

**2002 No. 37**

**LEGAL AID AND ADVICE**

**The Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2002**

*Made*

*4th February 2002*

*Coming into force*

*6th February 2002*

The Scottish Ministers, in exercise of the powers conferred by sections 9(1), (2)(a), (dd) and (de) and 37(1) of the Legal Aid (Scotland) Act 1986(a) 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 Regulations 2002 and shall come into force on 6th February 2002.

**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(b) shall be amended in accordance with the following regulations.

3. In regulation 3 (application of Part II of the Act to assistance by way of representation: miscellaneous proceedings)–

(a) after paragraph (b) there is inserted–

“(bb) proceedings under section 17 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981(c);”;

(b) after paragraph (n) there is inserted–

“(o) proceedings under section 5 of the Protection from Abuse (Scotland) Act 2001(d).”.

4. In regulation 8A (prescribed proceedings)–

(a) before paragraph (a) there is inserted–

“(aa) proceedings under section 17 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981;”;

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(a) 1986 c.47. Section 9(2)(dd) and (de) was inserted by the Access to Justice Act 1999 (c.22), section 32. 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).

(b) S.I. 1997/3070, amended by S.I. 1998/972 and 1999/214 and S.S.I. 2000/109, 2001/2, 43 and 382.

(c) 1981 c.59; section 17 was amended by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), Schedule 4, paragraph 37.

(d) 2001 asp 14.

- (b) after paragraph (c) there is inserted–  
“(d) proceedings under section 5 of the Protection from Abuse (Scotland) Act 2001.”.

St Andrew's House,  
Edinburgh  
4th February 2002

*JAMES WALLACE*  
A member of the Scottish Executive

## **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 detained persons brought before a sheriff under section 17 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c.59) and under section 5 of the Protection from Abuse (Scotland) Act 2001 (asp 14) (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 4).

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**£1.75**

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under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland  
200 02/02 19593

