
S T A T U T O R Y I N S T R U M E N T S

1999 No. 3377**LEGAL AID AND ADVICE, ENGLAND AND WALES****The Legal Advice and Assistance (Scope) (Amendment)
Regulations 1999**

Made - - - - - *16th December 1999*

Coming into force - - - - - *1st January 2000*

The Lord Chancellor, in exercise of the powers conferred on him by sections 8 and 43 of the Legal Aid Act 1988(a), makes the following Regulations a draft of which 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 1999 and shall come into force on 1st January 2000.

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(b), a reference to the Arrangement of Regulations means the Arrangement of Regulations at the beginning of those regulations, and a reference to the Schedule means the Schedule to those regulations.

Transitional provisions

3. Nothing in these Regulations shall affect an application for advice or assistance which has been signed, or authorised under regulation 15 of the Legal Advice and Assistance Regulations 1989(c) (clients resident abroad), before these Regulations come into force.

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

4. In the Arrangement of Regulations, the entries relating to regulations 3 and 4 shall be deleted and shall be replaced by the following:

“3. Excluded services.”

(a) 1988 c. 34; section 43 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 60.

Section 43 is an interpretation provision and is cited because of the meaning given to “regulations”.

(b) S.I. 1989/550; as amended by S.I. 1990/1477.

(c) S. I. 1989/340.

5. In regulation 2 the entries relating to the following shall be deleted:
- (a) conditional sale agreement;
 - (b) conveyancing services;
 - (c) rental purchase agreement; and
 - (d) will.

6. For regulations 3 and 4 there shall be substituted:

“Excluded services

3.—(1) Advice or assistance to which this regulation applies is excluded from Part III of the Act.

- (2) This regulation applies to all advice or assistance, other than ABWOR, except:
- (a) advice or assistance for individuals who are arrested and held in custody or who are involved in criminal investigations or proceedings;
 - (b) advice or assistance relating to any claim or potential claim for damages for personal injuries to, or the death of, the claimant or any other person, and “personal injuries” includes any disease and any impairment of a person’s physical or mental condition;
 - (c) advice or assistance relating to any claim for damages for clinical negligence, that is any claim for damages in respect of:
 - (i) an alleged breach of duty of care or trespass to the person committed in the course of the provision of clinical or medical services (including dental or nursing services); or
 - (ii) alleged professional negligence in the conduct of such a claim.
- (3) In this regulation “criminal proceedings” includes:
- (a) applications for judicial review or habeas corpus relating to criminal investigations or proceedings;
 - (b) disciplinary hearings before a prison governor;
 - (c) representations to prison governors on matters relating to the treatment of prisoners (other than in relation to claims for personal injury, death or damage to property) including but not limited to status, transfer and security classification;
 - (d) representations to the Home Office relating to mandatory life sentences and other parole reviews;
 - (e) proceedings before the Parole Board;
 - (f) High Court bail proceedings;
 - (g) representations to the High Court against a voluntary bill of indictment;
 - (h) proceedings under RSC Order 115 in Schedule 1 to the Civil Procedure Rules 1998(a) for confiscation or forfeiture in connection with criminal proceedings;
 - (i) proceedings in a magistrates’ court arising from failure to pay a fine or to obey an order of that court where such failure carries the risk of imprisonment;
 - (j) proceedings under sections 1, 2 and 4 of the Crime and Disorder Act 1998(b) relating to anti-social behaviour orders or sex offender orders;
 - (k) proceedings under section 8(1)(b) of the Crime and Disorder Act 1998 relating to parenting orders made where an anti-social behaviour order or a sex offender order is made in respect of a child;
 - (l) proceedings under section 8(1)(c) of the Crime and Disorder Act 1998 relating to parenting orders made on the conviction of a child; and
 - (m) applications to the Criminal Cases Review Commission.”.

7. Regulation 9(a) and paragraph 2(h) of the Schedule shall be deleted.

Dated 16th December 1999

Irvine of Lairg, C.

(a) S.I. 1998/3132.

(b) 1998 c. 37.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Legal Advice and Assistance (Scope) Regulations 1989 so as to exclude from the provisions of Part III of the Legal Aid Act 1988:

(a) the provision of most advice or assistance, other than in relation to crime, clinical negligence, and personal injury; and

(b) assistance by way of representation in relation to proceedings before a Mental Health Review Tribunal under the Mental Health Act 1983 and proceedings under section 10A of the Fire Precautions Act 1971.

STATUTORY INSTRUMENTS

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£1.50

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
WO 5923 12/99 466912 19585

ISBN 0-11-085689-9



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