

2001 No. 829

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Legal Advice and Assistance (Amendment No. 2)
Regulations 2001**

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| <i>Made - - - -</i> | <i>8th March 2001</i> |
| <i>Laid before Parliament</i> | <i>9th March 2001</i> |
| <i>Coming into force</i> | |
| <i>for the purposes of</i> | |
| <i>regulations 1 and 3</i> | <i>1st April 2001</i> |
| <i>for all other purposes</i> | <i>2nd April 2001</i> |

The Lord Chancellor, in exercise of the powers conferred upon him by sections 34 and 43 of the Legal Aid Act 1988(a), having had regard to the matters specified in section 34(9) of that Act and having consulted the General Council of the Bar and the Law Society, and the Magistrates' Courts Rule Committee, and with the consent of the Treasury, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Legal Advice and Assistance (Amendment No. 2) Regulations 2001 and shall come into force—

- (a) for the purposes of regulations 1 and 3 of these Regulations, on 1st April 2001; and
- (b) for all other purposes, on 2nd April 2001.

(2) In these Regulations a reference to a regulation or Schedule by number alone means the regulation or Schedule so numbered in the Legal Advice and Assistance Regulations 1989(b).

Transitional provision

2. Regulation 4 of these Regulations shall apply to work carried out on or after 2nd April 2001 and in relation to work carried out before that date the Legal Advice and Assistance Regulations 1989 shall have effect as if that regulation and this regulation had not been made.

Amendments to Legal Advice and Assistance Regulations 1989

3. In regulation 31(1) and paragraphs 2 and 4 of Schedule 5, for “clerk to the justices”, in each place where those words occur, there shall be substituted “justices’ chief executive”.

(a) 1988 c. 34. Sections 34 and 43 were amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18 paragraphs 60 and 63 and the Family Law Act 1996 (c. 27), Schedule 8 paragraph 44. Sections 34 and 43 are repealed (together with other provisions) by Part I of Schedule 15 to the Access to Justice Act 1999 (c. 22), which was brought into force on 1st April 2000 by the Access to Justice Act 1999 (Commencement No. 3, Transitional Provisions and Savings) Order 2000 (S.I. 2000/774), but subject to savings. Section 43 is an interpretation provision and is cited because of the meaning given to “regulations”.

(b) S.I. 1989/340: the relevant amending instruments are S.I. 1995/949, 1996/641 and 1997/751.

4.—(1) Subject to paragraph (2) of this regulation, Schedule 6 shall be amended as provided in the following paragraphs of this regulation, and any reference there to a paragraph by number alone means the paragraph so numbered in Schedule 6.

(2) The amendments in the following paragraphs of this regulation shall apply only to work carried out under a General Civil Contract with the Legal Services Commission, and in respect of work which is not carried out under such a contract the Legal Advice and Assistance Regulations 1989 shall have effect as if those paragraphs had not been made.

(3) In paragraph 1—

- (a) for “paragraphs 2, 3 and 4” there shall be substituted “2 to 4”;
- (b) for “within legal aid area 1”, wherever it occurs, there shall be substituted “in the Legal Services Commission’s London Region”.

(4) In paragraph 2—

- (a) for “paragraph 4” there shall be substituted “paragraphs 2A, 2B, 4 and 4A”;
- (b) after “franchisee” there shall be inserted “or provisional franchisee”;
- (c) for “£45.50” (Preparation) there shall be substituted “£47.80”;
- (d) for the words in brackets beginning “£48.25 per hour for a fee-earner” (Preparation) there shall be substituted “(£50.70 per hour for a fee-earner whose office is situated in the Legal Services Commission’s London Region)”;
- (e) for “£25.50” (Travelling and waiting) there shall be substituted “£26.80”;
- (f) for “£3.55” (Routine letters written and telephone calls) there shall be substituted “£3.75”;
- (g) for the words in brackets beginning “£3.75 per item for a fee-earner” (Routine letters written and telephone calls) there shall be substituted “(£3.90 per item for a fee-earner whose office is situated in the Legal Services Commission’s London Region)”.

(5) After paragraph 2, there shall be inserted—

“2A. Where advice and assistance is provided by a franchisee or provisional franchisee and that advice and assistance falls within any of the categories of immigration, mental health, education, public law, actions against the police etc. or community care, and that category of work is authorised as a specific category in the schedule to the contract with the Legal Services Commission under which that work is provided, the following rates shall apply instead of those contained in paragraph 2—

| | London Region | Outside London |
|-------------------------------------|-----------------|-----------------|
| Preparation | £57.35 per hour | £52.55 per hour |
| Travel and waiting | £30.30 per hour | £29.45 per hour |
| Letters written and telephone calls | £4.40 per item | £4.10 per item |

2B. Where advice and assistance is provided by a franchisee or provisional franchisee and that advice and assistance falls within any of the categories of family, housing or employment, and that category of work is authorised as a specific category in the schedule to the contract with the Legal Services Commission under which that work is provided, the following rates shall apply instead of those contained in paragraph 2—

| | London Region | Outside London |
|-------------------------------------|-----------------|-----------------|
| Preparation | £53.10 per hour | £50.05 per hour |
| Travel and waiting | £28.05 per hour | £28.05 per hour |
| Letters written and telephone calls | £4.10 per item | £3.95 per item |

”.

(6) Paragraph 5 shall be deleted.

Signed by authority of the Lord Chancellor

Dated 8th March 2001

David Lock
Parliamentary Secretary,
Lord Chancellor's Department

We consent

Dated 8th March 2001

Jim Dowd
Greg Pope
Two of the Lords Commissioners of
Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Legal Advice and Assistance Regulations 1989 (S.I. 1989/340). Those Regulations apply to legal advice and assistance which continues to be provided under Part III of the Legal Aid Act 1988 notwithstanding its repeal, by virtue of the transitional savings contained in the Access to Justice Act 1999 (Commencement No. 3, Transitional Provisions and Savings) Order 2000 (S.I. 2000/774).

The amendments principally alter the rates of remuneration paid to suppliers with a General Civil Contract with the Legal Services Commission as follows—

- (a) special enhanced rates are introduced in respect of advice and assistance in relation to:
 - (i) immigration, mental health, education, public law, community care or actions against the police etc; and
 - (ii) family, housing or employmentwhere the relevant work category is specifically authorised by the supplier's contract; and
- (b) increased rates are also introduced in respect of other advice and assistance, whether in other categories or in one of the categories mentioned above where the supplier does not have a specific contract in that category.

These Regulations also make amendments to references to justices' clerks to reflect the transfer of functions to justices' chief executives effected by section 90 of the Access to Justice Act 1999.

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