
STATUTORY INSTRUMENTS

1993 No. 788

**LEGAL AID AND ADVICE,
ENGLAND AND WALES**

**The Civil Legal Aid (Assessment of
Resources) (Amendment) Regulations 1993**

<i>Made</i>	- - - -	<i>17th March 1993</i>
<i>Laid before Parliament</i>		<i>18th March 1993</i>
<i>Coming into force</i>	- -	<i>12th April 1993</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 15(1), 16, 34 and 43 of the Legal Aid Act 1988(1) and with the consent of the Treasury, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Civil Legal Aid (Assessment of Resources) (Amendment) Regulations 1993 and shall come into force on 12th April 1993.

Interpretation

2. In these Regulations a regulation or Schedule referred to by number alone means a regulation or Schedule so numbered in the Civil Legal Aid (Assessment of Resources) Regulations 1989(2).

Transitional Provisions

3.—(1) These Regulations shall apply to applications for legal aid where the period of computation begins on or after 12th April 1993.

(2) These Regulations shall not apply to:—

- (a) assessments, re-assessments under regulations 12 and amended assessments under regulation 14 in respect of applications where the period of computation began before 12th April 1993;

(1) 1988 c. 34; sections 15, 16, 34 and 43 were amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 17 paragraph 19, and Schedule 18 paragraphs 60, 61 and 63. Section 43 is an interpretation provision and is cited because of the meaning assigned to the word “regulations”.

(2) S.I. 1989/338, as amended by S.I. 1990/484, S.I. 1991/635 and S.I. 1992/718.

- (b) further assessments under regulation 13 in respect of a certificate granted before 12th April 1993.
- (3) In this regulation “period of computation” has the meaning assigned by regulation 3.

Amendment of the Civil Legal Aid (Assessment of Resources) Regulations 1989

4. In the Arrangement of Regulations—
 - (a) for the heading to regulation 12 there shall be substituted “Further assessments”;
 - (b) the reference to regulation 13 shall be omitted;
 - (c) for the heading to regulation 14 there shall be substituted “Amendment of assessment due to error or receipt of new information”.
5. In regulation 3 for the definition of “contribution” and “maximum contribution” there shall be substituted the following:—

““contribution” has the meaning assigned to it by the Civil Legal Aid (General) Regulations 1989(3);”.
- 6.—(1) For the words “disposable income, disposable capital and maximum contribution” where those words occur in the Arrangement of Regulations, in the definition of “make an assessment” in regulation 3, in the heading to regulation 4 and in regulations 6(a), 10(1) and 15(2) there shall be substituted “disposable income, disposable capital and contribution”.
 - (2) In regulation 15(1) the word “maximum” shall be omitted.
7. In regulation 4(4) from the beginning down to “one quarter of the excess” there shall be substituted:—
 - (4) A person who desires to receive legal aid shall be liable to make the following contributions—
 - (a) where his disposable income in the period of computation exceeds £2294, a monthly contribution in respect of disposable income payable throughout the period while the certificate is in force of one thirty-sixth of the excess;”.
8. For regulation 12 there shall be substituted the following new regulation:—

“Further assessments

- 12.—(1) Where—
 - (a) it appears that the circumstances upon which the assessment officer has assessed the disposable income or disposable capital of the person concerned have altered so that:
 - (i) his disposable income may have increased by an amount greater than £750 or decreased by an amount greater than £300; or
 - (ii) his disposable capital may have increased by an amount greater than £750;

or
 - (b) the Area Director considers that the current financial circumstances of the person concerned are such that he could afford to proceed without legal aid,

the assessment officer shall make a further assessment of the person’s disposable income or disposable capital or contribution as the case may be in accordance with the provisions of Schedules 2 and 3, unless (in relation to sub-paragraph (a)) it

appears to him unlikely that any significant change in that person's liability to make a contribution will result from any such further assessment.

(2) For the purposes of the further assessment, the period of computation shall be the period of 12 months following from the date of the request for a reassessment or such other period of twelve months as in the particular circumstances of the case the assessment officer may consider to be appropriate.

(3) Where a further assessment is made the amount and value of every resource of a capital nature acquired since the date of the legal aid application shall be ascertained as at the date of receipt of that resource.”.

