

EXECUTIVE NOTE

THE ADVICE AND ASSISTANCE (ASSISTANCE BY WAY OF REPRESENTATION) (SCOTLAND) AMENDMENT REGULATIONS 2011

S.S.I. 2011/13

The Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2011 (“the Regulations”) are made in exercise of the powers conferred by section 9 of the Legal Aid (Scotland) Act 1986 and all other powers enabling the Scottish Ministers to do so.

The Regulations amend the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003 (S.S.I. 2003/179) (“the 2003 Regulations”).

Policy Objective

The policy objective is to extend Assistance by Way of Representation (ABWOR) to any proceedings in connection with Community Payback Orders, except where the proceedings are conducted before a designated drug court.

The Regulations amend the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003. The amendments are required as a consequence of the introduction of the Community Payback Order established by sections 227A to 227ZN of the Criminal Procedure (Scotland) Act 1995. These sections are to be inserted by section 14 of the Criminal Justice and Licensing (Scotland) Act 2010. These sections are to be inserted on 1 February 2011 (S.S.I. 2010/413). The new Community Payback Order replaces probation orders, supervised attendance orders and community supervision orders. Other existing court orders including drug treatment and testing orders and restriction of liberty orders remain unchanged.

Consultation

As this is a consequential amendment the Scottish Government has not carried out any consultation.

Financial Implications

There are no anticipated financial implications.

Business Regulatory Impact Assessment

Since the Regulations are in consequence of provisions contained within the Criminal Justice and Licensing (Scotland) Act 2010 we have not carried out a Business Regulatory Impact Assessment.