

2005 No. 339

LEGAL AID AND ADVICE

**The Advice and Assistance (Scotland) Amendment (No. 3)
Regulations 2005**

<i>Made</i> - - - -	<i>9th June 2005</i>
<i>Laid before the Scottish Parliament</i>	<i>9th June 2005</i>
<i>Coming into force</i> - -	<i>1st July 2005</i>

The Scottish Ministers, in exercise of the powers conferred on them by section 36(1), (2)(a), (d) and (h) and (3)(bb) of the Legal Aid (Scotland) Act 1986(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Advice and Assistance (Scotland) Amendment (No. 3) Regulations 2005 and shall come into force on 1st July 2005.

Application

2. These Regulations shall apply only in relation to any case where an application for advice and assistance is made on or after 1st July 2005.

Amendment of the Advice and Assistance (Scotland) Regulations 1996

3.—(1) The Advice and Assistance (Scotland) Regulations 1996(b) are amended in accordance with the following paragraph.

(a) 1986 c.47; section 36 was relevantly amended by the Adults with Incapacity (Scotland) Act 2000 (asp 4), Schedule 5, paragraph 19. 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. 1996/2447, as relevantly amended by S.S.I. 2003/421.

(2) In regulation 7, at the end insert–

“(4) For the purpose of determining a client’s disposable income and disposable capital, and the amount of any contribution required under section 11 of the Act, where an application for advice and assistance is made by a person and where the person is concerned as claiming or having an interest in the property, financial affairs or personal welfare of an adult under the Adults with Incapacity (Scotland) Act 2000(a), the personal resources of the person making an application for advice and assistance shall be disregarded and the determination shall be made by reference to the personal resources of the incapable adult.”.

St Andrew’s House,
Edinburgh
9th June 2005

HUGH HENRY
Authorised to sign by the Scottish Ministers

(a) 2000 asp 4.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Scotland) Regulations 1996 so as to provide that the disposable income and disposable capital of incapable adults, as defined by section 1(6) of the Adults with Incapacity (Scotland) Act 2000, is taken into account by the Board in cases where advice and assistance applications relating to incapable adults are made.

These Regulations apply to new cases where advice and assistance is granted on or after 1st July 2005.

2005 No. 339

LEGAL AID AND ADVICE

**The Advice and Assistance (Scotland) Amendment (No. 3)
Regulations 2005**

£3.00

© Crown Copyright 2005

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
150 06/05 19593

