

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

2017 No.

LEGAL AID AND ADVICE

The Legal Aid (Scotland) Act 1986
Amendment Regulations 2017

Made - - - - 2017
Coming into force - - 1st December 2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 13(4) 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⁽²⁾.

Citation and commencement

1. These Regulations may be cited as the Legal Aid (Scotland) Act 1986 Amendment Regulations 2017 and come into force on 1st December 2017.

Application

2. Regulation 3 applies only in relation to a case where an application for legal aid for proceedings before the First-tier Tribunal for Scotland is made on or after 1st December 2017.

Proceedings in which civil legal aid is available

3.—(1) Part 1 of schedule 2 of the Legal Aid (Scotland) Act 1986⁽³⁾ (courts and tribunals in which civil legal aid is available) is amended as follows.

(2) In paragraph 1, before the entry relating to the Upper Tribunal for Scotland insert—
“before the First-tier Tribunal for Scotland⁽⁴⁾ of the type described in paragraph 2A;”.

(1) 1986 c.47. 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) There are amendments to section 37(2) which are not relevant to these Regulations. Section 37(2) has been modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (the “2010 Act”).
(3) Schedule 2 was relevantly amended by S.S.I. 2001/42, S.S.I. 2002/532, S.S.I. 2010/239 and S.S.I. 2016/356.
(4) Established by section 1 of the Tribunals (Scotland) Act 2014 (asp 10).

(3) After paragraph 1 insert—

“2A. Proceedings before the First-tier Tribunal for Scotland

The proceedings before the First-tier Tribunal for Scotland mentioned in paragraph 1 are—

- (a) those transferred to it by section 16(1) of the Housing (Scotland) Act 2014⁽⁵⁾, in relation to the following enactments—
 - (i) the Rent (Scotland) Act 1984⁽⁶⁾;
 - (ii) the Housing (Scotland) Act 1988⁽⁷⁾;
 - (iii) the Housing (Scotland) Act 2006⁽⁸⁾;
- (b) those in relation to the Private Housing (Tenancies) Scotland Act 2016⁽⁹⁾.”

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(5) 2014 asp 14.
(6) 1984 c.58.
(7) 1988 c.43.
(8) 2006 asp 1.
(9) 2016 asp 19.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Part 1 of schedule 2 of the Legal Aid (Scotland) Act 1986.

Regulation 3 amends the Legal Aid (Scotland) Act 1986 to make civil legal aid available for specified tenancy related disputes before the First-tier Tribunal for Scotland. With the exception of private residential tenancies, which are a new type of tenancy created by the Private Housing (Tenancies) (Scotland) Act 2016, these disputes will have been heard by the sheriff court prior to 1st December 2017.

A Business and Regulatory Impact Assessment has been prepared for these Regulations and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Justice Directorate, St Andrews House, Edinburgh EH1 3DG.