
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 134

The Advice and Assistance and Civil Legal Aid (Special Urgency and Property Recovered or Preserved) (Scotland) Regulations 2011

Amendment of the Civil Legal Aid (Scotland) Regulations 2002

5. In regulation 18—

(a) for paragraph (1)(b) substitute—

“(b) in any other circumstances where—

- (i) the Board is satisfied on application that steps require to be taken as a matter of special urgency to protect the applicant’s position; and
- (ii) paragraphs (3A) and (3B) do not apply.”;

(b) in paragraph (2) omit sub-paragraphs (j), (n) and (p);

(c) after paragraph (3) insert—

“(3A) This paragraph applies where—

(a) at the time the Board receives an application under paragraph (1)(b)—

- (i) an application for legal aid by the applicant in relation to the same proceedings has been refused or treated as abandoned; or
- (ii) the Board has ceased to make legal aid in respect of the same proceedings available to the applicant;

(b) the Board has given the applicant an opportunity to show that there is a realistic prospect that legal aid will be granted following an application for review or a further application; and

(c) the Board is not satisfied that the applicant has so shown.

(3B) This paragraph applies where—

(a) the Board, on receipt of an application under paragraph (1)(b), has called on the applicant to provide the Board with sufficient information to enable the Board to determine whether *prima facie* the conditions mentioned in section 14(1) of the Act are met;

(b) the Board is satisfied either—

- (i) that the applicant has had sufficient opportunity to provide the information called for; or
- (ii) that the applicant would have had sufficient opportunity to provide the information called for but for undue delay on the part of the solicitor in submitting the application under paragraph (1)(b); and

(c) the Board is not satisfied that *prima facie* the conditions mentioned in section 14(1) of the Act are met.”;

(d) in paragraph (4) after “position” insert—

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“and that paragraphs (3A) and (3B) do not apply”.