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STATUTORY INSTRUMENTS

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**1996 No. 1011 (S.112)**

**LEGAL AID AND ADVICE, SCOTLAND**

**The Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 1996**

*Made* - - - - 28th March 1996  
*Coming into force* - - 31st March 1996

The Secretary of State, in exercise of the powers conferred on him by sections 9(1), (2)(a), (b) and (d), 36(1) and 37(1) of the Legal Aid (Scotland) Act 1986<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes 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, each House of Parliament:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 1996 and shall come into force on 31st March 1996.

(2) In these Regulations, “the principal Regulations” means the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 1988<sup>(2)</sup>.

**Application**

2. These Regulations shall apply only in relation to any case where an application for advice and assistance is made on or after 31st March 1996.

**Amendment of the principal Regulations**

3. In regulation 3 of the principal Regulations (application of Part II of the Act to assistance by way of representation) at the end there shall be added—

“(m) applications under section 91 (recall or variation of suspended forfeiture order) or 92 (property wrongly forfeited: return or compensation) of the Criminal Justice (Scotland) Act 1995<sup>(3)</sup>; and

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(1) 1986 c. 47.

(2) S.I.1988/2290, as amended by 1992/1588, 1993/972 and 3186, 1994/1000 and 1995/1219.

(3) 1995 c. 20.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(n) appeals under section 93 of the Criminal Justice (Scotland) Act 1995 (appeal against court decision under section 91(1) or 92(2)).”.

4. In regulation 4 of the principal Regulations (assistance by way of representation which may be provided) in paragraph (1)(e) the words “the accused has intimated in writing his intention to change his plea to one of guilty to the prosecutor within 14 days of the diet at which the plea of not guilty was tendered, and where” shall cease to have effect.

5. In regulation 5A of the principal regulations (assistance by way of representation requiring approval of Board) after “regulation 3(k)” there shall be inserted “, (m) and (n)”.

St Andrew’s House,  
Edinburgh  
28th March 1996

*James Douglas-Hamilton*  
Minister of State, Scottish Office

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 1988.

They provide—

- (a) for assistance by way of representation to be made available in relation to applications under section 91 (recall or variation of suspended forfeiture order) or section 92 (property wrongly forfeited: return or compensation) or appeals under section 93 (appeal against court decision under section 91(1) or 92(2)) of the Criminal Justice (Scotland) Act 1995 (regulation 3);
- (b) for the removal of the condition, applicable to the provision of assistance by way of representation at any diet in summary criminal proceedings at which the court is considering the accused's changed plea of guilty, that the accused has, within 14 days of the diet at which the plea of not guilty was tendered, intimated his intention to change his plea (regulation 4); and
- (c) that the approval of the Scottish Legal Aid Board is required for the provision of assistance by way of representation in relation to applications under section 91 or 92 or appeals under section 93 of the Criminal Justice (Scotland) Act 1995 (regulation 5).