



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 26 March 2024  
SP Paper 557  
3rd Report, 2024 (Session 6)

## Equalities, Human Rights and Civil Justice Committee

# The Legal Aid (Miscellaneous Amendment) (Scotland) Regulations 2024 [draft]



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

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# 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.

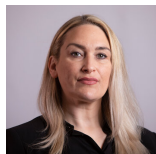


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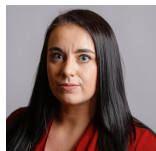
# Committee Membership



**Convener**  
**Karen Adam**  
Scottish National Party



**Deputy Convener**  
**Maggie Chapman**  
Scottish Green Party



**Meghan Gallacher**  
Scottish Conservative  
and Unionist Party



**Marie McNair**  
Scottish National Party



**Paul O'Kane**  
Scottish Labour



**Evelyn Tweed**  
Scottish National Party



**Annie Wells**  
Scottish Conservative  
and Unionist Party

# Introduction

1. At its meeting on 26 March 2024, the Equalities, Human Rights and Civil Justice Committee considered the following instrument:
  - [The Legal Aid \(Miscellaneous Amendment\) \(Scotland\) Regulations 2024 \[draft\]](#)
2. The instrument is subject to the affirmative procedure (Rule 10.6).

# The Legal Aid (Miscellaneous Amendment) (Scotland) Regulations 2024 [draft]

3. This instrument amends the Legal Aid (Scotland) Act 1986 (“the 1986 Act”) and existing regulations under that Act to:
  - provide for an increase to counsel accommodation allowances claims
  - introduce specific counsel fees for written submissions when these are required by the court, and
  - provide for automatic legal aid to be available to young people where a pre-hearing panel or children’s hearing is considering whether or not to impose a Compulsory Supervision Order (CSO) with Movement Restriction Conditions (MRC). The Children (Care and Justice) (Scotland) Bill seeks to ensure that 16 and 17 year olds will not be sent to Young Offender’s Institutions from 2024 onwards. In order to achieve this, it is likely that there will be an increased use of MRC.
4. Regulation 3 makes children’s legal aid available to qualifying persons for proceedings where a children’s hearing or a pre-hearing panel considers that it might be necessary to make a compulsory supervision order that includes a movement restriction condition (whether or not the order also includes a secure accommodation authorisation). Regulation 3 also makes equivalent provision to make children’s legal aid automatically available to the child for the purposes set out in section 28C(2)(b) and (c) of the 1986 Act.
5. Regulation 4 amends the Civil Legal Aid (Scotland) (Fees) Regulations 1989 to provide that costs incurred by counsel above the specified maximum amount for accommodation and associated subsistence when required to travel for a legal aid case are chargeable outlays, where suitable accommodation and subsistence was not available within that amount, and the Scottish Legal Aid Board has given prior approval and is satisfied that the amount charged is reasonable. Regulation 4 also increases the specified maximum amount.
6. Regulation 5 amends the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 to make equivalent provision to regulation 4. It also adds to the existing fee tables provision for payment of fees to counsel for the drafting of written submissions where this has been ordered by the court.

# Delegated Powers and Law Reform Committee consideration

7. The Delegated Powers and Law Reform Committee (DPLR) considered the instrument at its meeting on 27 February 2024 and agreed that it did not need to draw the Parliament's attention to the instrument on any grounds within its remit. [Read the Official Report of the 7th meeting, 27 February 2024](#) .



# Equalities, Human Rights and Civil Justice Committee consideration

8. It is for the Equalities, Human Rights and Civil Justice Committee to recommend to the Parliament whether the instrument should be approved.
  9. The Minister for Victims and Community Safety ("the Minister"), Siobhian Brown MSP, has, by motion [S6M-12219](#) proposed that the Committee recommends the approval of the instrument.
  10. The Committee took evidence from the Minister and supporting official, Katie Case, Legal Aid Policy Officer, Access to Justice Team at its meeting on 26 March 2024.
  11. Following the evidence session, the Minister moved motion S6M-12219—That the Equalities, Human Rights and Civil Justice Committee recommends that The Legal Aid (Miscellaneous Amendment) (Scotland) Regulations 2024 [draft] be approved.
  12. The motion was agreed to without division or dissent.
13. **The Equalities, Human Rights and Civil Justice Committee recommends that The Legal Aid (Miscellaneous Amendment) (Scotland) Regulations 2024 [draft] be approved.**

