

1988 No. 1126 (S.114)

LEGAL AID AND ADVICE, SCOTLAND

**The Criminal Legal Aid (Scotland) Amendment
Regulations 1988**

<i>Made</i>	<i>29th June 1988</i>
<i>Laid before Parliament</i>	<i>11th July 1988</i>
<i>Coming into force</i>	<i>1st August 1988</i>

The Secretary of State, in exercise of the powers conferred on him by sections 31 and 36 of the Legal Aid (Scotland) Act 1986(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Criminal Legal Aid (Scotland) Amendment Regulations 1988 and shall come into force on 1st August 1988.

Interpretation

2. In these Regulations, "the principal Regulations" means the Criminal Legal Aid (Scotland) Regulations 1987(b).

Amendment of principal Regulations

3. At the end of regulation 2 of the principal Regulations there shall be inserted the following:-

"“legal representative” means curator bonis, tutor, judicial factor or guardian.”.

4.—(1) At the end of regulation 4(1) of the principal Regulations there shall be inserted the following sub-paragraphs:-

- “(j) any proceedings under section 186 or 387 of the Criminal Procedure (Scotland) Act 1975(c) in relation to failure to comply with the requirements of a probation order;
- (k) any proceedings under section 187 or 388 of the 1975 Act in relation to the conviction of a probationer by a court in Great Britain of an offence committed during his probation period;
- (l) any proceedings in relation to failure to comply with the requirements of a community service order made under section 1(1) of the Community Service by Offenders (Scotland) Act 1978(d)”.

(2) At the end of regulation 4(2) of the principal Regulations there shall be inserted the following sub-paragraph:-

“(d) in relation to paragraph (1)(c) above, any proceedings up to and including the first hearing of the complaint where a charge is reduced from solemn to summary

(a) 1986 c.47.
(b) S.I. 1987/307.
(c) 1975 c.21.
(d) 1978 c.49.

proceedings and, if a plea of guilty is tendered, thereafter to the conclusion of the case.”.

5.—(1) At the end of regulation 5(1) of the principal Regulations there shall be inserted the following sentence:—

““the references to advising and acting” in this paragraph shall include the services of the duty solicitor at any preliminary plea to the competency or relevancy of the petition or complaint and at any plea in bar of trial or any mental health proof.”.

(2) In regulation 5(2) for the words “sub-paragraphs (a) or” and “sub-paragraphs (a) and” where they occur respectively there shall be substituted the word “sub-paragraph”.

6. In each of regulations 8(1)(a), 12(1)(b) and 13(1)(a) of the principal Regulations, the following shall be inserted after the word “applicant”:-

“, or, where the applicant on cause shown cannot sign the application, by a person authorised by him, or, where the applicant is mentally disordered in terms of section 1(2) of the Mental Health (Scotland) Act 1984, by the applicant’s legal representative”.

7. In Regulation 12(1)(c) of the principal Regulations for the words “within 7 days” there shall be substituted “within 10 days”.

St. Andrew’s House, Edinburgh
29th June 1988

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the provisions of the Criminal Legal Aid (Scotland) Regulations 1987 in the following respects:—

- (a) they ensure that breaches of probation orders and community service orders shall be treated as distinct proceedings for the purposes of criminal legal aid;
- (b) they ensure that legal aid will continue to be available up to and including the first hearing of the complaint where a charge is reduced from solemn to summary proceedings, and to the case’s conclusion, if a plea of guilty is tendered;
- (c) they make clear that the services of the duty solicitor in advising and acting for any person to whom the provisions of regulation 5 apply include acting in any preliminary plea or plea in bar of trial or any mental health proof;
- (d) they make provision for applications for criminal legal aid in summary proceedings, reviews and appeals to be made, on behalf of an applicant who cannot write or who is mentally disordered, by a person authorised by the applicant or by the applicant’s legal representative, respectively; and
- (e) by extending the time limit for application for review from within 7 days to within 10 days.

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