
STATUTORY INSTRUMENTS

1998 No. 972 (S.55)

LEGAL AID AND ADVICE, SCOTLAND

The Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 1998

Made - - - - *2nd April 1998*
Coming into force - - *6th April 1998*

The Secretary of State, in exercise of the powers conferred on him by sections 9 and 37(1) of the Legal Aid (Scotland) Act 1986⁽¹⁾ and of all powers enabling him in that behalf, hereby makes the following Regulations, a draft of which has, in accordance with section 37(2) of that Act, been laid before Parliament and approved by resolution of each House of Parliament:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 1998 and shall come into force on 6th April 1998.

(2) In these Regulations, “the principal Regulations” means the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 1997⁽²⁾.

Amendment of principal Regulations

2. In regulation 1 (citation, commencement and interpretation) of the principal Regulations—
- (a) in the definition of “disciplinary proceedings” for the words “rules 94, 97 and 99 of and Schedule 3 to” there shall be substituted the words “rules 97 and 98 of”;
 - (b) for the definition of “governor” there shall be substituted the following—
 - ““governor” means any of the following persons:—
 - (a) the person who is appointed by the Secretary of State under section 3(1) of the Prisons (Scotland) Act 1989⁽³⁾ as the Governor-in-Charge of a prison;
 - (b) the officer who is the Deputy Governor of a prison;

(1) 1986 c. 47.
(2) S.I.1997/3070.
(3) 1989 c. 45.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (c) any officer who is appointed to manage a function or group of functions within the prison and is known as a Unit Manager and who has been authorised to adjudicate disciplinary proceedings; and
- (d) where there is no officer as mentioned in sub paragraphs (a) to (c) above present for the time being in the prison, the most senior officer who is present in the prison at that time.”.

3. In regulation 4 (Application of Part II of the Act to assistance by way of representation: proceedings under the 1995 Act) of the principal Regulations, at the end of paragraph (f), the full stop shall be deleted and there shall be inserted—

“;

- (g) under section 234A(6)(4) in relation to revocation or variation of a non-harassment order.”.

St Andrew’s House,
Edinburgh
2nd April 1998

Henry McLeish
Minister of State Scottish Office

(4) Section 234A(6) was inserted by the Protection from Harassment Act 1997 c. 40.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 1997 and provide for assistance by way of representation (ABWOR) to be made available in relation to proceedings under section 234A(6) of the Criminal Procedure (Scotland) Act 1995 (regulation 3).

The opportunity has also been taken to make minor amendments.