



The Scottish Parliament
Pàrlamaid na h-Alba

Published 4 October 2023
SP Paper 444
7th Report, 2023 (Session 6)

Equalities, Human Rights and Civil Justice Committee

The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 4) Regulations 2023 [draft]



Published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:
<http://www.parliament.scot/abouttheparliament/91279.aspx>

For information on the Scottish Parliament contact Public Information on:
Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

Contents

Introduction	1
The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 4) Regulations 2023 [draft]	2
Delegated Powers and Law Reform Committee consideration	3
Equalities, Human Rights and Civil Justice Committee consideration	4

Equalities, Human Rights and Civil Justice Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- a. matters relating to equal opportunities, and upon the observance of equal opportunities within the Parliament; and
- b. matters relating to human rights.
- c. matters relating to civil justice within the responsibility of the Cabinet Secretary for Justice and Home Affairs.

2. In these Rules

(a) “equal opportunities” includes the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds or on grounds of disability, age, sexual orientation, language or social origin or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions; and

(b) “human rights” includes Convention rights (within the meaning of section 1 of the Human Rights Act 1998) and other human rights as for example contained in any international convention, treaty or other international instrument ratified by the United Kingdom.



ehrcj.committee@parliament.scot

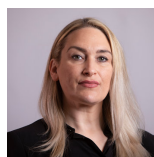


0131 348 5224

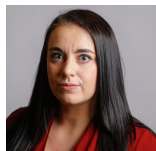
Committee Membership



Deputy Convener
Maggie Chapman
Scottish Green Party



Karen Adam
Scottish National Party



Meghan Gallacher
Scottish Conservative
and Unionist Party



Fulton MacGregor
Scottish National Party



Paul O'Kane
Scottish Labour



Kevin Stewart
Scottish National Party



Annie Wells
Scottish Conservative
and Unionist Party

Introduction

1. At its meeting on 3 October 2023, the Equalities, Human Rights and Civil Justice Committee considered the following instrument:
 - [The Legal Aid and Advice and Assistance \(Miscellaneous Amendment\) \(Scotland\) \(No. 4\) Regulations 2023 \[draft\]](#)
2. The instrument is subject to the affirmative procedure (Rule 10.6).

The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 4) Regulations 2023 [draft]

3. This instrument replaces the draft instrument dealing with the same matters laid on 6 September 2023. Regulation 2 of that earlier version made a technical amendment to paragraph 2A(a)(iii) of the Civil Legal Aid (Scotland) (Fees) Regulations 1989. However, the amendment in regulation 2 gave rise to potential confusion. Following discussion with the Committee's legal advisers, the Scottish Government withdrew the draft instrument on 15 September 2023 and clarified the wording of the amendment prior to it being re-laid on 19 September 2023. It was then referred to the Equalities, Human Rights and Civil Justice Committee.
4. The instrument is made under powers in the [Legal Aid \(Scotland\) Act 1986](#) and makes provision for the following changes to the criminal and civil legal aid schemes:
 1. criminal legal aid is made available to pay for advice and representation by a solicitor for persons arrested and detained under sections of the National Security Act 2023 because they are suspected of being involved in foreign power threat activity
 2. social security 'carer support payments' will be disregarded in assessment of eligibility for civil legal aid and children's legal assistance and any liability to repay money to the Legal Aid Fund will not take account of these payments
 3. amendments are made to legal aid provision for an increase in Solicitors' and Counsel's fees payable which cover the following Regulations:
 - Amendment of the Civil Legal Aid (Scotland) (Fees) Regulations 1989
 - Amendment of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989
 - Amendment of the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993
 - Amendment of the Advice and Assistance (Scotland) Regulations 1996
 - Amendment of the Civil Legal Aid (Scotland) Regulations 2002
 - Amendment of the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003
 - Amendment of the Criminal Legal Assistance (Fees and Information etc.) (Scotland) Regulations 2008
 - Amendment of the Criminal Legal Assistance (Duty Solicitors) (Scotland) Regulations 2011
 - Amendment of the Children's Legal Assistance (Scotland) Regulations 2013.

Delegated Powers and Law Reform Committee consideration

5. The Delegated Powers and Law Reform Committee (DPLR) considered the instrument at its meeting on [26 September 2023](#). The DPLR Committee agreed that it did not need to draw the Parliament's attention to the instrument on any grounds within its remit.

Equalities, Human Rights and Civil Justice Committee consideration

6. It is for the Equalities, Human Rights and Civil Justice Committee to recommend to the Parliament whether the instrument should be approved.
7. The Minister for Victims and Community Safety ("the Minister"), Siobhian Brown MSP, has, by motion [S6M-10545](#) proposed that the Committee recommends the approval of the instrument.
8. The Committee took evidence from the Minister and supporting officials, Shona Urquhart, Legal Aid Policy Lead and Martin Brown, Solicitor, Legal Directorate at its meeting on 3 October 2023. (Kevin Stewart attended as Committee substitute for Kaukab Stewart (Convener)).
9. Following the evidence session, the Minister moved motion S6M-10545—That the Equalities, Human Rights and Civil Justice Committee recommends that The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 4) Regulations 2023 [draft] be approved.
10. The motion was agreed to without division or dissent.
11. **The Equalities, Human Rights and Civil Justice Committee recommends that The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 4) Regulations 2023 [draft] be approved.**

