SCOTTISH STATUTORY INSTRUMENTS

2005 No. 451

LEGAL AID AND ADVICE

The Legal Aid in Contempt of Court Proceedings (Scotland) Amendment Regulations 2005

Made - - - -	*13th September 2005*
Laid before the Scottish Parliament	*13th September 2005*
Coming into force - -	*5th October 2005*

The Scottish Ministers, in exercise of the powers conferred by section 36(1) and (2)(a) and (d)of the Legal Aid (Scotland) Act 1986(**a**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Legal Aid in Contempt of Court Proceedings (Scotland) Amendment Regulations 2005 and shall come into force on 5th October 2005.

Application

2. These Regulations shall apply only in relation to any case where an application for legal aid in connection with proceedings to which the provisions of section 30 of the Legal Aid (Scotland) Act 1986 apply is made on or after 5th October 2005.

Amendment of the Legal Aid in Contempt of Court Proceedings (Scotland) Regulations 1992

3. The Legal Aid in Contempt of Court Proceedings (Scotland) Regulations 1992(**b**) are amended in accordance with the following regulations.

4. In regulation 2(1) (Interpretation)–

(i) in the definition of "legal representative" for "curator bonis, judicial factor or guardian" substitute "judicial factor or a person authorised to act on an adult's behalf under the Adults with Incapacity (Scotland) Act 2000(**c**) or on a patient's behalf under the Mental Health (Care and Treatment) (Scotland) Act 2003(**d**)"; and

(ii) after the definition of "legal representative" insert ""patient" has the same meaning as in section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003;".

(**a**) 1986 c.47; section 36 was amended for purposes not relevant to these Regulations. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(**b**) S.I. 1992/1227, as relevantly amended by S.I. 1996/2550.
(**c**) 2000 asp 4.
(**d**) 2003 asp 13.

5. In regulation 4(3)(c) (Applications for legal aid), for "section 1(2) of the Mental Health (Scotland) Act 1984(**a**)" substitute "section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003".

CATHY JAMIESON
A member of the Scottish Executive

St Andrew's House,
Edinburgh
13th September 2005

(**a**) 1984 c.36.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Legal Aid in Contempt of Court Proceedings (Scotland) Regulations 1992 as follows:–

(a) the definition of "legal representative" is altered by the removal of the reference to curator bonis and guardian and substituting reference to persons authorised to act on an adult's behalf under the Adults with Incapacity (Scotland) Act 2000 and on a patient's behalf under the Mental Health (Care and Treatment) (Scotland) Act 2003;

(b) the reference to the Mental Health (Scotland) Act 1984 is removed in regulation 4 where it makes provision as to the procedure for signing applications for legal aid where the applicant is unable to sign due to mental disorder and substituted with a reference to the Mental Health (Care and Treatment) (Scotland) Act 2003.

The Mental Health (Scotland) Act 1984 is replaced and repealed by the Mental Health (Care and Treatment) (Scotland) Act 2003.

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