

1988 No. 1891 (S.179)

LEGAL AID AND ADVICE, SCOTLAND

**The Civil Legal Aid (Scotland) Amendment (No.3)
Regulations 1988**

<i>Made</i>	- - - -	<i>31st October 1988</i>
<i>Laid before Parliament</i>		<i>3rd November 1988</i>
<i>Coming into force</i>		<i>30th November 1988</i>

The Secretary of State, in exercise of the powers conferred on him by sections 17(5), 36(2)(a), (d) and (g) and 37(1) of the Legal Aid (Scotland) Act 1986(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Civil Legal Aid (Scotland) Amendment (No.3) Regulations 1988 and shall come into force on 30th November 1988.

Interpretation

2. In these Regulations "the principal Regulations" means the Civil Legal Aid (Scotland) Regulations 1987(b).

Legal aid in specified proceedings or matters of special urgency

3. In Regulation 18 of the principal Regulations—

(a) for paragraph (1) there shall be substituted the following:—

"(1) The Board may make legal aid available for urgent or specially urgent work undertaken before an application is determined, if it is satisfied that at the time such work was undertaken there was *probabilis causa litigandi* and it appears to the Board that it is reasonable in the particular circumstances of the case that the applicant should receive legal aid, in either of the following circumstances—

(a) where any step mentioned in paragraph (2) below has required to be taken as a matter of urgency to protect the applicant's position; or

(b) in any other circumstances where the Board is satisfied on application that special urgency exists."

(b) in paragraph (2), after sub-paragraph (o), the following sub-paragraphs shall be inserted:—

"(p) moving for or opposition to an exclusion order;

(q) moving for or opposition to an order for a power of arrest; and

(r) opposing a motion to vary a divorce decree *quoad* custody."; and

(c) in paragraph (3) for the words "14 days" there shall be substituted "28 days of commencement of said urgent work".

(a) 1986 c.47.

(b) S.I. 1987/381, amended by S.I. 1987/431, 1988/490 and 1171.

Payments out of property recovered or preserved

4. After regulation 32(b) of the principal Regulations there shall be inserted the following:-

- “(c) in respect of any articles referred to in section 16 of the Debtors (Scotland) Act 1987(a) recovered or preserved from the effects of a grant of warrant sale of poided goods, or any article released in terms of an order made by the sheriff following application made to him in terms of section 23 of said Act.”.

St. Andrew's House, Edinburgh
31st October 1988

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the provisions of the Civil Legal Aid (Scotland) Regulations 1987 in the following respects.

They provide that-

- (1) legal aid may be made available for urgent work undertaken in specified circumstances (regulation 3(a));
- (2) further specified urgent steps may be taken by a solicitor without the prior authority of the Board (regulation 3(b));
- (3) the time limit for submission of applications is extended from 14 to 28 days (regulation 3(c));
- (4) the duty of prior payment of certain sums out of any property recovered or preserved shall not apply to articles mentioned in section 16 of the Debtors (Scotland) Act 1987, nor to articles released on the order of the sheriff after successful application made to him in terms of section 23 of the Debtors (Scotland) Act 1987 (regulation 4).

(a) 1987 c.18.

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