
STATUTORY INSTRUMENTS

2000 No. 451

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

The Civil Legal Aid (General) (Amendment) Regulations 2000

Made - - - - 22nd February 2000
Laid before Parliament 25th February 2000
Coming into force - - 20th March 2000

The Lord Chancellor, in exercise of the powers conferred on him by sections 15, 16(6), 34 and 43 of the Legal Aid Act 1988(1), having had regard to the matters specified in section 34(9) and having consulted the General Council of the Bar and the Law Society, and with the consent of the Treasury, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Civil Legal Aid (General) (Amendment) Regulations 2000 and shall come into force on 20th March 2000.

Interpretation

2.—(1) In these Regulations “the Regulations” means the Civil Legal Aid (General) Regulations 1989(2), and a reference to a regulation by number alone means the regulation so numbered in the Regulations.

(2) Words and expressions defined in the Regulations shall, unless the context requires otherwise, have the same meaning in these Regulations as they do in the Regulations.

Amendments to Civil Legal Aid (General) Regulations 1989

3. Subject as provided below in these Regulations, the Regulations shall be amended as follows:
- (a) for “taxation”, wherever it occurs, there shall be substituted “detailed assessment”;
 - (b) for “taxed”, wherever it occurs, there shall be substituted “determined by way of detailed assessment”, and “tax” and other cognate words shall be amended accordingly;

(1) 1988 c. 34; sections 15, 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; and by the Family Law Act 1996 (c. 27), sections 26 and 29 and Schedule 8, paragraph 44. Section 43 is an interpretation provision and is cited because of the meaning given to “regulations”.

(2) S.I. 1989/339; the relevant amending instruments are S.I. 1991/524, 2036 and 2784, 1996/649 and 1999/1113.

- (c) for “taxing master”, wherever it occurs, there shall be substituted “costs judge”;
- (d) for “taxing officer”, wherever it occurs, there shall be substituted “costs officer”.

4.—(1) In regulation 3(1):

- (a) between the definitions of “authorised summary proceedings” and “certificate” there shall be inserted the following definition:

““CPR” means the (3), and a reference to a rule or a Part prefixed by “CPR”, means the rule or (as the case may be) Part so numbered in the CPR;”;

- (b) between the definitions of “contribution” and “court” there shall be inserted the following definitions:

““costs judge” has the meaning given in CPR rule 43.2(1)(b);

“costs officer” has the meaning given in CPR rule 43.2(1)(c);”;

- (c) between the definitions of “court” and “disposable capital” there shall be inserted the following definition:

““detailed assessment” has the meaning given in CPR rule 43.4;”;

- (d) the definition of “master” shall be deleted;
- (e) in the definitions of “standard basis” and “indemnity basis”, for “Order 62, rule 12 of the Rules of the Supreme Court 1965” there shall be substituted “CPR rule 44.4”;
- (f) the definition of “taxing officer” shall be deleted.

5. In regulation 50(3)(b), for the words “Order 112” to “Matrimonial Causes Rules 1977” there shall be substituted “RSC Order 112 rules 3 or 4 in Schedule 1 to the CPR, or any of rules 3.2 to 3.5 of the Family Proceedings Rules 1991”(4).

6. In regulations 84(a), 99(5)(a), 100(7) and (8) and 106A(1), and in the heading of regulation 106A, after “assessment” there shall be inserted “under regulation 105”.

7.—(1) In the heading of regulation 84, after “assessed” there shall be inserted “under regulation 105”.

(2) In regulation 84(b), “taxed or” shall be deleted.

8. In regulation 103(3) and (5), for “solicitor and own client taxation” there shall be substituted “detailed assessment of solicitor and client costs under CPR rule 48.8”.

9.—(1) In regulation 104(1) and (3) for “authorised summary proceedings” there shall be substituted “proceedings in a magistrates' court”.

(2) In regulation 104(3):

- (a) for the words from “regulation 6” to “(Costs) Regulations 1989” there shall be substituted “the Legal Aid in Family Proceedings (Remuneration) Regulations 1991(5)”;

- (b) for “paragraphs 2 and 3 of Schedule 1, Part I” there shall be substituted “regulation 3(4)(c)”.

