
STATUTORY INSTRUMENTS

1997 No. 3069 (S.196)

LEGAL AID AND ADVICE, SCOTLAND

**The Criminal Legal Aid (Scotland)
(Prescribed Proceedings) Regulations 1997**

Made - - - - - *23rd December 1997*

Coming into force - - - - - *1st January 1998*

The Secretary of State, in exercise of the powers conferred on him by section 21(2) of the Legal Aid (Scotland) Act 1986⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations of which a draft has, in accordance with section 37(2) of that Act, been laid before, and approved by resolution of, each House of Parliament:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Criminal Legal Aid (Scotland) (Prescribed Proceedings) Regulations 1997 and shall come into force on 1st January 1998.

(2) In these Regulations, unless the context otherwise requires, “the 1995 Act” means the Criminal Procedure (Scotland) Act 1995⁽²⁾.

Revocation

2. The Regulations specified in the Schedule to these Regulations are hereby revoked.

Proceedings in which criminal legal aid shall not be available

3. Criminal legal aid shall not be available in connection with proceedings—

- (a) under section 42 of the Road Traffic Offenders Act 1988⁽³⁾ for the removal of a disqualification;
- (b) under section 232 of the 1995 Act in relation to failure to comply with the requirements of a probation order;
- (c) under section 233 of the 1995 Act in relation to the conviction of a probationer by a court in Great Britain of an offence committed during his probation period;

(1) 1986 c. 47.

(2) 1995 c. 46.

(3) 1988 c. 53; section 42 was amended by the Road Traffic Act 1991 (c. 40), Schedule 4, paragraph 98.

- (d) under section 239(4) to (6) of the 1995 Act in relation to failure to comply with the requirements of a community service order;
- (e) under section 240(1) and (3) of the 1995 Act in relation to amendment or revocation of a community service order;
- (f) under paragraph 4 of Schedule 7 to the 1995 Act in relation to failure to comply with the requirements of a supervised attendance order;
- (g) under paragraph 5(1) and (3) of Schedule 7 to the 1995 Act in relation to amendment or revocation of a supervised attendance order;
- (h) under section 5(4) of the Proceeds of Crime (Scotland) Act 1995(4) in relation to an appeal against a court decision under section 5(3);
- (i) under section 6(4) of the Proceeds of Crime (Scotland) Act 1995 in relation to an appeal against a court decision under section 6(3); and
- (j) under section 27 of the Proceeds of Crime (Scotland) Act 1995 in relation to an appeal against a court decision under section 25(1) or 26(1).

St Andrew's House,
Edinburgh
23rd December 1997

Henry McLeish
Minister of State, Scottish Office

SCHEDULE

Regulation 2

REGULATIONS REVOKED

<i>Title</i>	<i>Reference</i>
The Criminal Legal Aid (Scotland) (Prescribed Proceedings) Regulations 1994	S.I. 1994/1001
The Criminal Legal Aid (Scotland) (Prescribed Proceedings) Amendment Regulations 1995	S.I. 1995/1222
The Criminal Legal Aid (Scotland) (Prescribed Proceedings) Amendment Regulations 1996	S.I. 1996/1009

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate with amendments and revoke the Criminal Legal Aid (Scotland) (Prescribed Proceedings) Regulations 1994 and subsequent amending instruments.

The main amendments provide:–

- (a) that criminal legal aid shall not be available for certain proceedings under the Criminal Procedure (Scotland) Act 1995 (regulation 3(e) and regulation 3(g));
- (b) that criminal legal aid shall not be available for certain proceedings under the Proceeds of Crime (Scotland) Act 1995 (regulations 3(h) and 3(i)).

Assistance by way of representation under Part II of the Legal Aid (Scotland) Act 1986 is made available in relation to these prescribed proceedings by regulation 4(2)(d) and 4(2)(f) and regulation 5(2)(b) and 5(2)(g) of the Advice and Assistance (Assistance by way of Representation) (Scotland) Regulations 1997 (S.I. [1997/3070](#)).

The opportunity has also been taken to make minor and drafting amendments.