

## 1972 No. 1756 (S.138)

## LEGAL AID AND ADVICE, SCOTLAND

The Legal Aid (Scotland) (Assessment of Resources) Amendment  
Regulations 1972

<i>Made - - - -</i>	<i>16th November 1972</i>
<i>Laid before Parliament</i>	<i>24th November 1972</i>
<i>Coming into Operation</i>	<i>18th December 1972</i>

In exercise of the powers conferred on me by sections 4 and 15 of the Legal Aid (Scotland) Act 1967(a), and for all other powers enabling me in that behalf, and with the concurrence of the Treasury, I hereby make the following regulations:—

**1.**—(1) These regulations may be cited as the Legal Aid (Scotland) (Assessment of Resources) Amendment Regulations 1972 and shall come into operation on 18th December 1972.

(2) The Interpretation Act 1889(b) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(3) In these regulations a regulation referred to by number means a regulation so numbered in the Legal Aid (Scotland) (Assessment of Resources) Regulations 1960(c) as amended (d) and a rule referred to by number means a rule so numbered in the Schedules to those regulations.

**2.**—(1) In regulation 1 (which relates, among other things, to the interpretation of expressions used in the regulations), in the definition of “income” for the words “does not include” there shall be substituted the words “includes any sum payable for the purpose of the maintenance of a child including” and for the words “for the purpose of the maintenance of a child” there shall be substituted the words “for that purpose”.

(2) In regulation 4 (which relates to the resources of a spouse) paragraph 2(iii) shall be omitted.

(3) In regulation 5 (which relates to an application by or on behalf of a juvenile), the following paragraph shall be substituted for paragraph (1):—

“(1) Where an application for a certificate is made by or on behalf of a person under the upper limit of school age (within the meaning of the Education (Scotland), Act 1962(e) as read with the Raising of the School Leaving Age (Scotland) Regulations 1972(f)) (in this regulation called a “juvenile”) there shall, save in exceptional circumstances, in addition to the resources of the juvenile, be taken into account the resources of any person liable to maintain the juvenile under section 22 of the Ministry of Social Security Act

(a) 1967 c. 43.

(b) 1889 c. 63.

(c) S.I. 1960/1395 (1960 II, p. 1807).

(d) The relevant amending instruments are S.I. 1960/2194, 1966/1379, 1971/275 (1960 II, p. 1816; 1966 III, p. 3707; 1971 I, p. 990).

(e) 1962 c. 47.

(f) S.I. 1972/59 (1972 I, p. 146).

1966(a) and of any person having care and control of the juvenile, not being a person having such care and control by reason of any contract or for some temporary purpose.”

3. The following amendments shall be made to rule 8 of Schedule 1 (which relates to deductions for rent):—

(1) In paragraph (1) before the word “dwellinghouse” insert the words “main or only” and after the word “circumstances” there shall be added the words “and the Commission shall decide which is the main dwellinghouse where the person concerned resides in more than one dwellinghouse in which he has an interest”.

(2) After paragraph (3) there shall be inserted the following paragraph:—

“(4) Where any amount of the rent is met by a rebate or allowance under Part II of the Housing (Financial Provisions) (Scotland) Act 1972(b), or by any rate rebate, the amount so met shall be deducted from the rent to be considered under paragraph (1) of this rule.”

4. The following amendments shall be made to Schedule 2:—

(1) In rule 9 (which relates to the value of a dwellinghouse), in paragraph (1) after the words “any interest in the” there shall be inserted the words “main or only” and after the words “security thereof” there shall be added the words “and the Commission shall decide which is the main dwellinghouse where the person concerned resides in more than one dwellinghouse in which he has an interest”; in paragraph (2), after the words “value of the”, in both places where they occur, there shall be inserted the words “main or only” and for the expression “£5,000” there shall be substituted the expression “£6,000”; and after paragraph (2) there shall be inserted the following paragraph:—

“(3) Where the person concerned resides in more than one dwellinghouse in which he has an interest, there shall be taken into account in respect of the value to him of any interest in a dwellinghouse which is not the main dwellinghouse any sum which might be obtained by borrowing money on the security thereof.”

(2) In rule 11 (which relates to the value of life assurance policies) the proviso shall be omitted.

(3) The following rule shall be substituted for rule 13:—

“13. An allowance may be made in respect of any debt owed by the person concerned (other than a debt secured on the dwellinghouse or dwellinghouses in which he resides) to the extent to which the Commission consider reasonable, provided that the person concerned produces evidence to the satisfaction of the Commission that the debt will be discharged within the 12 months immediately following the date of application for a certificate.”

(4) In rule 14 (which relates to dependants' allowances), for the expressions “£75”, “£50”, and “£25” there shall be substituted respectively the expressions “£125”, “£80”, and “£40”.

(5) In rule 15 (which relates to allowances where there is low income), for the expression "£375" in both places where it occurs there shall be substituted the expression "£600".

*Gordon Campbell,*  
One of Her Majesty's Principal  
Secretaries of State.

St. Andrew's House,  
Edinburgh.

14th November 1972.

We concur,

*V. H. Goodhew,*  
*Hugh Rossi,*  
Two of the Lords Commissioners  
of Her Majesty's Treasury.

16th November 1972.

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#### EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations amend the Legal Aid (Scotland) (Assessment of Resources) Regulations 1960. The principal changes are as follows:—

- (1) sums payable to the person concerned for maintaining a child shall be included as part of that person's income;
- (2) save in exceptional circumstances, where a juvenile is an applicant for legal aid the resources of his parents or other persons liable to maintain him shall be included with his resources;
- (3) £6,000 (formerly £5,000) of the value of the main dwellinghouse shall be left out of account; where the person concerned resides and has an interest in more than one dwellinghouse the Commission shall decide which dwellinghouse qualifies for the disregard; in respect of a dwellinghouse which is not the main dwellinghouse the Commission will take into account any sum which could be borrowed on the security of the dwellinghouse;
- (4) the capital allowances for dependants shall be £125 for the first, £80 for the second and £40 for any further dependant instead of £75, £50 and £25 respectively;
- (5) the maximum capital allowance on account of low income shall be £600 instead of £375.

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