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SCOTTISH STATUTORY INSTRUMENTS

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**2001 No. 382**

**LEGAL AID AND ADVICE**

**The Advice and Assistance (Assistance  
by Way of Representation) (Scotland)  
Amendment (No. 3) Regulations 2001**

*Made* - - - - *11th October 2001*

*Coming into force* - - *15th October 2001*

The Scottish Ministers, in exercise of the powers conferred by sections 9(1) and (2)(a) and 37(1) of the Legal Aid (Scotland) Act 1986<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 37(2) of that Act, 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 (No. 3) Regulations 2001 and shall come into force on the day after the day on which they are made.

**Amendment of the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 1997**

2. The Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 1997<sup>(2)</sup> shall be amended in accordance with the following regulations.

3. At the end of regulation 3 (application of Part II of the Act to assistance by way of representation: miscellaneous proceedings) there shall be added—

- “(n) proceedings before a hearing established under—
- (i) paragraph 12 or paragraph 59 of the Schedule to the Convention Rights (Compliance) (Scotland) Act 2001<sup>(3)</sup>; or
  - (ii) section 10(2F) of the Prisoners and Criminal Proceedings (Scotland) Act 1993<sup>(4)</sup>.”.

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(1) 1986 c. 47. The functions of the Secretary of State were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46).

(2) S.I. 1997/3070, as amended by S.I. 1998/972 and 1999/214 and S.S.I. 2000/109, 2001/2 and 43.

(3) 2001 asp 7.

(4) 1993 c. 9. Section 10(2F) was inserted by section 3(1)(b) of the Convention Rights (Compliance) (Scotland) Act 2001.

4. At the end of regulation 4 (application of Part II of the Act to assistance by way of representation: proceedings under the 1995 Act) there shall be added–

“(3) Sub-paragraphs (a), (b), (c), (d), (e), (f), (h) and (i) of paragraph (2) of this regulation shall not apply to proceedings before a court which has been designated as a drug court by the sheriff principal.”.

5. At the end of regulation 8A (prescribed proceedings) there shall be added–

“(c) proceedings before a hearing established under–

(i) paragraph 12 or paragraph 59 of the Schedule to the Convention Rights (Compliance) (Scotland) Act 2001; or

(ii) section 10(2F) of the Prisoners and Criminal Proceedings (Scotland) Act 1993.”.

St Andrew’s House,  
Edinburgh  
11th October 2001

*IAIN GRAY*  
Authorised to sign by the Scottish Ministers

## 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 so as to make assistance by way of representation available for existing life prisoners, existing transferred life prisoners and transferred life prisoners who are the subject of a hearing to specify a notional punishment part (regulation 3). This assistance by way of representation shall be available without reference to the provisions of the Legal Aid (Scotland) Act 1986 which relate to financial limits on the availability of advice and assistance and payment of contributions towards advice and assistance (regulation 5).

The Regulations also provide that assistance by way of representation shall not be available for certain proceedings, where those proceedings take place in a court which has been designated as a drug court by the sheriff principal (regulation 4).