

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 to be made available in relation to proceedings before an employment tribunal, subject to the approval of the Scottish Legal Aid Board (“the Board”) (regulation 4).

The Regulations also prescribe the criteria to be applied by the Board in determining whether to approve an application for assistance by way of representation before an employment tribunal. These criteria are: where the case is arguable; where it is reasonable in the particular circumstances of the case that assistance by way of representation be made available; and where the case is too complex to allow the applicant to present it to a minimum standard of effectiveness in person (regulation 5). That regulation also sets factors to be taken into account by the Board in determining whether a case is too complex to allow the applicant to present it to a minimum standard of effectiveness in person.