

1987 No. 430 (S. 42)

LEGAL AID AND ADVICE, SCOTLAND

Act of Adjournal (Criminal Legal Aid Rules) 1987

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

Coming into force *1st April 1987*

The Lord Justice General, Lord Justice Clerk and Lords Commissioners of Justiciary, 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, do hereby enact and declare:

Citation, commencement and interpretation

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

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

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

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

“clerk of court” means clerk of justiciary, sheriff clerk, sheriff clerk depute or clerk of the district court, as the case may be;

“court” means the High Court of Justiciary, a sheriff court or a district court, as the case may be;

“the Regulations” means the Criminal Legal Aid (Scotland) Regulations 1987(b).

Revocations and transitional provision

2.—(1) The Acts of Adjournal set out in the Schedule to these Rules are hereby revoked.

(2) Notwithstanding the revocation of the Act of Adjournal (Criminal Legal Aid Fees) 1964(c), that Act of Adjournal shall continue to have effect in relation to work done before 1st May 1984.

Legal aid in High Court of Justiciary

3. Where an application for legal aid is made to the High Court of Justiciary under section 23 of the Act of 1986, the court may—

(a) determine the application itself; or

(b) remit the application to the sheriff court for determination.

Discontinuance of entitlement to criminal legal aid

4.—(1) Where the court, before which there are proceedings in which an assisted person is an accused person or appellant, after hearing that person, is satisfied—

(a) that that person—

(a) 1986 c.47.

(b) S.I. 1987/307.

(c) S.I. 1964/1410, as amended by the Acts of Adjournal mentioned in Part II of the Schedule to these Rules.

- (i) has 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;
- (ii) has delayed unreasonably in complying with any such request as is mentioned in head (i);
- (iii) has without reasonable cause failed to attend at a diet of the court at which he has been required to attend or at a 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;
- (iv) has conducted himself in connection with the proceedings in such a way as to make it appear to the court unreasonable that he should continue to receive criminal legal aid;
- (v) has wilfully given false information for the purpose of misleading the court in considering his financial circumstances under section 23(1) of the Act of 1986; or
- (vi) has without reasonable cause failed to comply with a requirement of the Regulations; or

(b) that it is otherwise unreasonable for the solicitor to continue to act on behalf of the assisted person in the proceedings,

the court may direct that the assisted person shall cease to be entitled to criminal legal aid in connection with those proceedings.

(2) Where a direction is made under paragraph (1) in the course of proceedings to which section 22 of the Act of 1986 applies, the accused person shall not be entitled to criminal legal aid in relation to any later stages of the same proceedings before the court of first instance.

(3) Where a court issues a direction under paragraph (1), the clerk of court shall send notice of it to the Board.

(4) Where a court of first instance has made a direction under paragraph (1)(a), it shall instruct the clerk of court to report the terms of the finding made by the court to the Board for its consideration in any application for criminal legal aid in an appeal in connection with the proceedings in that court.

Statements on oath

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

Edinburgh
12th March 1987

Emslie
Lord Justice General, I.P.D.

**SCHEDULE
REVOCATIONS**

Rule 2

<i>Instruments revoked</i>	<i>References</i>
PART I	
Act of Adjournal (Rules for Legal Aid in Criminal Proceedings) 1964	S.I. 1964/1409
Act of Adjournal (Rules for Legal Aid in Criminal Proceedings Amendment) 1975	S.I. 1975/835
Act of Adjournal (Rules for Legal Aid in Criminal Proceedings Amendment) 1976	S.I. 1976/371
Act of Adjournal (Rules for Legal Aid in Criminal Proceedings Amendment) 1981	S.I. 1981/387
Act of Adjournal (Rules for Legal Aid in Criminal Proceedings Amendment No. 2) 1981	S.I. 1981/1443
PART II	
Act of Adjournal (Criminal Legal Aid Fees) 1964	S.I. 1964/1410
Act of Adjournal (Criminal Legal Aid Fees Amendment) 1965	S.I. 1965/1788
Act of Adjournal (Criminal Legal Aid Fees Amendment) 1968	S.I. 1968/1933
Act of Adjournal (Criminal Legal Aid Fees Amendment) 1971	S.I. 1971/926
Act of Adjournal (Alteration of Criminal Legal Aid Fees) 1973	S.I. 1973/673
Act of Adjournal (Criminal Legal Aid Fees Amendment) 1973	S.I. 1973/1145
Act of Adjournal (Criminal Legal Aid Fees Amendment) 1975	S.I. 1975/836
Act of Adjournal (Criminal Legal Aid Fees Amendment) 1976	S.I. 1976/339
Act of Adjournal (Criminal Legal Aid Fees Amendment) 1979	S.I. 1979/95
Act of Adjournal (Criminal Legal Aid Fees Amendment) 1981	S.I. 1981/388
Act of Adjournal (Criminal Legal Aid Fees Amendment) 1982	S.I. 1982/121
Act of Adjournal (Criminal Legal Aid Fees Amendment No. 2) 1982	S.I. 1982/468
Act of Adjournal (Criminal Legal Aid Fees Amendment) 1983	S.I. 1983/972

EXPLANATORY NOTE

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

This Act of Adjournal makes rules of court under the Legal Aid (Scotland) Act 1986 in relation to criminal legal aid in criminal proceedings where an application for criminal legal aid is made to the court. It revokes the Act of Adjournal (Rules for Legal Aid in Criminal Proceedings) 1964. It also revokes the Act of Adjournal (Criminal Legal Aid Fees) 1964 except in relation to work done before 1st May 1984 (fees in respect of proceedings concluded on or after that date are regulated by the Legal Aid (Scotland) (Fees in Criminal Proceedings) Regulations 1984).

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