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Criminal Justice Committee

The Advice and Assistance (Summary Criminal Proceedings) (Miscellaneous Amendment) (Scotland) Regulations 2022 [draft]



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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 on Wednesday 21 September 2022, the Criminal Justice Committee considered the [Advice and Assistance \(Summary Criminal Proceedings\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2022](#).
2. The instrument is subject to the affirmative procedure.
3. This instrument was laid before the Scottish Parliament on 22 June 2022.
4. The Regulations are proposed to be made in exercise of the powers conferred by sections 9(1) and (2)(a), 33(2) and (3)(b), (f) and (3A), and 36(2)(b) of the Legal Aid (Scotland) Act 1986.
5. The instrument makes amendments to advice and assistance regulations to support a sheriff court initiative that seeks to encourage appropriate early resolution of summary criminal cases. It amends legal aid fee arrangements to allow an inclusive fee to be paid to defence agents at an earlier stage of proceedings

Consideration by the Delegated Powers and Law Reform Committee

6. The Delegated Powers and Law Reform Committee ('DPLR Committee') considered the instrument at its meeting on 28 June 2022.
7. The DPLR Committee raised no points on the instrument.

Consideration by the Criminal Justice Committee

8. Motion S6M-05162 was lodged proposing that the Committee recommends approval of the instrument. At its meeting on Wednesday 21 September 2022 the Committee took oral evidence on the draft instrument from the Minister for Community Safety ("the Minister"), Ash Regan MSP, Justin Haccius, Unit Head, Access to Justice, and Martin Brown, Solicitor, Legal Directorate, Scottish Government.
9. During the evidence session, the Minister outlined the purpose of the instrument to the Committee. Members also asked a series of questions, as set out below.
10. The Minister was asked if the incentive to settle cases earlier in proceedings could be to the detriment of the complainer. She said that this scheme would only be used "when appropriate" and it was her view that the proposal helped both the accused and the complainer.
11. She was also asked about the consultation around the draft SSI and replied that it had been shared with bodies such as the Law Society of Scotland who raised no issues. She stressed that this proposal was supported by the legal profession.
12. The Minister was also questioned on whether there would be a detailed report on the pilots when these were complete. She replied that that would be a matter for the Scottish Courts and Tribunals Service.
13. Finally, the Minister was asked if there had been any early results from the 3 pilot schemes but she confirmed that there hadn't as these had only commenced within the last few weeks.
14. Following these questions from Members, the Minister moved the motion in her name:
 - S6M-05162—That the Criminal Justice Committee recommends that the Advice and Assistance (Summary Criminal Proceedings) (Miscellaneous Amendment) (Scotland) Regulations 2022 [draft].
15. Motion S6M-05162 was agreed to without debate or dissent.
16. The Criminal Justice Committee recommends to the Scottish Parliament that it approve the Advice and Assistance (Summary Criminal Proceedings) (Miscellaneous Amendment) (Scotland) Regulations 2022 [draft].

