

1973 No. 2036

LEGAL AID AND ADVICE, ENGLAND

The Legal Aid (General) (Amendment) Regulations 1973

Made - - - 29th November 1973

Laid before Parliament 12th December 1973

Coming into Operation 1st January 1974

The Lord Chancellor, in exercise of the powers conferred on him by sections 2 and 12 of, and the Third Schedule to, the Legal Aid and Advice Act 1949(a), hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Legal Aid (General) (Amendment) Regulations 1973 and shall come into operation on 1st January 1974.

(2) The Interpretation Act 1889(b) shall apply to the interpretation of these Regulations as it applies to 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 (General) Regulations 1971(c), as amended (d).

2. In the Arrangement of Regulations at the beginning of the Legal Aid (General) Regulations 1971 after “26(B). The Commons Commissioners.” there shall be inserted “26(C). The Restrictive Practices Court.”.

3. The following regulation shall be inserted after regulation 26(B):—

“The Restrictive Practices Court

26(C).—(1) In this regulation the expression “the Restrictive Practices Court” means the Court established by section 2 of the Restrictive Trade Practices Act 1956(e) and the expression “the proper officer of the Court” shall have the same meaning as in the Restrictive Practices Rules 1957(f).

(2) Except in so far as otherwise provided by this regulation, these Regulations shall apply to applications for legal aid for proceedings in the Restrictive Practices Court under Part III of the Fair Trading Act 1973(g) and for any proceedings in that Court in consequence of an order made, or undertaking given to the Court, under that Part of that Act, and to the conduct of all such proceedings for which a certificate is granted, in like manner as they apply to applications for legal aid for, and the conduct of, proceedings in any court.

(a) 1949 c. 51.

(c) S.I. 1971/62 (1971 I, p. 75).

(e) 1956 c. 68.

(g) 1973 c. 41.

(b) 1889 c. 63.

(d) There are no relevant amendments.

(f) S.I. 1957/603 (1957 II, p. 1955).

(3) Where any power to do any act or exercise any jurisdiction or discretion is conferred by these Regulations on a court it shall, in relation to proceedings in the Restrictive Practices Court, be exercised by that Court and may, unless it is exercisable only during the hearing of the proceedings by a judge or by the Court, be exercisable by the proper officer of the Court.

(4) (a) Where it appears to the appropriate committee that an application for a certificate relates to proceedings which are likely to be conducted in Scotland or Northern Ireland, they shall transmit the application forthwith to the Secretary of the Legal Aid Central Committee of the Law Society of Scotland or the Secretary of the Legal Aid Department of the Incorporated Law Society of Northern Ireland as the case may be and shall notify the applicant and his solicitor that they have done so.

(b) Where it appears to the appropriate committee doubtful whether the proceedings to which an application for a certificate relates will be conducted in the Restrictive Practices Court when sitting in England and Wales or in Scotland or Northern Ireland they shall request the proper officer of the Court to determine that question, and that determination shall be binding upon the committee.

(5) Where a certificate has been issued and there is a change of circumstances regarding the conduct of the proceedings in that, by order of the Restrictive Practices Court, they will be wholly or partly conducted in Scotland or Northern Ireland—

(a) the certificate shall remain in force;

(b) for any proceedings in Scotland—

(i) the assisted person shall continue to be represented in the proceedings by the solicitor who represented him in England and Wales and that solicitor may instruct a member of the bar of England and Wales or of Scotland from the panel maintained by The Law Society of barristers and advocates willing to act for assisted persons before the Restrictive Practices Court, and

(ii) no question as to the propriety of appearing in Scotland shall be raised on a taxation in accordance with the provisions of the Third Schedule to the Act or on an assessment by an area committee in accordance with regulation 22.

(c) for any proceedings in Northern Ireland, the assisted person shall continue to be represented in the proceedings by the solicitor who represented him in England and Wales and that solicitor shall instruct as his agent a solicitor on the panel maintained by the Incorporated Law Society of Northern Ireland of solicitors willing to act for assisted persons before the Restrictive Practices Court.

(6) (a) The provisions of the Third Schedule to the Act shall apply to proceedings in the Restrictive Practices Court as they apply to proceedings in the House of Lords, the Court of Appeal and the High Court, and the sums allowed in connection with those proceedings shall be, to a solicitor, the full amount allowed on taxation of the costs on account of disbursements and 90% of the amount so allowed on account of profit costs and, to counsel, 90% of the amount so allowed.

(b) The costs of an assisted person shall be assessed by an area committee in accordance with regulation 22 or taxed in accordance with the

Third Schedule to the Act by a Taxing Master of the Supreme Court, and the provisions of Order 62 of the Rules of the Supreme Court shall apply, with the necessary modifications, to the taxation of those costs as if the proceedings in the Restrictive Practices Court were a cause or matter in the Supreme Court.”

Dated 29th November 1973.

Hailsham of St. Marylebone, C.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Legal Aid (General) Regulations 1971, as amended, so as to extend them to applications for and the grant of legal aid for proceedings brought before the Restrictive Practices Court under Part III of the Fair Trading Act 1973, to make provision for applications in England where those proceedings are likely to be conducted in Scotland or Northern Ireland, or where those proceedings are transferred to Scotland or Northern Ireland after a certificate is issued, for the taxation of costs in those proceedings and for the remuneration of solicitors and counsel.

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