

Draft Regulations laid before the Scottish Parliament under section 37(2) of the Legal Aid (Scotland) Act 1986, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

LEGAL AID AND ADVICE

The Criminal Legal Aid and Advice and Assistance (Counter-Terrorism and Border Security) (Scotland) Regulations 2021

Made - - - - 2021

Coming into force - - 17th February 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 8A(1), 31(9), 33(2), (3) and (3A), 36(1), (2)(a), (d) and (e) and 41A of the Legal Aid (Scotland) Act 1986(1) and all other powers enabling them to do so.

In accordance with section 37(2)(2) of that Act(3), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

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- (1) 1986 c.47. Section 8A(1) was inserted by the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010 (asp 15, “the 2010 Act”) section 2(3), and amended by the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), section 23(4). Section 8A(2) as amended by the Counter-Terrorism and Border Security Act 2019 (c.3), schedule 4, paragraph 19 contains a definition of “relevant client” relevant to the use of powers in these Regulations. Section 31(9) was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), sections 74(1), and schedule 8, paragraph 36(14). Section 33(2) was amended by the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), section 67(7)(b). Section 33(3A) was inserted by the Crime and Punishment (Scotland) Act 1997, (c.48) section 51; Section 41A was inserted by section 54. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (c.46), section 53.
- (2) Relevantly amended by the 2010 Act, section 2(4). Section 37(2) has been modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (“ILRA”).
- (3) The powers to make these Regulations are exercised together by virtue of section 33(2) of ILRA. The Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.