The Committee will meet at 1.45pm in Committee Room 2.

1. **Item in private**: The Committee will consider whether to discuss item 4 in private.

2. **Subordinate Legislation**: Dr Richard Simpson (Deputy Minister for Justice) to move—

   S1M-2732 Mr Jim Wallace: The Advice and Assistance (Financial Conditions) (Scotland) Regulations 2002 (Draft)—That the Justice 1 Committee recommends that the Advice and Assistance (Financial Conditions) (Scotland) Regulations 2002 (Draft) be approved, and

   S1M-2734 Mr Jim Wallace: The Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2002 (Draft)—That the Justice 1 Committee recommends that the Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2002 (Draft) be approved.

3. **Freedom of Information (Scotland) Bill**: The Committee will consider the Bill at Stage 2 (Day 3).

4. **Witness Expenses**: The Committee will consider whether to approve travelling expenses for a witness.

Alison Taylor
Acting Clerk to the Committee, Tel 85195
The following papers are attached for this meeting:

Agenda item 2:
Note by the Clerk (SSI attached) J1/02/6/1
Note by the Clerk (SSI attached) J1/02/6/2

Agenda item 3:
Correspondence from Universities Scotland regarding the Freedom of Information (Scotland) Bill J1/02/6/3

Agenda item 4:
Note by the Clerk (private paper) J1/02/6/4

Papers not circulated:

Item 3:
Committee members may wish to consult the Bill and accompanying documents (available from Document Supply or on the Scottish Parliament website at: (www.scottish.parliament.uk/parl_bus/legis.html#36)). Copies of the marshalled list will be available from Document Supply, and groupings will be available from the Committee Clerks in Room 3.11, Committee Chambers (both available on Monday 25 February).

Copies of HM Inspectorate of Prisons for Scotland’s report on HM Prison Castle Huntly are available from the Clerks in Committee Chambers, Room 3.11.

Papers for information circulated for the 6th meeting, 2002

Minutes of 5th meeting, 2002 J1/02/5/M
JUSTICE 1 COMMITTEE

The Advice and Assistance (Financial Conditions) (Scotland) Regulations 2002 (Draft)

Note by the Clerk

Background

This instrument increases disposable income limits for eligibility for advice and assistance under the Legal Aid (Scotland) Act 1986 from £186 a week to £189 (regulation 3). The weekly disposable income (above which a person is required to pay a contribution) is also increased from £79 to £80 (regulation 4), and the scale of contributions is prescribed where the weekly income exceeds £80 but does not exceed £189 (regulation 5).

Disposable income limits for advice and assistance are increased annually in line with contributory benefits based on the Retail Prices Index (RPI) and, according to the Scottish Executive note (attached), the Scottish Executive has made allowances in its spending plan for this. The Advice and Assistance (Financial Conditions) (Scotland) Regulations 2001 are therefore revoked by this instrument (except in cases where an application for advice and assistance is made before 8th April 2002) (regulation 6).

Members are reminded that in evidence to the Committee’s legal aid inquiry, there was concern that eligibility index linking is with prices rather than wages, and that the gap between price and wage inflation has led to a steady decline in eligibility (Justice 1 Committee, 8th Report, 2001, Report on Legal Aid Inquiry, para 33).

The Subordinate Legislation Committee considered this instrument at its meeting on 12 February and determined that the attention of the Parliament need not be drawn to it (Subordinate Legislation Committee, 9th Report, 2002).

Procedure

The instrument was laid on 1 February 2002 and is due to come into force on 8 April 2002. Under Rule 10.6, the draft Regulations being subject to affirmative procedure, it is for the lead committee to recommend to the Parliament whether the instrument should come into force. The Minister for Justice has, by motion S1M-2732 (set out in the Agenda), proposed that the Committee recommends the approval of the Regulations. The Deputy Minister for Justice will attend to speak to and move the motion.

At the end of the debate, the Committee must decide whether or not to agree to the motion, and then report to the Parliament accordingly. Such a report need only be a short statement of the Committee’s recommendation. The text of the Committee’s report will be circulated for approval by e-mail.
Justicia 1 Committee

The Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2002 (Draft)

Note by the Clerk

Background

This instrument increases some of the financial limits for eligibility for civil legal aid under the Legal Aid (Scotland) Act 1986. The disposable income eligibility limit for civil legal aid, without a contribution being payable, is increased from £2767 to £2814, and the eligibility upper limit, beyond which civil legal aid is not available, is also increased from £9034 to £9188 (regulations 3 and 4).

Limits for civil legal aid are increased annually in line with income related social security benefits and, according to the Scottish Executive note (attached), the Scottish Executive has made allowances in its spending plan for this. The Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2001 are therefore revoked by this instrument (except in cases where an application for advice and assistance is made before 8th April 2002) (regulation 5).

During the Committee’s inquiry into legal aid, many witnesses argued that current eligibility criteria are not satisfactory. For example, the Faculty of Advocates told the Committee that the eligibility criteria are currently “inhibiting access to justice because they are set too low” (Justice 1 Committee, 8th Report, 2001, Report on Legal Aid Inquiry, para 35).

The Subordinate Legislation Committee considered this instrument at its meeting on 12 February and determined that the attention of the Parliament need not be drawn to it (Subordinate Legislation Committee, 9th Report, 2002).

Procedure

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At the end of the debate, the Committee must decide whether or not to agree to the motion, and then report to the Parliament accordingly. Such a report need only be a short statement of the Committee’s recommendation. The text of the Committee’s report will be circulated for approval by e-mail.
JUSTICE 1 COMMITTEE

LETTER FROM UNIVERSITIES SCOTLAND

This letter has been forwarded to the Committee by the Convener of the Enterprise and Lifelong Learning Committee.

Freedom of Information Bill and higher education

I am writing to you as a member of the Enterprise and Lifelong Learning Committee concerning a possible impact of the Freedom of Information Bill on the higher education sector. Can I start by stressing that higher education is built on the principle of making knowledge and information as widely available as possible, and we are strongly supportive of the principle of the Bill.

Our concern is the potential for academics to be forced to disclose incomplete research. There are three reasons why this could significantly harm the sector:

- **Commercial interests.** The exemption for release of information which would ‘substantially prejudice’ commercial interests would not protect much academic research where commercial benefit would not be felt in the short term. This would affect an institution’s intellectual property rights and would make it significantly more difficult to attract commercial research contracts from industry. This latter problem is exacerbated by the fact that universities in England and Wales would not face the same requirements, putting Scotland at a clear competitive disadvantage.

- **Academic interests.** The forced disclosure of incomplete research could result in interpretations of incomplete data from third parties, such as the media, which would significantly harm the value of the research. This could damage Scotland’s reputation for excellence in research.

- **Staff interests.** Recruiting international-quality researchers to Scotland would be significantly more difficult if they knew they might be required to disclose incomplete research. This would damage the quality of research in Scotland and might lead to a ‘brain drain’.

Universities Scotland has written to the Minister for Enterprise, Transport and Lifelong Learning and the Minister for Justice urging them to consider putting forward an amendment to the Bill which ensured that incomplete research would be exempt from disclosure where its disclosure would result in substantial prejudice to...
the interests of the higher education institution, the researcher or the subject matter. At the very least, we would hope that the final legislation would not put Scotland at a competitive disadvantage to England.

Please contact the Universities Scotland office if you would like to discuss this further.

Yours sincerely

[Signature]

David Caldwell
Director
Universities Scotland