

1990 No. 105

LEGAL AID AND ADVICE

**Legal Aid (Assessment of Resources) (Amendment) Regulations
(Northern Ireland) 1990**

Made 13th March 1990

Coming into operation—

Regulations 1, 3, 4, 5 and 6

9th April 1990

Regulation 2

1st June 1990

To be laid before Parliament

The Lord Chancellor, in exercise of the powers conferred by Articles 14, 22 and 27 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(a) and now vested in him(b), and with the concurrence of the Treasury, hereby makes the following Regulations—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Legal Aid (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1990 and except for Regulation 2, shall come into operation on 9th April 1990.

(2) Regulation 2 shall come into operation on 1st June 1990.

(3) In these Regulations “the principal Regulations” means the Legal Aid (Assessment of Resources) Regulations (Northern Ireland) 1981(c).

Resources of spouses and certain cohabittees

2. Regulation 7 of the principal Regulations shall be amended as follows—

(1) By substituting, for the heading, the following new heading—

“*Resources of spouses and certain cohabittees*”.

(2) By inserting, after paragraph (2), the following new paragraph—

“(3) Paragraphs (1) and (2) and Schedules 1 and 2 shall apply to a man and a woman who are living with each other in the same household as husband and wife as it applies to the parties to a marriage.”.

Resources of an applicant who is a child

3. Regulation 8 of the principal Regulations shall be deleted.

(a) S.I. 1981/228 (N.I. 8); Article 27 is an interpretation provision and is recited because of the meanings assigned to the words “prescribed” and “regulations”

(b) S.I. 1982/159

(c) S.R. 1981 No. 189; as amended by S.R. 1983 No. 189, S.R. 1986 No. 46, S.R. 1988 No. 85 and S.R. 1989 No. 89

Deprivation or conversion of resources

4. Regulation 9 of the principal Regulations shall be amended by inserting, after the words "disposable capital", the words " , whether for the purpose of making himself eligible for legal aid, reducing his liability to pay a contribution towards legal aid or otherwise,".

Rules for computing disposable capital

5.—(1) Schedule 2 to the principal Regulations shall be amended by inserting, after rule 13, the following new rule—

"13A.—(1) Where the person concerned has attained pensionable age and his annual disposable income (excluding any net income derived from capital) is less than the yearly sum for the time being prescribed in Article 12(1) of the Order there shall be disregarded the amount of capital as specified in the following table:—

<i>Annual disposable income (excluding net income derived from capital)</i>	<i>Amount of capital disregarded</i>
Up to £400 ...	£25,000
Exceeding £400 but not exceeding £900 ...	£20,000
Exceeding £900 but not exceeding £1,400 ...	£15,000
Exceeding £1,400 but not exceeding £1,900 ...	£10,000
Exceeding £1,900 ...	£ 5,000

(2) In this rule "pensionable age" means—

(a) in the case of a man, the age of 65; and

(b) in the case of a woman, the age of 60."

(2) Schedule 2 to the principal Regulations shall be further amended by inserting, after rule 13A, the following new rule—

"13B. In computing the amount of capital of the person concerned there shall be wholly disregarded any capital payment received from any source which is made in connection with the incident in respect of which the application for a certificate has been made."

Transitional provisions

6.—(1) Regulation 2 shall apply to all determinations and re-determinations made on or after 1st June 1990.

(2) Regulations 3, 4 and 5(2) shall apply to all determinations and re-determinations made on or after 9th April 1990.

(3) Where a determination has been made in relation to—

(a) an application for a certificate by or on behalf of a child who was under the upper limit of compulsory school age before 9th April 1990; and

(b) a contribution is still payable; and

(c) these facts come to the attention of the assessment officer;

there shall be deemed to be a change of circumstances for the purposes of Regulation 12 of the principal Regulations.

(4) Regulation 5(1) shall apply to applications for certificates where the period of computation as defined in the principal Regulations begins on or after 9th April 1990 and determinations and re-determinations in respect of applications for certificates where the period of computation begins before 9th April 1990 shall be made as if Regulation 5(1) had not come into operation.

Dated 13th March 1990

Mackay of Clashfern, C.

We concur,

*John Taylor
David Lightbown*

Dated 15th March 1990

Two of the Lords Commissioners
of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Legal Aid (Assessment of Resources) Regulations (Northern Ireland) 1981 so as to—

- (a) provide that the resources of persons living together as husband and wife are to be treated as if those persons were married;
- (b) delete Regulation 8, the effect of which will be that a child's resources will be computed on the same basis as those of a single adult;
- (c) allow account to be taken of resources which an applicant for a certificate has deprived himself of for whatever reason;
- (d) allow a disregard of capital on a sliding scale in respect of persons of pensionable age where their disposable income (excluding investment income) is below a specified limit;
- (e) allow a disregard in respect of capital payments made in relation to the incident which has led to the application for the certificate being made (e.g. disaster fund payments); and
- (f) make various transitional provisions.