(3) Regulation 104(4) and (5) shall be deleted.

10.—(1) In regulation 105(1), after “ensuring that”, there shall be inserted “, subject to paragraph (10),”.

(3) S.I. 1998/3132; amended by S.I. 1999/1008 and 2000/221.

(4) S.I. 1991/1247; the relevant amending instruments are S.I. 1991/2113 and 1999/1012.

(5) S.I. 1991/2038; amended by S.I. 1991/2112, 1992/596, 1993/1117, 1994/230, 1996/650 and 1555, and 1997/2394.

(2) After regulation 105(3) there shall be inserted:

“(3A) An application for an assessment under this regulation shall be made:

- (a) where paragraph (2) applies, within three months of the termination of the solicitor’s retainer;
- (b) where paragraph (2A) or (3) applies:
 - (i) if the assisted person’s certificate is revoked or discharged, within three months of the termination of the solicitor’s retainer;
 - (ii) otherwise, within the period which would have been the period specified by CPR rule 47.7 for the commencement of detailed assessment proceedings if the costs fell to be determined by way of detailed assessment.”.

(3) After regulation 105(8) there shall be inserted:

“(9) Subject to paragraph (10), the time limit in paragraph (3A) may, for good reason, be extended by the Area Director.

(10) Where a solicitor or counsel without good reason has failed (or, if an extension were not granted, would fail) to comply with the time limit in paragraph (3A), the Area Director may, in exceptional circumstances, extend the time limit and shall consider whether it is reasonable in the circumstances to reduce the costs; provided that costs shall not be reduced unless the solicitor or counsel has been allowed a reasonable opportunity to show cause in writing why the costs should not be reduced.

(11) A solicitor or counsel may appeal to the area committee against a decision made by the Area Director under paragraph (9) or (10) and such an appeal shall be commenced within 21 days of the decision by giving notice in writing to the area committee specifying the grounds of appeal.”.

11. In regulation 106A(2)(a), for “Order 62, rule 16 of the Rules of the Supreme Court 1965” there shall be substituted “CPR rule 48.5”.

12.—(1) In regulation 107(1), the words from “; and, for the purpose of these Regulations” to the end of that paragraph shall be deleted.

(2) In regulation 107(4), for “taxing office” there shall be substituted “court office”.

13. In regulation 107A(1) and (3), for “assessment, review or taxation” there shall be substituted “assessment under regulation 105 or detailed assessment”.

14. In regulation 109(1), for the words from “, Order 62” to “County Court Rules 1981”, there shall be substituted “or CPR rules 44.14 and 48.7”.

15. In regulation 110, for “obtain a review of taxation under regulation 113 and 114” there shall be substituted “appeal against the detailed assessment”.

16.—(1) For regulations 113 to 118 there shall be substituted:

“**113.—**(1) Subject to paragraph (2), detailed assessment proceedings shall be deemed to be proceedings to which the assisted person’s certificate relates, whether or not it has been discharged or revoked, and the costs of such proceedings shall be paid out of the fund unless the court otherwise orders.

(2) Subject to the following paragraphs of this regulation, an assisted person’s solicitor may appeal against a decision in detailed assessment proceedings in accordance with rules of court, and, if counsel acting for the assisted person notifies the solicitor that he is dissatisfied with the decision, shall do so, but the costs of any such appeal shall be deemed to be costs

to which the assisted person's certificate relates only to the extent that the court hearing the appeal so orders.

(3) The assisted person shall not be required to make any contribution to the fund on account of the costs of any appeal against a decision in detailed assessment proceedings and the charge created by section 16(6) of the Act shall not apply in relation to any resulting increase in the net liability of the fund in consequence of any order made in such an appeal.

(4) Where permission to appeal is obtained under CPR rule 47.24(2), the assisted person's solicitor shall give written notice to that effect to the Lord Chancellor.

(5) The assisted person's solicitor shall send to the Lord Chancellor, together with the notice given under paragraph (4), copies of:

- (a) the bill of costs; and
- (b) the request for permission to appeal.

