

1990 No. 632 (S.80)

LEGAL AID AND ADVICE, SCOTLAND

**The Advice and Assistance (Scotland) Amendment
Regulations 1990**

<i>Made</i> - - - -	<i>15th March 1990</i>
<i>Laid before Parliament</i>	<i>19th March 1990</i>
<i>Coming into force</i>	<i>9th April 1990</i>

The Secretary of State, in exercise of the powers conferred on him by sections 36(1) and 42 of the Legal Aid (Scotland) Act 1986(a), and all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Advice and Assistance (Scotland) Amendment Regulations 1990 and shall come into force on 9th April 1990.

Interpretation

2. In these Regulations, "the principal Regulations" means the Advice and Assistance (Scotland) Regulations 1987(b).

Transitional provisions

3. These Regulations shall—
- (a) apply to applications for advice and assistance where the determination is made on or after 9th April 1990;
 - (b) not apply to applications for advice and assistance where the determination or redetermination is made before 9th April 1990.

Resources of an applicant who is a child

4. Paragraph 4 of Schedule 2 to the principal Regulations shall be omitted.

Deprivation or conversion of resources

5. In paragraph 5 of Schedule 2 to the principal Regulations, after the words "maximum contribution", there shall be inserted the words " , whether for the purpose of making himself eligible for advice and assistance, reducing his liability to pay a contribution towards legal aid or otherwise".

Resources of pensioners

6. After paragraph 10 of and Schedule 2 to the principal Regulations there shall be inserted the following new paragraph:—

(a) 1986 c.47.

(b) S.I. 1987/382, as amended by S.I. 1987/883, and 1356, 1988/489 and 1131 and 1989/506 and 1492.

“11.—(1) Where the person concerned is of pensionable age and his weekly disposable income (excluding any net income derived from capital) is less than the current amended figure thereof as prescribed in section 11(2)(a) of the Legal Aid (Scotland) Act 1986(a), there shall be disregarded the amount of capital as specified in the following table:—

<i>Weekly disposable income (excluding net income derived from capital)</i>	<i>Amount of capital disregard</i>
Up to £10	25,000
£11 – £22	20,000
£23 – £34	15,000
£35 – £46	10,000
£47 and above	5,000

(2) In this Schedule “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.”.

Capital payments made in relation to proceedings

7. After paragraph 11 of Schedule 2 to the principal Regulations (as inserted by regulation 6 above) there shall be inserted the following new paragraph:—

“12. 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 relation to the subject matter of the dispute in respect of which the legal aid application has been made.”.

St Andrew’s House, Edinburgh
14th March 1990

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

We concur,

15th March 1990

John Taylor
David Lightbown
Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 1986 c.47.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Advice and Assistance (Scotland) Regulations 1987 by—

- (1) omitting Schedule 2, paragraph 4 of the 1987 Regulations to enable a child's resources to be separately assessed and no longer taken to include sums payable for his maintenance (regulation 4);
- (2) amending Schedule 2, paragraph 5 of the 1987 Regulations to allow account to be taken of resources of which an applicant has deprived himself for whatever reason (regulation 5);
- (3) allowing an additional disregard of capital on a sliding scale in respect of persons of pensionable age where their disposable income (excluding investment income) is below the free income limit (regulation 6);
- (4) allowing a disregard in respect of capital payments made in relation to the incident which has led to the litigation (eg disaster fund payments) (regulation 7).