

2011 No. 161

LEGAL AID AND ADVICE

The Advice and Assistance and Legal Aid (Online Applications etc.) (Scotland) Regulations 2011

Made - - - - *24th February 2011*

Laid before the Scottish Parliament *28th February 2011*

Coming into force - - *1st April 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 36(1) and (2)(a) and (d) of the Legal Aid (Scotland) Act 1986(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Advice and Assistance and Legal Aid (Online Applications etc.) (Scotland) Regulations 2011 and come into force on 1st April 2011.

Amendment of the Advice and Assistance (Scotland) Regulations 1996

2.—(1) The Advice and Assistance (Scotland) Regulations 1996(b) are amended in accordance with paragraphs (2) and (3).

(2) After regulation 2 insert—

“Manner of applications etc.

2A.—(1) Any application to the Board under regulations 8B(3), 12(1), 13, 14A(2) and 16(3) shall be made in such form as the Board may require, which may include an online form.

(2) Any statement, information, document, notification, notice or other correspondence, including any copies which require to be sent, given, supplied, or otherwise provided to the Board under regulations 11, 14, 14A(1), 15 and 15A(1) shall be in such form as the Board may require, which may include an online form.”

(3) In regulation 13(2) omit “and the application must also be countersigned by the client seeking advice and assistance,”.

(a) 1986 c.47; section 36 has been amended for purposes not relevant to these Regulations. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(b) S.I. 1996/2447; amended by S.I. 1997/726, 1998/724, S.S.I. 2000/181, 2002/495, 2003/163 and 421, 2004/262 and 492, 2005/171 and 339, 2006/233, 2007/60, 2008/240, S.I. 2008/1879, S.S.I. 2009/59 and 2010/57 and 166.

Amendment of the Criminal Legal Aid (Scotland) Regulations 1996

3. After regulation 2 of the Criminal Legal Aid (Scotland) Regulations 1996(a) insert—

“Manner of applications etc.

2A.—(1) Any application to the Board under or referred to in regulations 14, 15 and 17(3) shall be made in such form as the Board may require, which may include an online form.

(2) Any statement, information, notification or other correspondence which requires to be supplied or otherwise provided to the Board under regulations 16 and 17(1) and (2) shall be in such form as the Board may require, which may include an online form.”.

Amendment of the Legal Aid in Contempt of Court Proceedings (Scotland) Regulations 1992

4.—(1) The Legal Aid in Contempt of Court Proceedings (Scotland) Regulations 1992(b) are amended in accordance with paragraphs (2) and (3).

(2) After regulation 2 insert—

“Manner of applications

2A. Any application to the Board under regulations 7 and 7A shall be made in such form as the Board may require, which may include an online form.”.

(3) In regulation 4(3)—

- (a) in sub-paragraph (a) omit “in writing” and after “form” insert “, which may include an online form,”; and
- (b) omit sub-paragraph (c).

Amendment of the Legal Aid (Scotland) (Children) Regulations 1997

5.—(1) The Legal Aid (Scotland) (Children) Regulations 1997(c) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 5(1)—

- (a) in sub-paragraph (a)—
 - (i) omit “in writing” and “and be signed by the applicant”; and
 - (ii) after “require” insert “, which may include an online form”; and
- (b) in sub-paragraph (b) omit “signed” and “or on behalf of”.

(3) In regulation 10 after paragraph (2) insert—

“(3) Any application to the Board under this regulation shall be made in such form as the Board may require, which may include an online form.”.

Amendment of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999

6. In regulation 4A of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999(d)—

- (a) in paragraph (5)(a)(i) after “form” insert “, which may include an online form”; and

(a) S.I. 1996/2555; amended by S.I. 1999/1042 and S.S.I. 2001/306, 2002/441, 2003/249, 2004/282, 2005/450 and 2009/312.

(b) S.I. 1992/1227; amended by S.I. 1993/528, 1994/1016, 1995/2319, 1996/2550 and S.S.I. 2005/451 and 2009/312.

(c) S.I. 1997/690; amended by S.S.I. 2009/312.

(d) S.I. 1999/491; amended by S.I. 1999/1820 and S.S.I. 1999/48, 2001/307, 2002/247 and 442, 2003/249, 2004/51, 126 and 263, 2005/93, 2006/234, 2008/240 and 2010/237, 267, 270 and 312.

- (b) omit paragraph (6)(a).

Amendment of the Civil Legal Aid (Scotland) Regulations 2002

7.—(1) The Civil Legal Aid (Scotland) Regulations 2002(a) are amended in accordance with paragraphs (2) to (9).

- (2) After regulation 2 insert—

“Manner of applications etc.

2A.—(1) Any application to the Board under or referred to in regulations 7(2), 18, 20, 21, 22, 25(3), 45 and 46 shall be in such form as the Board may require, which may include an online form.

(2) Any statement, information, notification, notice or other correspondence which requires to be supplied, brought to the attention of, given or otherwise provided to the Board under regulations 18, 23(1) and (2), 24(1), 25(1) and (2) and 42 shall be in such form as the Board may require, which may include an online form.”.

- (3) In regulation 5—

- (a) in paragraph (1) for sub-paragraphs (a) and (b) substitute—

“(a) in such form as the Board may require, which may include an online form;

(b) accompanied by a statement as to the nature of the case and the interest of the applicant therein;”;

- (b) in paragraph (2) omit “in writing”.

- (4) In regulation 13A(2)(c) omit “in writing”.

- (5) Omit regulation 18(5)(b).

- (6) Omit regulation 20(1)(a).

(7) In regulation 26 omit “in writing” and after “require,” insert “which may include an online form.”.

- (8) In regulation 45—

- (a) omit paragraphs (2)(d)(i) and (3)(c)(i); and

- (b) in paragraph (3)(c)(ii)(aa) omit “signed by the solicitor”.

- (9) In regulation 46—

- (a) omit paragraph (2)(c)(i); and

- (b) in paragraph (2)(c)(ii) omit “signed by the solicitor”.

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A member of the Scottish Ministers

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Edinburgh
24th February 2011

(a) S.S.I. 2002/494; amended by the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) schedule 3, paragraph 38 and S.S.I. 2003/49 and 486, 2004/491, 2005/112 and 448, 2006/325, 2007/59 and 425 and 2008/150, S.I. 2008/1879 and S.S.I. 2009/49, 312 and 429 and 2010/57 and 166.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Scotland) Regulations 1996, the Criminal Legal Aid (Scotland) Regulations 1996, the Legal Aid in Contempt of Court Proceedings (Scotland) Regulations 1992, the Legal Aid (Scotland) Children Regulations 1997, the Criminal Legal Aid (Fixed Payment) (Scotland) Regulations 1999 and the Civil Legal Aid (Scotland) Regulations 2002 to allow the Scottish Legal Aid Board (“the Board”) to determine the form in which applications should be made to it, which may include an online form. Where the Regulations outlined above require a statement, information, document, notice, notification or other correspondence to be sent, given, supplied, brought to the attention of or otherwise provided to the Board, the Regulations allow the Board to determine in what form this should be done, which may include an online form.

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