

Draft Regulations laid before the Scottish Parliament under section 37(2) of the Legal Aid (Scotland) Act 1986, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

LEGAL AID AND ADVICE

The Advice and Assistance and Civil Legal
Aid (Financial Conditions and Contributions)
(Scotland) Amendment Regulations 2016

Made - - - - 2016
Coming into force - - 1st April 2016

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 8A(1) and (1A) of the Legal Aid (Scotland) Act 1986(1) and all other powers enabling them to do so.

In accordance with section 37(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Amendment Regulations 2016 and come into force on 1st April 2016.

Application

2. Regulation 3 applies only in relation to a case where an application for advice and assistance is made on or after 1st April 2016.

Availability of criminal advice and assistance without liability for financial contribution

3. After regulation 8 of the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2011(2) (criminal advice and assistance: automatic availability in certain circumstances), insert—

(1) 1986 c.47. Section 8A was inserted by the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010 (asp 15), section 2(3) and amended, with the insertion of subsection (1A), by the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), section 17.
(2) S.S.I. 2011/217; regulation 8 was amended, with the insertion of paragraphs (b) and (c), by S.S.I. 2011/1739.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Amendment Regulations 2016 No. 136*

“Exception from liability for client’s contribution

8A. Section 11(2) of the Act is not to apply in respect of advice and assistance made available to a relevant client (within the meaning of section 8A(2) of the Act) in the circumstances referred to in regulation 8.”.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2011 (“the principal Regulations”).

Section 11(2) of the Legal Aid (Scotland) Act 1986 makes clients liable to pay financial contributions towards the cost of advice and assistance. These Regulations amend the principal Regulations to provide that section 11(2) is not to apply to advice and assistance made available in the circumstances referred to regulation 8 of those regulations (which provides for the automatic availability of advice and assistance to a person who has a right of access to a solicitor in terms of section 15A of the Criminal Procedure (Scotland) Act 1995 or section 25A of the Criminal Law (Consolidation) (Scotland) Act 1995 or a person detained under section 26 of that Act).

The amendment to the principal Regulations applies only in relation to a case where an application for advice and assistance is made on or after the day on which these Regulations come into force.