a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.
  6. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
    - an evidence session with the Minister and officials, followed by
    - a formal debate on a motion, lodged by the Minister, inviting the lead committee to recommend approval of the instrument.
  7. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only committee members may vote. If the motion is agreed to, it is for the Chamber to decide, at a later date, whether to approve the instrument

## **Delegated Powers and Law Reform Committee consideration**

8. The DPLR Committee considered the instrument on 10 February and reported on it in its [17th Report of 2026](#). The DPLR Committee made no recommendations in relation to the instrument but highlighted the following point in respect of a previous Scottish Government commitment:

“In relation to this instrument, the Committee welcomes that, through this instrument, the Scottish Government has, at the next suitable legislative opportunity, fulfilled a commitment made to the Committee in relation to the Draft Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026, to correct the erroneous references in the Civil Legal Aid (Scotland) Regulations 2002, and the minor drafting point that instrument introduced in the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003.”

## **Purpose of the instrument**

9. The Policy Note states that “this instrument makes provision to implement an increase of 13% to legal aid and advice and assistance solicitor fees. It also makes some changes omitted from previous regulations and makes minor drafting and clarificatory changes.”
10. In order to implement this increase, the instrument amends the following SSIs:
  - Civil Legal Aid (Scotland) (Fees) Regulations 1989
  - Criminal Legal Aid (Scotland) (Fees) Regulations 1989
  - Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992
  - Advice and Assistance (Financial Limit) (Scotland) Regulations 1993

- Advice and Assistance (Scotland) Regulations 1996
  - Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999
11. Should the Parliament approve the instrument, the updated fees that would apply to various elements of legal advice and assistance are set out in [schedules 1 to 15](#).
12. Further information on the instrument, and on the Scottish Government's work on legal aid reform more broadly, was included in a [letter from the Minister for Victims and Community Safety, dated 28 January 2026](#).
13. The Policy Note accompanying the instrument is included in the annexe. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out:
- [Business and Regulatory Impact Assessment \(BRIA\)](#)
  - [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#)

## **Report**

14. The Committee is invited to consider any issues which it wishes to raise on the instruments and to delegate to the Convener responsibility for finalising a report for publication that the Clerks will prepare on the basis of today's meeting.

**Clerks to the Committee**  
**February 2026**

## **Annexe: Scottish Government Policy Note**

The above instrument was made in exercise of the powers conferred by sections 9(1) and 9(2)(e), 33(2), (3)(a), (b), (c) and (f), and (3A) and 36(1) and (2)(b) of the Legal Aid (Scotland) Act 1986. The instrument is subject to affirmative procedure.

### **Summary**

This instrument makes provision to implement an increase of 13% to legal aid and advice and assistance solicitor fees. It also makes some changes omitted from previous regulations and makes minor drafting and clarificatory changes.

### **Policy objectives**

This instrument increases legal aid and advice and assistance fees payable to solicitors by 13%. Amendments are made to the following Scottish Statutory Instruments by regulations 3 – 8 and schedules 1 – 15 of this instrument:

- Civil Legal Aid (Scotland) (Fees) Regulations 1989
- Criminal Legal Aid (Scotland) (Fees) Regulations 1989
- Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992
- Advice and Assistance (Financial Limit) (Scotland) Regulations 1993
- Advice and Assistance (Scotland) Regulations 1996
- Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999<sup>1</sup>

The instrument also makes some changes omitted from the Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026 and the Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026.

Further, the instrument meets a commitment given to the Delegated Powers and Law Reform Committee of the Scottish Parliament to make corrections and minor drafting and clarificatory changes to the Civil Legal Aid (Scotland) Regulations 2002 and the Advice and Assistance by Way of Representation (Scotland) Regulations 2003.

## **UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024**

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Legal Aid and Advice and Assistance (Fees) (Miscellaneous

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<sup>1</sup> Regulation 7 of the Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026 inserts new schedules 3 and 4 into the 1999 Regulations. The 13% uplift will be applied to the fixed payments in these tables:

<https://www.legislation.gov.uk/sdsi/2026/9780111064665/schedule>

Amendment) (Scotland) Regulations 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

## **EU alignment consideration**

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

## **Consultation**

No formal consultation has been conducted on these regulations, the purpose of which is primarily to introduce a 13% fee increase to legal aid and advice and assistance solicitors' fees. However, throughout 2025 the Scottish Government has been involved in substantial engagement with representatives of the Law Society of Scotland, Bar Associations and the Scottish Legal Aid Board regarding support to legal aid providers and legal aid fee reform.

## **Impact assessments**

The following impact assessments were considered:

Business & Regulatory Impact Assessment – additional spend to the legal aid fund has been identified and a BRIA has been completed.

Child Rights & Wellbeing Impact Assessment – any impact these Regulations have on children and young people is considered to be positive.

Equality Impact Assessment – no negative impacts on groups with protected characteristics are anticipated.

Fairer Scotland Duty – not required.

Strategic Environmental Assessment – not required.

Data Protection Impact assessment – not required.

## **Financial effects**

A Business and Regulatory Impact Assessment (BRIA) has been completed.

For financial impact in respect of the uplift to fees, and based on current levels of business, we anticipate the following additional spend to the Legal Aid Fund in Scotland – £2.6m in 2026/27, rising to £11.8m in 2027/28.

The delay in full spend is due to the length of time it takes some cases to conclude.

The impact of this policy on business is minimal, but is likely to be positive to the relevant stakeholders.

Scottish Government  
Directorate for Justice