
STATUTORY INSTRUMENTS

1997 No. 1194 (S.103)

LEGAL AID AND ADVICE, SCOTLAND

**Act of Sederunt (Legal Aid Rules)
(Children) (Amendment) 1997**

Made - - - - - *8th April 1997*
Coming into force - - - - - *11th April 1997*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 38 of the Legal Aid (Scotland) Act 1986 ((1) and of all other powers enabling them in that behalf, after consultation with the Sheriff Court Rules Council in accordance with subsection (3) of that section, do hereby enact and declare:

Citation and commencement

- 1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Legal Aid Rules) (Children) (Amendment) 1997 and shall come into force on 11th April 1997.
- (2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Amendment of Act of Sederunt (Legal Aid Rules) (Children) 1987 (2)

- 2.—(1) The Act of Sederunt (Legal Aid Rules) (Children) 1987 shall be amended in accordance with the following sub-paragraphs.
- (2) In rule 1(2) (interpretation)—
- (a) omit the definition of “the Act of 1968”;
 - (b) after the definition of “the Act of 1986” insert—
““the Act of 1995” means the Children (Scotland) Act 1995;”(3)
 - (c) for the definition of “child” substitute—
““child” means a child as defined in section 93(2)(b) of the Act of 1995;”; and
 - (d) in the definition of “the Regulations”, for the words “1987” substitute “1997”.
- (3) For rule 3 substitute—

(1) 1986 c. 47. The interpretation of section 38 is affected by amendments made to section 41 of that Act by section 105(4) of, and paragraph 40 of Schedule 4 to, the Children (Scotland) Act 1995 (c. 36).

(2) S.I.1987/427.

(3) 1995 c. 36.

“Applications for legal aid in proceedings before a sheriff under Chapter 2 or 3 of Part II of the Act of 1995, other than appeals for which legal aid is available without inquiry into resources

3.—(1) An application for legal aid in connection with—

- (a) an application to the sheriff under Chapter 3 of Part II of the Act of 1995; or
- (b) an appeal to the sheriff under section 51 of the Act of 1995, other than an appeal specified in section 29(2)(b)(i) of the Act of 1986 (4)

shall be made by lodging an application in writing with the sheriff clerk.

(2) An application lodged under paragraph (1) shall be brought as soon as possible before the sheriff in chambers for determination in accordance with section 29(4) of the Act of 1986 and regulation 7 of the Regulations.”.

Transitional

3. An application for legal aid made before the date on which this Act of Sederunt comes into force shall, if it is lodged in writing with the sheriff clerk and is an application which, on or after that date, would by virtue of this Act of Sederunt fall to be made by being so lodged, be deemed to be duly made; and if an application so deemed is, whether before or after the said date, purportedly determined in accordance with section 29(4) of the Act of 1986 and regulation 7 of the Regulations, it shall be deemed to be duly determined.

Edinburgh,
8th April 1997

Rodger of Earlsferry
Lord President, I.P.D.

(4) Section 29 was substituted by section 92 of the Act of 1995.

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 Act of Sederunt)

This Act of Sederunt amends the Act of Sederunt (Legal Aid Rules) (Children) 1987 to take account of the replacement of certain proceedings, as respects children, under the Social Work (Scotland) Act 1968 (c. 49) with broadly analogous proceedings under the Children (Scotland) Act 1995 (c. 36).