

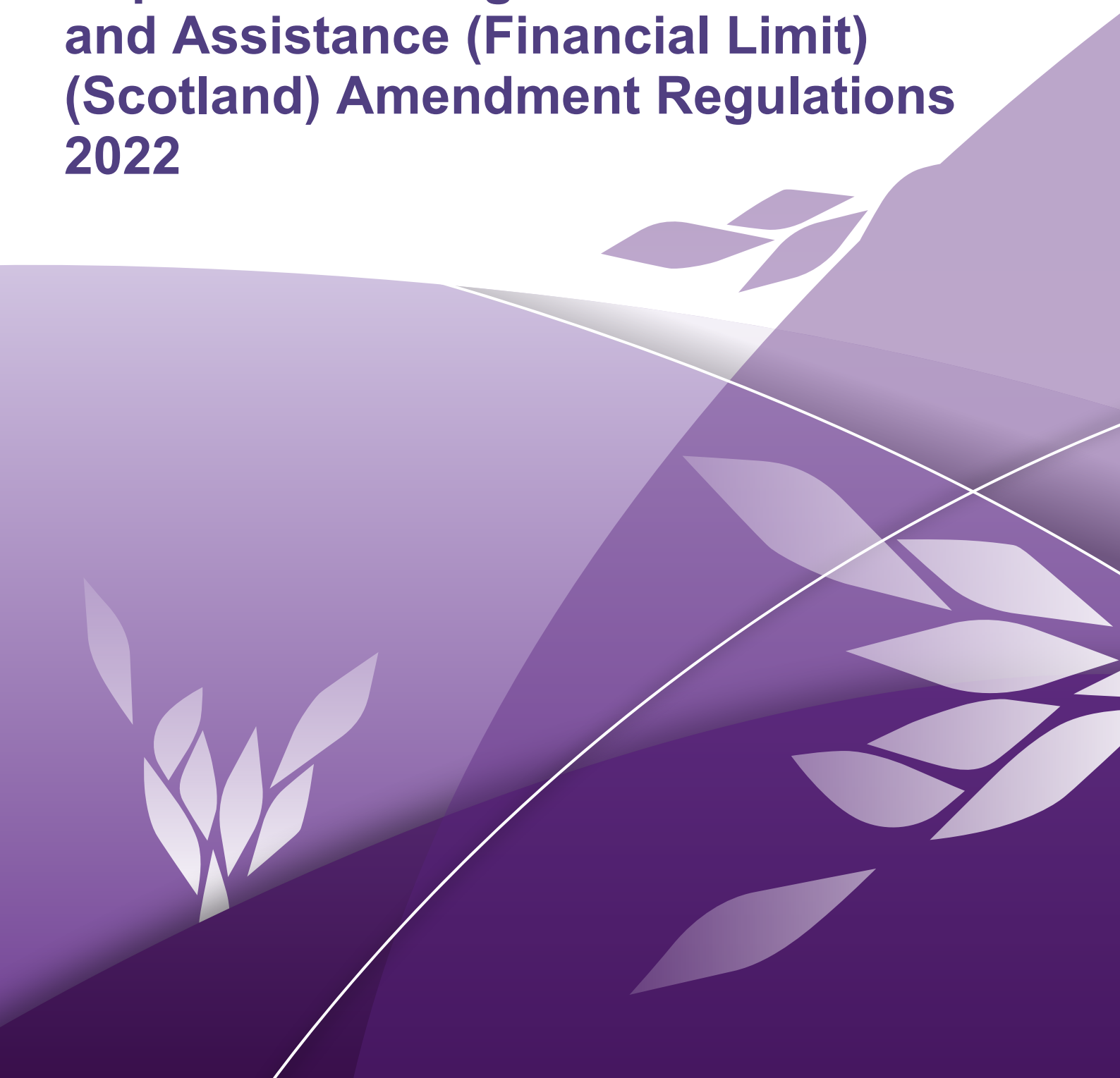


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Criminal Justice Committee

Report on the Legal Aid and Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2022



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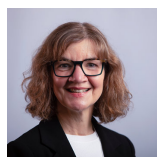
Criminal Justice Committee

To consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Veterans, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.



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Introduction

1. At its meeting of 3 March 2022, the Criminal Justice Committee considered the Legal Aid and Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2022 [draft] ("SSI").
2. The SSI is an affirmative instrument.
3. The above instrument was made in exercise of the powers conferred by sections 9(2)(e) and 33(2), (3)(b) and (f) of the Legal Aid (Scotland) Act 1986.
4. The Regulations make provision to increase the maximum total fees per court session allowable to duty solicitors representing accused persons in the sheriff or district courts, and to increase the financial limits for payments for advice and assistance under the Legal Aid (Scotland) Act 1986, beyond which solicitors are required to seek prior approval of the Scottish Legal Aid Board before undertaking further work.
5. They are considered necessary as a consequence of the increases to all legal aid and advice and assistance fees payable to solicitors and counsel by 5% introduced in 2021 and the further 5% increase which will be made in April 2022 (by the Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Scotland) Regulations 2022 which are being brought forward concurrently with these Regulations). The existing limits of initial authorised expenditure for advice and assistance would be likely to be frequently exceeded as a result of increased fees, meaning that solicitors would require to seek the prior approval of the Scottish Legal Aid Board to ensure full payment for the work undertaken. To require such approval for payment that would otherwise be permitted would result in additional time, resource and bureaucracy for both legal aid providers and the Scottish Legal Aid Board.
6. Amendments are also being made to the "session limits" that apply to duty work under Criminal Legal Aid (Scotland) (Fees) Regulations 1989 – the maximum fees that may be accrued by a solicitor in a court session.

Consideration by committees

7. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 8 February and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.
8. At its meeting of [3 March](#), the Committee took evidence from Ash Regan, Minister for Community Safety, and officials in the Scottish Government. The Committee also considered written evidence from the Law Society of Scotland.
9. Motion S6M-03003 was lodged by the Scottish Government proposing that the Committee recommends approval of the instrument. The motion was agreed to after questions to the Minister.
10. Therefore, the Criminal Justice Committee recommends that the Legal Aid and Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2022 be approved.

