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STATUTORY INSTRUMENTS

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**1997 No. 997**

**LEGAL AID AND ADVICE,  
ENGLAND AND WALES**

**The Legal Advice and Assistance  
(Scope) (Amendment) Regulations 1997**

*Made - - - - 20th March 1997*

*Coming into force*

*regulation 3(2) 1st June 1997*

*remainder 1st April 1997*

The Lord Chancellor, in exercise of the powers conferred on him by sections 8 and 43 of the Legal Aid Act 1988(1), hereby makes the following Regulations of which a draft has, in accordance with section 36(3)(b) of that Act, been laid before and approved by resolution of each House of Parliament:—

**Citation and commencement**

1. These Regulations may be cited as the Legal Advice and Assistance (Scope) (Amendment) Regulations 1997 and shall come into force:

- (a) as to regulation 3(2), on 1st June 1997;
- (b) as to the remainder of the Regulations, on 1st April 1997.

**Interpretation**

2. In these Regulations a reference to any regulation by number alone means the regulation so numbered in the Legal Advice and Assistance (Scope) Regulations 1989(2), and a reference to the Schedule means the Schedule to those regulations.

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(1) 1988 c. 34; section 43 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraphs 60. Section 43 is an interpretation provision and is cited because of the meaning given to “regulations”.

(2) S.I.1989/550, as amended by S.I. 1990/1477, 1992/2874, 1994/2768 and 1995/1987.

### **Amendments to the Legal Advice and Assistance (Scope) Regulations 1989**

3.—(1) In regulation 7(3), for the words from “the hearing of” to “Magistrates' Courts Act 1980”(3) there shall be substituted “committal proceedings”.

(2) For regulation 7(4) there shall be substituted the following:—

“(4) Part III also applies to ABWOR given to a party to proceedings in a magistrates' court where he is before the court as a result of a failure—

- (a) to pay a fine or other sum which he was ordered to pay; or
- (b) to obey an order of the court,

and such failure is likely to lead to his being at risk of a term of imprisonment being fixed in his case (whether at the hearing for which ABWOR is given or subsequently).”.

4. After regulation 9(c) there shall be inserted the following:—

“(d) to a person serving a sentence of detention during Her Majesty's pleasure whose case is referred to the Parole Board under section 32(2) or 39(4) of the Criminal Justice Act 1991(4).”.

5. In paragraph 2(d) of the Schedule, after “section 43” there shall be inserted “or 47”.

### **Revocation**

6. The Legal Advice and Assistance (Scope) (Amendment) Regulations 1995(5) shall be revoked.

Dated 20th March 1997

*Mackay of Clashfern C.*

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(3) Words inserted by S.I. 1995/1987.

(4) 1991 c. 53: sections 32 and 39 are extended to detainees at Her Majesty's pleasure by section 43(2)(a).

(5) S.I. 1995 No. 1987.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Legal Advice and Assistance (Scope) Regulations to make ABWOR (assistance by way of representation) available to:

- (a) persons at risk of imprisonment for failure to obey a court order (in addition to those at risk of imprisonment for failure to pay a fine, who are eligible for ABWOR under the existing regulations);
- (b) persons detained during Her Majesty's pleasure whose cases are referred to the Parole Board;
- (c) persons in relation to whom a removal order is sought under section 47 of the National Assistance Act 1948<sup>(6)</sup>.

They also revoke the Legal Advice and Assistance (Scope) (Amendment) Regulations 1995 (which reflect the transfer for trial procedure introduced by section 44 of the Criminal Justice and Public Order Act 1994<sup>(7)</sup> but never brought into force) and reverse the amendment effected thereby to regulation 7(3) of the Legal Advice and Assistance (Scope) Regulations 1989.

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<sup>(6)</sup> 1948 c. 29.  
<sup>(7)</sup> 1994 c. 33.