

STATUTORY INSTRUMENTS

1986 No. 1154 (S. 96)

LEGAL AID AND ADVICE, SCOTLAND

The Legal Aid (Scotland) (Child Abduction and Custody Act 1985) Regulations 1986

<i>Made</i> - - - -	7th July 1986
<i>Laid before Parliament</i>	11th July 1986
<i>Coming into Operation</i>	1st August 1986

The Secretary of State, in exercise of the powers conferred on him by section 15 of the Legal Aid (Scotland) Act 1967(a), and of all other powers enabling him in that behalf, hereby makes the following regulations:-

1.—(1) These regulations may be cited as the Legal Aid (Scotland) (Child Abduction and Custody Act 1985) Regulations 1986 and shall come into operation on 1st August 1986.

(2) In these regulations -

“the 1967 Act” means the Legal Aid (Scotland) Act 1967;

“Convention application” means an application under -

(a) the Convention on the Civil Aspects of International Child Abduction which was signed at The Hague on 25th October 1980, as given the force of law in the United Kingdom by Part I of the Child Abduction and Custody Act 1985(b);

(b) the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on the Restoration of Custody of Children which was signed at Luxembourg on 20th May 1980, as given the force of law in the United Kingdom by Part II of the Child Abduction and Custody Act 1985.

2. Where a person resident outside the United Kingdom applies for legal aid for the purpose of pursuing an application to the Court of Session which is certified by the Secretary of State to be a Convention application,

(a) sections 2(1) and (6)(c), 3 and 4 of the 1967 Act shall not apply and legal aid shall be made available without inquiry into the resources of the applicant;

(b) section 1(6) of the 1967 Act shall not apply and it shall not be necessary for the applicant to show that he has *probabilis causa litigandi*; and

(a) 1967 c.43; section 15 was amended by section 40(2) of the Civil Jurisdiction and Judgments Act 1982 (c.27).

(b) 1985 c.60.

-
- (c) articles 14(2) and (3) and 15 of the Legal Aid (Scotland) Scheme 1958 and regulation 4(2) of the Legal Aid (Scotland) (General) Regulations 1960(a) shall not apply; but the application for legal aid shall be signed by either the applicant or his solicitor, shall be accompanied by -
- (i) a memorandum signed by the solicitor explaining the nature of the case and the interest of the applicant therein; and
 - (ii) a certificate of the Secretary of State that the application for legal aid relates to a Convention application,
- and shall be sent by the solicitor to the Secretary of the Supreme Court Committee.

John J. MacKay,
Parliamentary Under Secretary of State,
Scottish Office.

New St. Andrew's House,
Edinburgh.
7th July 1986.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations make legal aid in Scotland available to persons resident outwith the United Kingdom in respect of proceedings in the Court of Session under the Child Abduction and Custody Act 1985. The normal requirements as to means and *probabilis causa litigandi* are disapplied, and the procedure for application is simplified.

(a) S.I. 1960/2195; the relevant amending instrument is S.I. 1978/622.

SI 1986/1154
ISBN 0-11-067154-6



780110671543