
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 11

The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023

Amendment of the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003

4.—(1) The Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003(1) are amended as follows.

(2) In regulation 1(2)(interpretation), for the definition of “pre-hearing panel meeting”, substitute—

““pre-hearing panel” has the meaning given in section 79 of the 2011 Act;”.

(3) In regulation 3A (application of Part II of the Act to assistance by way of representation: hearings or proceedings under the Children’s Hearings (Scotland) Act 2011 and proceedings under the Age of Criminal Responsibility (Scotland) Act 2019)—

(a) for “pre-hearing panel meeting” in each place where it occurs, substitute “pre-hearing panel”;

(b) after paragraphs (1)(a)(iiia) and (1)(b)(iiia) insert—

“(iiib) a pre-hearing panel at which a determination of the matter of whether the criteria specified in rules under section 177 of the 2011 Act to be afforded the rights mentioned in section 79(5ZA) of the 2011 Act are met as regards an individual to whom section 79(2)(a)(i) of the 2011 Act refers;”;

(c) after paragraph (1)(d), insert—

“(e) an individual who has been afforded the rights mentioned in section 79(5ZA) of the 2011 Act in relation to the children’s hearing;

(f) an individual to whom section 79(2)(ba) of the 2011 Act refers, in respect of a pre-hearing panel or children’s hearing at which a determination under section 80 of the 2011 Act is to be made as regards that individual.”.

(4) In regulation 13(assistance by way of representation requiring approval of the Board) —

(a) in sub-paragraph (1)—

(i) for “and (iiia)” in both places where it occurs, substitute “, (iiia) and (iiib)”,

(ii) for “(c) and (d)” substitute “(c) to (f)”,

(b) in sub-paragraph (3A)—

(i) for “and (iiia)” in both places where it occurs, substitute “, (iiia) and (iiib)”,

(ii) for “(c) and (d)” substitute “and (c) to (f)”.

(1) S.S.I. 2003/179 relevantly amended by S.S.I. 2013/200 (inserting the definition “pre-hearing panel meeting”), S.S.I. 2015/13, S.S.I. 2020/296 and S.S.I. 2021/368.