

1987 No. 427 (S. 41)

LEGAL AID AND ADVICE, SCOTLAND

Act of Sederunt (Legal Aid Rules) (Children) 1987

Made - - - - - *12th March 1987*

Coming into force *1st April 1987*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 38 of the Legal Aid (Scotland) Act 1986(a) and of all other powers enabling them in that behalf, after consultation with the Rules Council of the Court of Session and the Sheriff Court Rules Council in accordance with section 38(3) of that Act, do hereby enact and declare:

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Legal Aid Rules) (Children) 1987 and shall come into force on 1st April 1987.

(2) In this Act of Sederunt, unless the context otherwise requires—

“the Act of 1968” means the Social Work (Scotland) Act 1968(b);

“the Act of 1986” means the Legal Aid (Scotland) Act 1986;

“assisted person” means a child or the parent of a child who is in receipt of legal aid in the proceedings in question;

“child” means a child as defined by section 30(1) of the Act of 1968(c);

“court” means the Court of Session or a sheriff court;

“the Regulations” means the Legal Aid (Scotland) (Children) Regulations 1987(d);

“sheriff-clerk” includes sheriff-clerk depute.

Revocations

2. The Act of Sederunt (Legal Aid) (Children) 1971(e) and the Act of Sederunt (Legal Aid) (Children) (Amendment) 1971(f) are hereby revoked.

Applications for legal aid in proceedings before a sheriff under the Act of 1968 other than appeals against child's detention

3.—(1) An application for legal aid in connection with—

(a) an application to the sheriff under section 42 of the Act of 1968; or

(b) an appeal to the sheriff under section 49 of the Act of 1968, which is an appeal specified in section 29(2)(a)(ii) or (2)(b) of the Act of 1986,

shall be made by lodging an application in writing with the sheriff-clerk.

(2) An application under paragraph (1) shall be brought as soon as possible before the sheriff in chambers for determination in accordance with section 29(4) of the Act of 1986 and regulation 7 of the Regulations.

(a) 1986 c.47

(b) 1968 c.49.

(c) Section 30(1) was amended by the Education (Scotland) Act 1969 (c.49), Schedule 2, Part II, paragraph 5.

(d) S.I. 1987/384.

(e) S.I. 1971/287.

(f) S.I. 1971/1795.

Intimation of legal aid certificates

4. Where the sheriff grants an application for legal aid under the Regulations or under rule 3 of these Rules, the sheriff clerk shall send to the Board a legal aid certificate detailing the entitlement to legal aid of the applicant, and shall send a copy of the certificate to the applicant.

Disqualification for continuance of legal aid

5.—(1) Where the court before which there are depending any proceedings to which an assisted person is a party, after hearing that person, is satisfied that the assisted person has—

- (a) without reasonable cause failed to comply with a proper request made to him by the solicitor acting for him to supply any information relevant to the proceedings;
- (b) delayed unreasonably in complying with a request as is mentioned in sub-paragraph (a);
- (c) wilfully given false information in connection with the proceedings to the solicitor acting for him or wilfully or deliberately concealed from him any information relevant to the proceedings;
- (d) without reasonable cause failed to attend any proceedings at which he has been required to attend or any meeting with the solicitor or counsel acting for him under the Act of 1986 at which he has reasonably and properly been required to attend; or
- (e) conducted himself in connection with the proceedings in such a way as to make it appear unreasonable to the court that he should continue to receive legal aid,

the court may direct that legal aid shall cease to be made available to that person in relation to those proceedings.

(2) Where a court issues a direction under paragraph (1), the Deputy Principal Clerk of Session or the sheriff clerk, as the case may be, shall send a copy of the direction to the Board.

Statements on oath

6. In considering any matter in regard to the entitlement of a person to legal aid, that person may be required to make a statement on oath for the purpose of ascertaining or verifying any fact material to his entitlement to legal aid.

Edinburgh
12th March 1987

Emslie
Lord President, I.P.D.

EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt makes rules under the Legal Aid (Scotland) Act 1986 in relation to legal aid in proceedings under the Social Work (Scotland) Act 1968. It also revokes the Act of Sederunt (Legal Aid) (Children) 1971.

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