
SCOTTISH STATUTORY INSTRUMENTS

2001 No. 43

LEGAL AID AND ADVICE

**The Advice and Assistance (Assistance
by Way of Representation) (Scotland)
Amendment (No. 2) Regulations 2001**

Made - - - - *15th February 2001*

Coming into force - - *19th February 2001*

The Scottish Ministers, in exercise of the powers conferred by sections 9(1) and (2)(a), (dd) and (de) and 37(1) of the Legal Aid (Scotland) Act 1986⁽¹⁾, and of all other powers enabling them in that behalf, hereby make 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 the Scottish Parliament:

Citation, commencement and interpretation

1. These Regulations may be cited as the Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment (No. 2) Regulations 2001 and shall come into force on 19th February 2001.

Amendment of the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 1997

2. The Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 1997⁽²⁾ shall be amended in accordance with the following regulations.

3. In regulation 3 (application of Part II of the Act to assistance by way of representation: miscellaneous proceedings) at the end of paragraph (l) there shall be inserted—

“;

- (m) proceedings in connection with an application for a warrant of further detention, or for an extension of such a warrant, made to the sheriff under paragraph 29 or 36 of Schedule 8 to the Terrorism Act 2000⁽³⁾.”

4. For regulation 8A (prescribed proceedings) there shall be substituted—

(1) 1986 c. 47. The functions of the Secretary of State were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46).

(2) S.I. 1997/3070, as amended by S.I. 1998/972 and 1999/214 and S.S.I. 2000/109 and 2001/2.

(3) 2000 c. 11.

“**8A.** In relation to the following, assistance by way of representation shall be available without reference to the financial limits under section 8 of the Act (availability of advice and assistance), and section 11(2) of the Act (client’s contributions) shall not apply as respects assistance by way of representation—

- (a) all proceedings under Part V of the Mental Health (Scotland) Act 1984⁽⁴⁾;
- (b) proceedings in connection with an application for a warrant of further detention, or for an extension of such a warrant, made to the sheriff under paragraph 29 or 36 of Schedule 8 to the Terrorism Act 2000.”.

St Andrew’s House,
Edinburgh
15th February 2001

JAMES R WALLACE
A member of the Scottish Executive

(4) 1984 c. 36

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 1997 so as to make assistance by way of representation available for proceedings in connection with an application for a warrant of further detention, or for extension of such a warrant, under Schedule 8 to the Terrorism Act 2000 (regulation 3).

The Regulations also provide that assistance by way of representation for these proceedings shall be available without reference to the provisions of the Legal Aid (Scotland) Act 1986 which relate to financial limits on the availability of advice and assistance and payment of contributions towards advice and assistance (regulation 4).