9. Regulation 13 shall be omitted.

10. For Regulation 14 there shall be substituted the following regulation:—

“Amendment of assessment due to error or receipt of new information

14. Where—

- (a) it appears to the assessment officer that there has been some error or mistake in the assessment of a person's disposable income, disposable capital or contribution or in any computation or estimate upon which such assessment was based, and that it would be just and equitable to correct the error or mistake; or
- (b) new information which is relevant to the assessment has come to light,

the assessment officer shall make an amended assessment which shall, for all purposes, be substituted for the original assessment and have effect in all respects as if it were the original assessment.”.

11.—(1) In Schedule 2 for paragraph 4A there shall be substituted the following paragraph:—

“4A. In computing the income of the person concerned, there shall be deducted any sums payable (net of council tax benefit) by the person concerned in respect of the council tax to which he is liable by virtue of section 6 of the Local Government Finance Act 1992**(4)**.”.

(2) In Schedule 2, paragraph 9 the words “domestic rates and” shall be omitted.

(3) In Schedule 2, paragraph 10 the words from “including any net sum” to the end of the paragraph shall be omitted.

12.—(1) For the references to “the Social Security Act 1986” or to “the Social Security Acts 1975–1988” in Schedule 2, paragraphs 5, 6 and 9(2), and in Schedule 3 paragraph 7 there shall be substituted “under the Social Security Contributions and Benefits Act 1992”**(5)**.

(2) For Schedule 2, paragraph 6 there shall be substituted the following paragraph:—

“6. In computing disposable income the following payments made under the Social Security Contributions and Benefits Act 1992 shall be disregarded:

- (a) disability living allowance;
- (b) attendance allowance paid under section 64 or Schedule 8 paragraphs 4 or 7(2);
- (c) constant attendance allowance paid under section 104 as an increase to a disablement pension;
- (d) any payment made out of the social fund.”.

(4) 1992 c. 14.

(5) 1992 c. 4. The Social Security (Consequential Provisions) Act 1992 (c. 6), section 2, makes provision for the continuation in effect of provisions consolidated by the Social Security Contributions and Benefits Act 1992.

(3) For the reference to “section 32 of the Social Security Act 1986” in Schedule 3 paragraph 8 there shall be substituted “the Social Security Contributions and Benefits Act 1992”.

13. In Schedule 2 paragraph 11—

(a) in paragraph (i) of sub-paragraph (1) for the words from “25 per cent.” to “pension” there shall be substituted “the difference between the income support allowance for a couple where both members are aged not less than 18 (which is specified in column 2 of paragraph 1(3)(c) of Schedule 2 Part I of the Income Support (General) Regulations 1987⁽⁶⁾, and the allowance for a single person aged not less than 25, (which is specified in column 2 of paragraph 1(1)(e) of Schedule 2 Part I of those Regulations)”;

(b) in paragraph (ii) of sub-paragraph (1) the words “25 per cent. above” shall be omitted.

14. For the Table in paragraph 14A of Schedule 3 there shall be substituted the following Table:—

“annual disposable income (excluding net income derived from capital)	amount of capital disregard
up to £370	£35,000
£371–£670	£30,000
£671–£970	£25,000
£971–£1270	£20,000
£1271–£1570	£15,000
£1571–£1870	£10,000
£1871 and above	£5,000”.

Dated 11th March 1993

Mackay of Clashfern, C.

We consent,

Tim Wood

Irvine Patnick

Two of the Lords Commissioners of Her Majesty’s Treasury

Dated 17th March 1993

(6) S.I. 1987/1967 as amended by S.I. 1988/1445 and S.I. 1991/2910.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Legal Aid (Assessment of Resources) Regulations 1989. The changes are as follows.

(1) The financial limits relating to the eligibility of a person to receive free legal aid and the assessment of disposable income (which determines whether contributions are payable towards the cost of providing representation) are to be more closely linked to the personal allowances applicable for income support. The free limit is linked to an annualized equivalent of the weekly income support allowance for a single person aged 25 or over, contained in the Income Support (General) Regulations 1987.

(2) The deduction made where an assisted person has a spouse is the difference between the income support allowance for a couple and the allowance which would have been payable to a single person aged 25 or over. A deduction is also made where allowance is paid for a dependant child or relative.

(3) The fraction of disposable income which is payable by way of contribution is increased from one quarter to one third.

(4) Monthly contributions from income will be payable for as long as the legal aid certificate is in force.