

---

STATUTORY INSTRUMENTS

---

**1995 No. 948**

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

**The Legal Aid in Contempt Proceedings  
(Remuneration) Regulations 1995**

<i>Made</i>	- - - -	<i>30th March 1995</i>
<i>Laid before Parliament</i>		<i>31st March 1995</i>
<i>Coming into force</i>	- -	<i>24th April 1995</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 25(2), 34 and 43 of the Legal Aid Act 1988(1), having had regard to the matters specified in section 34(9) and consulted the General Council of the Bar and the Law Society, and with the consent of the Treasury, hereby makes the following Regulations:—

**Citation, commencement and revocations**

1.—(1) These Regulations may be cited as the Legal Aid in Contempt Proceedings (Remuneration) Regulations 1995 and shall come into force on 24th April 1995.

(2) The Legal Aid in Contempt Proceedings (Remuneration) Regulations 1991(2) and the Legal Aid in Contempt Proceedings (Remuneration) (Amendment) Regulations 1992(3) are hereby revoked.

**Scope and transitional provisions**

2. These Regulations shall apply to the determination of remuneration for any work done by a legal representative pursuant to an order for representation under section 29 of the Act made on or after 24th April 1995, and where an order under that section was made before that date the remuneration payable shall be determined as if these Regulations had not come into force.

---

(1) 1988 c. 34; sections 25(2), 34 and 43 were amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraphs 60 and 63. Section 25(2) applies to proceedings for contempt by virtue of section 30(3) of the Legal Aid Act 1988. Section 43 is an interpretation provision and is cited because of the meaning assigned to the word “regulations”.

(2) S.I.1991/837.

(3) S.I. 1992/595.

## Interpretation

### 3. In these Regulations—

“the Act” means the Legal Aid Act 1988;

“area committee” has the meaning assigned to it by regulation 4 of the Civil Legal Aid (General) Regulations 1989(4);

“the Costs Regulations” means the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989(5) as in force on any day of appearance in respect of which a legal representative claims remuneration under these Regulations;

“day of appearance”, in relation to a legal representative, means a day or any part of a day on which he represents any person pursuant to an order for representation made under section 29 of the Act;

“fee-earner” means an authorised litigator within the meaning of section 119(1) of the Courts and Legal Services Act 1990 or any person who regularly does work in respect of which it is appropriate for an authorised litigator to make a direct charge to a client, and any reference to grades of fee-earner shall be construed in accordance with regulation 6(4) of the Costs Regulations as nearly as the circumstances permit;

“franchisee” means a person or body (other than the Board) acting under the terms of a franchising contract.

## The appropriate authority

4.—(1) Subject to paragraph (2), the appropriate authority for the purposes of these Regulations shall be—

- (a) in the case of proceedings in the Court of Appeal, Criminal Division, the registrar of criminal appeals;
- (b) in the case of proceedings in the Crown Court, an officer appointed by the Lord Chancellor for the purposes of regulation 3(1)(b) of the Costs Regulations;
- (c) in any other case, the Board.

(2) The appropriate authority shall 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

5.—(1) Any claim for remuneration shall be submitted to the appropriate authority in such form and manner as it may direct and shall be submitted within 3 months of the completion of the work in respect of which the claim is made.

(2) The legal representative shall supply such further information and documents as the appropriate authority may require.

(3) The time limit within which the claim for remuneration must be submitted may, for good reason, be extended by the appropriate authority.

## Standard fee

6.—(1) Subject to regulation 7, the total remuneration payable under these Regulations shall be a standard fee of £71.75 for each day of appearance.

---

(4) S.I. 1989/339.

(5) S.I. 1989/343, as amended by S.I. 1990/488, 1991/529, 838 and 2037, 1993/934, 1994/1477, 1825 and 2218 and 1995/952.

(2) Where the assisted person is represented by two legal representatives, that standard fee shall be divided into £45.75 for each day of appearance for the legal representative appearing as an advocate and £26.00 for each day of appearance for the other legal representative.

### **Exceptional remuneration**

7.—(1) A legal representative may, when he claims remuneration for work done pursuant to an order under section 29 of the Act, claim that there are exceptional circumstances which justify remuneration greater than the standard fee specified in regulation 6.

(2) The appropriate authority shall consider the claim, any further particulars, information or documents submitted by the legal representative under regulation 5(2) and any other relevant information and shall decide whether there are such exceptional circumstances.

(3) If the appropriate authority decides that there are such exceptional circumstances, it may allow any legal representative such fee as appears to it to be reasonable (having regard to the amount of the standard fee specified in regulation 6) for such work as appears to it to have been reasonably done. If it decides that there are not such exceptional circumstances, no fee shall be payable under this regulation and the standard fee specified in regulation 6 shall apply.

(4) The fee allowed to a legal representative (other than counsel) under this regulation for any work shall not exceed the rates set out in paragraphs 1(1)(a) and (b) and 1A of Part I of Schedule 1 to the Costs Regulations as appropriate to the type of work, the court in which the proceedings took place, the grade and the situation of the office of the fee-earner who did the work and whether the work was done by a franchisee.

(5) In the application of paragraph (4) the rates appropriate to the Crown Court shall apply to proceedings in all courts other than magistrates' courts.

(6) Where the fee-earner who did the work was not assigned by the court under section 32(5) of the Act, the fee allowed for his work shall not exceed the rate set out in paragraphs 1(1)(a) and (b) and 1A of Part I of Schedule 1 to the Costs Regulations as appropriate to the lowest grade of fee-earner which the appropriate authority considers would have been competent to do the work.

(7) The total of the fees allowed to counsel under this regulation in respect of proceedings covered by any one order for representation under section 29 of the Act shall not exceed the amounts set out in the Table in Part II of Schedule 2 to the Costs Regulations as appropriate to a single junior counsel instructed in an appeal to the Crown Court against conviction.

### **Review and appeal**

8. A legal representative who is dissatisfied with a decision made under regulation 5(3) or regulation 7(2) or with the remuneration allowed under regulation 7(3) may proceed—

(a) where the Board is the appropriate authority, in accordance with regulations 12, 13 and 17 of the Costs Regulations, except that any application for review shall be made to, and any review shall be carried out by, an area committee nominated by the Board;

(b) in any other case, in accordance with regulations 14 to 17 of the Costs Regulations;

as if those regulations referred to remuneration allowed under these Regulations.

### **Payment of costs and recovery of overpayments**

9. Regulations 10 and 10A of the Costs Regulations shall apply with the necessary modifications to the remuneration payable to any legal representative under these Regulations.

---

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

---

Dated 29th March 1995

*Mackay of Clashfern, C*

We consent,

Dated 30th March 1995

*Timothy Wood*  
*Derek Conway*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

## **EXPLANATORY NOTE**

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

These Regulations provide for payment of a standard fee in contempt proceedings where representation is granted under section 29 of the Legal Aid Act 1988. They supersede and revoke earlier Regulations, and come into force on 24th April 1995. The principal changes are—

- (a) the Regulations introduce a fixed division of the standard fee between the advocate and any other legal representative instructed;
- (b) they create rights of review and appeal where a legal representative is dissatisfied with the remuneration allowed under these Regulations;
- (c) they provide increased rates for remuneration payable under these Regulations.