(6) When filing a notice of appeal, the assisted person's solicitor shall file with the court a copy of the notice given under paragraph (4).

(7) After filing notice of appeal the assisted person's solicitor shall without delay send a copy of it to the Lord Chancellor."

17. After regulation 119(2) there shall be inserted:

"(3) For the purposes of paragraph (2), the cost of drawing up a bill of costs shall not be included as part of the costs of the detailed assessment proceedings."

18. Regulations 120 and 121 shall be deleted.

19.—(1) In regulation 122(1):

- (a) for "review by a judge of a taxation" there shall be substituted "appeal against a detailed assessment under CPR rule 47.22(2) or (3)";
- (b) for "particular review" there shall be substituted "particular such appeal";
- (c) for "review of taxation" there shall be substituted "such appeal".

(2) Regulation 122(2) shall be deleted.

(3) In regulation 122(3):

- (a) for "applies to a judge to review the inter partes taxation" there shall be substituted "appeals against a detailed assessment of costs payable by one party to another";
- (b) for "applies to a judge to review any such taxation as is referred to in" there shall be substituted "appeals against a detailed assessment in accordance with";
- (c) for the words from "inform the Board" to "the Lord Chancellor" there shall be substituted "inform the Lord Chancellor".
- (d) for "subject of the review is an inter partes taxation" there shall be substituted "subject of the appeal is a detailed assessment of costs payable by one party to another".

(4) In regulation 122(4):

- (a) for "intervene in a review of taxation" there shall be substituted "intervene in an appeal against a detailed assessment";
- (b) for "judge" there shall be substituted "costs officer";
- (c) for "on the review" there shall be substituted "on the appeal".

(5) In regulation 122(5), for "review" there shall be substituted "appeal".

(6) For regulation 122(6) there shall be substituted:

“(6) Where rules of court provide for a further appeal from a decision on appeal from a detailed assessment (“the original appeal”), a solicitor appointed by the Lord Chancellor under paragraph (1) may appeal from the original appeal and paragraphs (2) to (5) shall apply to such a further appeal as it applies to the original appeal.”.

20. In regulation 141(2), for “County Court Rules 1981” there shall be substituted “CPR Parts 43 to 48”.

21.—(1) In regulations 143 to 146, for “master”, wherever it occurs, there shall be substituted “costs judge or district judge”.

(2) After regulation 143(2) there shall be inserted:

“(3) In regulations 143 to 146 the expression “district judge” means a district judge of the High Court, including a district judge of the Principal Registry of the Family Division.”.

22. In regulations 144(b) and 146(2), for “Order 62 of the Rules of the Supreme Court 1965” there shall be substituted “CPR Parts 43 to 48”.

23.—(1) In regulation 148(4)(b), for “taxed by the registrar” there shall be substituted “determined by the registrar by way of detailed assessment”.

(2) Regulation 148(4)(c) shall be deleted.

24. In regulation 149(7), for “Order 62 of the Rules of the Supreme Court 1965” there shall be substituted “CPR Parts 43 to 48”.

25. In regulation 151(7), for “Order 62 of the Rules of the Supreme Court 1965” there shall be substituted “CPR Parts 43 to 48”.

Signed by authority of the Lord Chancellor

Jane Kennedy
Parliamentary Secretary
Lord Chancellor’s Department

Dated 17th February 2000

We consent

Clive Betts
Jim Dowd
Two of the Lords Commissioners of Her
Majesty’s Treasury

22nd February 2000

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make changes to the Civil Legal Aid (General) Regulations 1989, consequential on the replacement, by the Civil Procedure Rules 1998, of the costs regime in the Rules of the Supreme Court 1965 and the County Court Rules 1981.

These Regulations also introduce a time limit for the commencement of an assessment of costs by the Area Director under regulation 105 of the 1989 Regulations, and provide for the provisions of the Legal Aid in Family Proceedings (Remuneration) Regulations 1991 to apply to remuneration for work in proceedings in magistrates' courts, whether or not family proceedings.