STATUTORY INSTRUMENTS

1985 No. 1880

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Legal Advice and Assistance at Police Stations (Remuneration) Regulations 1985

Made - -4th December 1985 Laid before Parliament 5th December 1985 Coming into operation 1st January 1986

The Lord Chancellor, in exercise of the powers conferred on him by section 20(1) of the Legal Aid Act 1974(a) and section 1 of the Legal Aid Act 1982(b), and with the concurrence of the Treasury, hereby makes the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Legal Advice and Assistance at Police Stations (Remuneration) Regulations 1985 and shall come into operation on 1st January 1986.

Interpretation

2. In these Regulations, unless the context otherwise requires:

"the 1974 Act" means the Legal Aid Act 1974;

"advice" and "assistance" mean respectively advice and assistance under the 1974 Act;

"arrestable offence" has the meaning given to it by section 24 of the Police and Criminal Evidence Act 1984(c);

"duty period" means any period of 24 hours during which a duty solicitor holds himself available to give advice and assistance under a rota drawn up in accordance with the terms of a scheme;

"duty solicitor" means any solicitor, and any representative of a solicitor, who provides advice and assistance in accordance with the terms of a scheme:

"own solicitor" means a solicitor who gives advice and assistance to a person arrested and held in custody or to a volunteer otherwise than as a duty solicitor;

"remuneration" means any sum payable to a duty solicitor or an own solicitor under these Regulations;

⁽a) 1974 c.4.(b) 1982 c.44; section 1 was amended by the Police and Criminal Evidence Act 1984 (c.60), section 59.

⁽c) 1984 c.60.

"scheme" means a scheme made under section 15 of the 1974 Act and section 1 of the Legal Aid Act 1982 which provides for the making of arrangements in accordance with which advice and assistance is provided by duty solicitors to persons who are arrested and held in custody or who are volunteers;

"serious service offence" means an offence under any of the Army Act 1955(a), the Air Force Act 1955(b) or the Naval Discipline Act 1957(c) which cannot be dealt with summarily or which appears to an interviewing service policeman to be serious;

"unsocial hours" means between the hours of 6.00 pm and 9.00 am on any weekday and any time on a Saturday, Sunday or bank holiday;

"upper limit" means the limit of £90 prescribed by the Legal Advice and Assistance (Prospective Costs) Regulations 1985(d);

"volunteer" means a person who, for the purpose of assisting with an investigation, attends voluntarily at a police station or at any other place where a constable is present or accompanies a constable to a police station or any such other place without having been arrested.

General

- 3.— (1) Remuneration shall be determined by the Law Society in accordance with these Regulations.
- (2) The Law Society may appoint or authorise the appointment of determining officers to act on its behalf under these Regulations in accordance with directions given by it or on its behalf.

Claims for remuneration

- 4.— (1) A claim for remuneration by a duty solicitor or an own solicitor shall be submitted to the Law Society in such form and manner as it may direct and any such claim shall be submitted within 3 months of the duty period or of the day on which the advice and assistance was given.
- (2) The solicitor shall supply such further particulars, information and documents as the Law Society may require.
- (3) The time limit within which the claim must be submitted may, for good reason, be extended by the Law Society.

Determination of remuneration

- 5.— (1) The Law Society may allow work done in the following classes:
 - (a) availability during duty period;
 - (b) advice and assistance given to a person arrested and held in custody in connection with an arrestable offence or being interviewed in connection with a serious service offence;
 - advice and assistance given to a person arrested and held in custody in connection with an offence otherwise than an arrestable offence or to a volunteer;
 - (d) travelling and waiting;

⁽a) 1955 c.18.

⁽b) 1955 c.19.

⁽c) 1957 c.53.

⁽d) S.I. 1985/1840.

- (e) advising and assisting over the telephone;
- (f) routine telephone calls.
- (2) The Law Society shall consider the claim, any further particulars, information or documents submitted by the solicitor under regulation 4 and any other relevant information, and allow:
 - (a) such work as appears to it to have been actually and reasonably done by a duty solicitor or an own solicitor, classifying it according to the classes specified in paragraph (1); and
 - (b) such time in respect of each class of work allowed by it (other than advising over the telephone and dealing with routine telephone calls) as it considers reasonable.
- (3) Subject to paragraph (5), the Law Society shall allow fees for the work allowed by it under this regulation in accordance with the Schedule.
- (4) Subject to paragraph (5), the Law Society may allow a reasonable sum in respect of:
 - (a) hotel expenses actually and reasonably incurred by a duty solicitor where attendance in accordance with a rota is allowed under paragraph (1)(a);
 - (b) travelling expenses actually and reasonably incurred by a duty solicitor or an own solicitor where travelling and waiting is allowed under paragraph (1)(d);
 - (c) any disbursements actually and reasonably incurred by a duty solicitor or an own solicitor.
- (5) The fees allowed under the Schedule, except any fee allowed in respect of work done under paragraph (1)(a), together with any expenses allowed under paragraph (4)(b) and (c) shall not exceed:
 - (a) the upper limit where the advice and assistance was given to a person arrested and held in custody in connection with an arrestable offence or being interviewed in connection with a serious service offence, unless the Law Society is satisfied that the interests of justice required advice and assistance to be given as a matter of urgency;
 - (b) the limit imposed by section 3(2) of the 1974 Act where the advice and assistance was given in any other case.

Payment of remuneration

6. Having determined the remuneration payable to a duty solicitor or an own solicitor in accordance with these Regulations, the Law Society shall authorise payment to him accordingly.

Dated 3rd December 1985.

Hailsham of St. Marylebone, C.

Ian B. Lang, Tim Sainsbury, Two of the Lords Commissioners of Her Majesty's Treasury.

Dated 4th December 1985.

SCHEDULE

Regulation 5

1. The Law Society shall, subject to paragraph 2 in the case of item (a), allow fees for work allowed by it under regulation 5 at the following rates:

(a)	Class of work availability during duty period	Rate £2.50 per hour served,	
` /	3 2 31	to a maximum of £60	
(b)	advising and assisting person arrested and he in custody in connection with an arrestable offence or being interviewed in connection with a serious service offence	ld	
	(i) by a duty solicitor in unsocial hours	£36 per hour	
	(ii) by a duty solicitor in all other hours	£27 per hour	
	(iii) by an own solicitor	£27 per hour	
(c)	all other advice and assistance	£27 per hour	
(d)	travelling and waiting		
	(i) by a duty solicitor in unsocial hours	£36 per hour	
	(ii) by a duty solicitor in all other hours	£27 per hour	
	(iii) by an own solicitor	£17 per hour	
(e)	advising and assisting over the telephone	£10 per item	
<i>(f)</i>	routine telephone calls	£1 per item	

2. The fee allowed under paragraph l(a) shall be reduced by the amount of any fees allowed under any of paragraph l(b)-(f) in respect of that duty period to a maximum of one half of the fee allowed under paragraph l(a).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations provide for the determination of the remuneration which may be paid to solicitors (both those acting as duty solicitors in accordance with a scheme made under section 15 of the Legal Aid Act 1974 and section 1 of the Legal Aid Act 1982 and those acting as own solicitors) who give advice and assistance to suspects at police stations and prescribe rates of payment for that remuneration.

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