
STATUTORY INSTRUMENTS

1989 No. 550

The Legal Advice and Assistance (Scope) Regulations 1989

PART III

ABWOR

Application of Part III of the Act to ABWOR

6. Part III of the Act does not apply to ABWOR except as provided in this Part.

Proceedings in Magistrates' Courts

7.—(1) Part III of the Act applies to ABWOR given—

- (a) to a client for the purposes of the proceedings in magistrates' courts specified in the Schedule;
- (b) at a hearing in any proceedings in a magistrates' court to a party who is not receiving and has not been refused representation in connection with those proceedings, where the court—
 - (i) is satisfied that the hearing should proceed on the same day;
 - (ii) is satisfied that that party would not otherwise be represented; and
 - (iii) requests a solicitor who is within the precincts of the court for purposes other than the provision of ABWOR in accordance with this sub-paragraph, or approves a proposal from such a solicitor, that he provide that party with ABWOR; or
- (c) to a person in connection with an application for a warrant of further detention, or for an extension of such a warrant, made in respect of that person to a magistrates' court under section 43 or 44 of the Police and Criminal Evidence Act 1984⁽¹⁾.

(2) Subject to paragraph (3), Part III of the Act also applies, in criminal proceedings in magistrates' courts where the client has not previously received and is not otherwise receiving representation or ABWOR in connection with the same proceedings, to ABWOR given to a client—

- (a) in making an application for bail;
- (b) at an appearance in court where the client is in custody and wishes the case to be concluded at that appearance, unless the solicitor who is advising him considers that the case should be adjourned in the interests of justice or of the client;
- (c) who is before the court as a result of a failure to obey an order of the court, where such failure may lead to his being at risk of imprisonment;
- (d) who is not in custody and who in the opinion of the solicitor requires ABWOR.

(3) Paragraph (2) does not apply to committal proceedings, to proceedings in which the client pleads not guilty, nor, unless the solicitor considers the circumstances to be exceptional, to proceedings in connection with a non-imprisonable offence.

(4) Part III also applies to ABWOR given to a defendant in proceedings in a magistrates' court where the defendant is before the court as a result of a failure to pay a fine or other sum which he was ordered on conviction to pay, and such failure may lead to his being at risk of imprisonment.

Proceedings in county courts

8. Part III of the Act applies to ABWOR given by a solicitor at a hearing in any proceedings in a county court to a party who is not receiving and has not been refused representation in connection with those proceedings, where the court—
i is satisfied that the hearing should proceed on the same day;
ii is satisfied that that party would not otherwise be represented; and
iii requests a solicitor who is within the precincts of the court for purposes other than the provision of ABWOR in accordance with this regulation, or approves a proposal from such a solicitor, that he provide that party with ABWOR.

Other Proceedings

9. Part III of the Act applies to ABWOR given—
- (a) to a person in proceedings before a Mental Health Review Tribunal under the Mental Health Act 1983 whose case or whose application to the Tribunal is or is to be the subject of the proceedings;
 - (b) to a prisoner in proceedings before a board of visitors who has been permitted by the board of visitors to be legally represented in those proceedings.