
STATUTORY INSTRUMENTS

1997 No. 727 (S.27)

LEGAL AID AND ADVICE, SCOTLAND

The Civil Legal Aid (Scotland) Amendment Regulations 1997

<i>Made</i>	- - - -	<i>11th March 1997</i>
<i>Laid before Parliament</i>		<i>11th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by sections 17(2B), 36(1), (2) (a) and (g), 37(1) and (3) and 42 of the Legal Aid (Scotland) Act 1986⁽¹⁾ and of all other powers enabling him in that behalf, and with the concurrence of the Treasury, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Civil Legal Aid (Scotland) Amendment Regulations 1997 and shall come into force on 1st April 1997.

(2) In these Regulations, “the principal Regulations” means the Civil Legal Aid (Scotland) Regulations 1996⁽²⁾.

Application

2. These Regulations shall apply only in relation to any case where an application for legal aid is made to the Scottish Legal Aid Board on or after 1st April 1997.

Amendment of principal Regulations

3. In regulation 18(2) (legal aid in matters of special urgency)—

- (a) in sub-paragraph (n) at the end there shall be inserted the words “under section 11 of the 1995 Act”;
- (b) in sub-paragraph (o) for the words “to assume parental rights” there shall be substituted the words “for a parental responsibilities order under section 86 of the 1995 Act”;

(1) 1986 c. 47; subsection (2B) was inserted in section 17 by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40), Schedule 8, paragraph 36(6).
(2) S.I. 1996/2444.

4. After regulation 32 of the principal Regulations (termination of legal aid and right of Board to recover sums paid out of the Fund in cases of false information, etc.) there shall be inserted the following regulation—

“Right of opponent to report changes of circumstances, etc.

32A. Any opponent who has reason to believe that there is any matter which might cause the Board to amend a determination under regulation 28, suspend legal aid under regulation 29 or cease to make legal aid available under regulations 30, 31 or 32, may draw that matter to the attention of the Board.”.

5. In regulation 33(a) of the principal Regulations (payments out of property recovered or preserved exceptions)—

(a) In sub-paragraph (v) the words from “within the meaning of” to the end shall be substituted with the words “or a back to work bonus (payable under the Jobseekers Act 1995(3))”,

(b) At the end there shall be inserted the following sub-paragraphs—

“(x) by way of any payment made under the Community Care (Direct Payments) Act 1996(4) or under section 12B of the Social Work (Scotland) Act 1968(5).

(xi) by way of any payment made by the Secretary of State under the Earnings Top-up Scheme 1996(6);”.

6. In Schedule 2 to the principal Regulations (rules for computing disposable capital)—

(a) at the end of rule 5(b) there shall be inserted the words “(payable under the Jobseekers Act 1995)”;

(b) for rule 5(c) there shall be substituted the following rule—

“(c) a back to work bonus (payable under the Jobseekers Act 1995)”;

(c) at the end of rule 5(d) the full stop shall be deleted and there shall be inserted the following rule—

“.”;

(e) any payment made under the Community Care (Direct Payments) Act 1996 or under section 12B of the Social Work (Scotland) Act 1968.”.

7. In Schedule 3 to the principal Regulations (rules for computing disposable capital)—

(a) in rule 7 after the words “1992 Act” there shall be inserted the words “or an income- based jobseekers allowance (payable under the Jobseekers Act 1995)”;

(b) for rule 8(b) there shall be substituted the following rule—

“(b) a back to work bonus (payable under the Jobseekers Act 1995);”;

(c) at the end of rule 8(b) there shall be inserted the following rule:—

“(c) any payment made under the Community Care (Direct Payments) Act 1996 or under section 12B of the Social Work (Scotland) Act 1968.”.

(3) 1995 c. 18.

(4) 1996 c. 30.

(5) 1968 c. 49; section 12B was inserted by the Community Care (Direct Payments) Act 1996, section 4.

(6) This Scheme which applies only in certain areas of Great Britain, is an extra statutory Scheme introduced by the Secretary of State for Social Security having effect on 8th October 1996. Copies of the rules of the Scheme may be obtained from the Customer Services Manager, Earnings Top-up, Norcross, Blackpool, FY5 3TA and will be available for inspection at the Department of Social Security, 9th floor, Adelphi, 1-11 John Adam Street, London, WC2N 6HJ and Offices of the Benefits Agency and Employment Job Centres which serve the areas specified in Schedule 1 to the Scheme.

St Andrew's House Edinburgh
7th March 1997

James Douglas-Hamilton
Minister of State, Scottish Office

We concur,

11th March 1997

Patrick McLoughlin
Roger Knapman
Two of the Lords Commissioners of Her
Majesty's Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Legal Aid (Scotland) Regulations 1996.

The Regulations—

- (a) make provision for legal aid to be made available for urgent work in relation to applications for a parental responsibilities order under section 86 of the Children (Scotland) Act 1995 (regulation 3);
- (b) make provision for an opponent to draw certain matters to the attention of the Board which may affect the assisted person's continued entitlement to legal aid (regulation 4);
- (c) provide that the requirement to refund the Scottish Legal Aid Fund out of any property recovered or preserved does not apply to money payable as a back to work bonus, any payments under the Community Care (Direct Payments) Act 1996 ("the 1996 Act") or under section 12B of the Social Work (Scotland) Act 1968 ("the 1968 Act") or any payment under the Earnings Top-up Scheme (regulation 5);
- (d) provide that any back to work bonus and any payment under the 1996 Act and the 1968 Act should be disregarded in the computation of a person's income (regulation 6);
- (e) provide that in computing the capital of a person where that person is in receipt of an income-based jobseekers allowance there shall be disregarded any amount exceeding the specified disposable capital limit (regulation 7(a));
- (f) provide that any back to work bonus and any payment under the 1996 Act and the 1968 Act should be disregarded in the computation of a person's capital (regulation 7(b) and (c)).

By virtue of regulation 2 the Regulations apply only in relation to any case where an application for legal aid is made to the Scottish Legal Aid Board on or after 1st April 1997.