

---

DRAFT SCOTTISH STATUTORY INSTRUMENTS

---

**2017 No.**

**The Advice and Assistance (Proceedings for  
Recovery of Documents) (Scotland) Regulations 2017**

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

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

(2) In regulation 1(2) (interpretation), after the definition of “prisoner” insert—

““recovery proceedings” means proceedings relating to an application for an order for recovery of documents, in connection with criminal proceedings, in which—

- (a) the documents sought include medical or other sensitive documents relating to a client;
- (b) the application has been intimated to the client; and
- (c) the client wishes to oppose recovery of the documents on the basis that the granting of the order would infringe their rights under Article 8 of the European Convention on Human Rights;”.

(3) In regulation 3 (application of Part II of the Act to assistance by way of representation: miscellaneous proceedings)—

- (a) in paragraph (s), omit “and”; and
- (b) after paragraph (t), insert—
  - “; and
  - (u) recovery proceedings”.

(4) In regulation 9 (prescribed proceedings)—

- (a) in paragraph (f), omit “and”; and
- (b) after paragraph (h), insert—
  - “; and
  - (i) recovery proceedings”.

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

- (a) in paragraph (1), after “(s)” insert “and (u)”; and
- (b) after paragraph (3A) insert—

“(3B) The Board must only approve the provision of assistance by way of representation in relation to recovery proceedings where it is satisfied that the legal representation is required to allow the client to participate effectively in the proceedings.”.

(6) In regulation 14—

- (a) the heading becomes “Effective participation in proceedings”; and

---

(1) S.S.I. 2003/179; relevant amending instruments are S.S.I. 2005/165, S.S.I. 2006/615, S.S.I. 2008/251, S.S.I. 2011/216, S.S.I. 2012/84, S.S.I. 2013/200, S.S.I. 2015/13 and S.S.I. 2015/279.

(b) after “13(3A)” insert “or (3B)”.