
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Scotland) Regulations 1996 to provide the following:–

- (a) solicitors are required to determine whether the subject matter or matters of an application for advice and assistance relates to civil, criminal or children’s matters, and whether the application relates to a single matter or multiple matters in accordance with guidance issued by the Scottish Legal Aid Board (“the Board”) (regulation 3);
- (b) the provision that a solicitor to whom an application for assistance by way of representation is made is required not to approve it where the applicant for assistance by way of representation has available rights and facilities which make it unnecessary for that person to receive assistance by way of representation is amended to include all forms of advice and assistance under Part II of the Legal Aid (Scotland) Act 1986 (regulation 4);
- (c) any person who receives advice and assistance is required to submit to the Board any information requested by the Board, and failure to do so entitles the Board to recover from that person any sum paid out of the Scottish Legal Aid Fund in respect of the fees and outlays of that person’s solicitors (regulation 5); and
- (d) where the Board has paid a solicitor’s account for fees and outlays for advice and assistance given to a person and, either before or after such payment, the person or any solicitor acting on their behalf obtains expenses or recovers or preserves property in connection with the same matter which is not disclosed to the Board, the Board shall be entitled to recover from the person the sum paid in respect of fees and outlays (regulation 6).