

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

2011 No.

LEGAL AID AND ADVICE

**The Advice and Assistance (Assistance By Way of
Representation) (Scotland) Amendment Regulations 2011**

Made - - - -

Coming into force - - *1st February 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 9 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 (Assistance By Way of Representation) (Scotland) Amendment Regulations 2011 and come into force on 1st February 2011.

Amendment of the Advice and Assistance (Assistance By Way of Representation) (Scotland) Regulations 2003

2. In regulation 4 of the Advice and Assistance (Assistance By Way of Representation) (Scotland) Regulations 2003(2) (which provides for assistance by way of representation to be available in respect of certain proceedings under the Criminal Procedure (Scotland) Act 1995(3))—

(a) in paragraph (2), after sub-paragraph (f) insert—

“(fa) under—

(i) section 227X (periodic review of community payback orders);

(ii) section 227Y (applications to vary, revoke and discharge community payback orders); and

(1) 1986 c.47; section 9 has been amended, but not relevantly for the purposes of these Regulations. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) S.S.I. 2003/179; amended by S.S.I. 2003/500, 2004/307, 2005/165 and 482, 2006/345 and 615, 2008/251 and 2010/239.

(3) 1995 c.46.

- (iii) section 227ZC (breach of community payback order)(4);”;
- (b) in paragraph (3), after “(f),” insert “(fa),”.

St Andrew’s House,
Edinburgh
Date

A member of the Scottish Executive

(4) Sections 227X, 227Y and 227ZC are inserted into the Criminal Procedure (Scotland) Act 1995 by the Criminal Justice and Licensing (Scotland) Act 2010 ([asp 13](#)), section 14.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Assistance By Way of Representation) (Scotland) Regulations 2003 to make assistance by way of representation available in relation to proceedings relating to community payback orders (except where those proceedings are conducted before a designated drug court). Community payback orders are established by sections 227A to 227ZN of the Criminal Procedure (Scotland) Act 1995. Those sections were inserted by section 14 of the Criminal Justice and Licensing (Scotland) Act 2010, which comes into force on 1st February 2011 by virtue of [S.S.I. 2010/413](#).