

1988 No. 2288 (S.223)

**LEGAL AID AND ADVICE, SCOTLAND**

**The Advice and Assistance (Scotland) (Prospective Cost)  
(No.3) Regulations 1988**

*Made* - - - - - *16th December 1988*

*Coming into force* *17th December 1988*

The Secretary of State, in exercise of the powers conferred on him by sections 9(2)(e), 36(2)(b) and 37(1) of the Legal Aid (Scotland) Act 1986(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations of which a draft has, in accordance with section 37(2) of that Act, been laid before Parliament and approved by a resolution of each House of Parliament:

**Citation and commencement**

1. These Regulations may be cited as the Advice and Assistance (Scotland) (Prospective Cost) (No.3) Regulations 1988 and shall come into force on 17th December 1988.

**Amendment of financial limit**

2.—(1) In section 10(2) of the Legal Aid (Scotland) Act 1986(b), in the classes of case defined in paragraph (2) below, there is substituted, in place of the sum of £60 therein specified, the sum of £150.

(2) The £150 specified above shall be the financial limit up to which a solicitor may, without the prior consent of the Board, continue to provide—

- (a) assistance by way of representation when a second or subsequent diet has been ordered by the court, or
- (b) advice and assistance, provided he is satisfied that—
  - (i) the matter on which advice and assistance is provided is likely to be resolved only by preparing for proceedings in a civil court;
  - (ii) the cost of preparation of and making an application for civil legal aid will exceed the limit of £60 specified;
  - (iii) it is likely, on the information provided to him, that the applicant will qualify on financial grounds for civil legal aid; and
  - (iv) it is reasonable in the circumstances of the case.

St. Andrew's House, Edinburgh  
16th December 1988

*James Douglas-Hamilton*  
Parliamentary Under Secretary of State,  
Scottish Office

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(a) 1986 c.47; section 36(2)(b) was amended by the Legal Aid Act 1988 (c.34), Schedule 4, paragraph 6.  
(b) Section 10(2) was amended by S.I. 1988/1389.

## EXPLANATORY NOTE

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

These Regulations increase, in respect of certain cases, the limit on the cost of advice and assistance, and assistance by way of representation, under the Legal Aid (Scotland) Act 1986 which a solicitor may provide without obtaining the prior approval of the Scottish Legal Aid Board. The Regulations increase the limit from £60 to £150 in respect of—

- (a) assistance by way of representation when a subsequent diet has been ordered by the court; and
- (b) advice and assistance, where the solicitor is satisfied as to certain specified criteria.

45p net

ISBN 0 11 088288 1