

1988 No. 446

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Legal Advice and Assistance at Police Stations
(Remuneration) Regulations 1988**

<i>Made</i> - - - -	<i>8th March 1988</i>
<i>Laid before Parliament</i>	<i>11th March 1988</i>
<i>Coming into force</i>	<i>1st April 1988</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 20 and 25 of the Legal Aid Act 1974(a), and with the concurrence of the Treasury, hereby makes the following Regulations:—

Citation, commencement and revocations

1.—(1) These Regulations may be cited as the Legal Advice and Assistance at Police Stations (Remuneration) Regulations 1988 and shall come into force on 1st April 1988.

(2) The Regulations specified in Schedule 1 shall be revoked except in relation to work done before 1st April 1988.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires,—

“the 1974 Act” means the Legal Aid Act 1974;

“advice” and “assistance” mean respectively advice and assistance under the 1974 Act;

“arrestable offence” has the meaning given to it by section 24 of the Police and Criminal Evidence Act 1984(b);

“duty period” means any period of 24 hours during which a duty solicitor holds himself available to give advice and assistance under a rota drawn up in accordance with the terms of a scheme;

“duty solicitor” means any solicitor, and any representative of a solicitor, who provides advice and assistance in accordance with the terms of a scheme;

“own solicitor” means a solicitor who gives advice and assistance to a person arrested and held in custody or to a volunteer otherwise than as a duty solicitor;

“remuneration” means any sum payable to a duty solicitor or an own solicitor under these Regulations;

(a) 1974 c.4; section 20 was amended by the Legal Aid Act 1979 (c.26), section 4(2), by the Civil Jurisdiction and Judgments Act 1982 (c.27), section 40(1) and by the Legal Aid Act 1982 (c.44), sections 1, 16; section 25 is an interpretation provision and is cited because of the meaning assigned to the word “regulations”.

(b) 1984 c.60; section 24 was amended by the Sexual Offences Act 1985 (c.44), section 5, Schedule.

“scheme” means a scheme made under section 15 of the 1974 Act^(a) and section 1 of the Legal Aid Act 1982^(b) which provides for the making of arrangements in accordance with which advice and assistance is provided by duty solicitors to persons who are arrested and held in custody or who are volunteers;

“serious service offence” means an offence under any of the Army Act 1955^(c), the Air Force Act 1955^(d) or the Naval Discipline Act 1957^(e) which cannot be dealt with summarily or which appears to an interviewing service policeman to be serious;

“unsocial hours” means between the hours of 6.00 pm and 9.00 am on any weekday and any time on a Saturday, Sunday or bank holiday;

“upper limit” means the limit of £90 prescribed by the Legal Advice and Assistance (Prospective Cost) Regulations 1985^(f);

“volunteer” means a person who, for the purpose of assisting with an investigation, attends voluntarily at a police station or at any other place where a constable is present or accompanies a constable to a police station or any such other place without having been arrested.

(2) Unless the context otherwise requires, any reference in these Regulations to a Schedule by number means the Schedule so numbered to these Regulations and any reference to a paragraph of a Schedule by number means the paragraph so numbered in that Schedule.

General

3.—(1) Remuneration shall be determined by the Law Society in accordance with these Regulations.

(2) The Law Society may 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

4.—(1) A claim for remuneration by a duty solicitor or an own solicitor shall be submitted to the Law Society in such form and manner as it may direct and any such claim shall be submitted within 3 months of the duty period or of the day on which the advice and assistance was given.

(2) The solicitor shall supply such further particulars, information and documents as the Law Society may require.

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

Determination of remuneration

5.—(1) The Law Society may allow work done in the following classes:

- (a) availability during duty period;
- (b) advice and assistance given to a person arrested and held in custody in connection with an arrestable offence or being interviewed in connection with a serious service offence or to a volunteer in connection with any such offence;
- (c) advice and assistance given to a person arrested and held in custody or to a volunteer except in connection with an arrestable offence;
- (d) travelling and waiting;
- (e) advising and assisting over the telephone;
- (f) routine telephone calls.

(a) Section 15 was amended by the Legal Aid Act 1982 (c. 44), section 1.

(b) 1982 c. 44; section 1 was amended by the Police and Criminal Evidence Act 1984 (c. 60), section 59.

(c) 1955 c. 18. (d) 1955 c. 19. (e) 1957 c. 53. (f) S.I. 1985/1840.

(2) The Law Society shall consider the claim, any further particulars, information or documents submitted by the solicitor under regulation 4 and any other relevant information, and allow:

- (a) such work as appears to it to have been actually and reasonably done by a duty solicitor or an own solicitor, classifying it according to the classes specified in paragraph (1); and
- (b) such time in respect of each class of work allowed by it (other than advising over the telephone and dealing with routine telephone calls) as it considers reasonable.

(3) Subject to paragraph (5), the Law Society shall allow fees for the work allowed by it under this regulation in accordance with Schedule 2.

(4) Subject to paragraph (5), the Law Society may allow a reasonable sum in respect of:

- (a) hotel expenses actually and reasonably incurred by a duty solicitor where attendance in accordance with a rota is allowed under paragraph (1)(a);
- (b) travelling expenses actually and reasonably incurred by a duty solicitor or an own solicitor where travelling and waiting is allowed under paragraph (1)(d);
- (c) any disbursements actually and reasonably incurred by a duty solicitor or an own solicitor.

(5) The fees allowed under Schedule 2, except any fee allowed in respect of work done under paragraph (1)(a), together with any expenses allowed under paragraph 4(b) and (c), shall not exceed:

- (a) the upper limit where the advice and assistance was given to a person or a volunteer in the circumstances specified in paragraph (1)(b), unless the Law Society is satisfied that the interests of justice required advice and assistance to be given as a matter of urgency;
- (b) the limit imposed by section 3(2) of the 1974 Act^(a) where the advice and assistance was given in any other case.

Payment of remuneration

6. Having determined the remuneration payable to a duty solicitor or an own solicitor in accordance with these Regulations, the Law Society shall authorise payment to him accordingly.

Dated 4th March 1988

Mackay of Clashfern, C.

*Mark Lennox-Boyd
Tony Durant*

Dated 8th March 1988

Two of the Lords Commissioners of
Her Majesty's Treasury

(a) By S.I. 1983/1785, the limit imposed by section 3(2) of the Legal Aid Act 1974 is £50.

SCHEDULE 1
REVOCATIONS

Regulation 1(2)

<i>Regulations revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Legal Advice and Assistance at Police Stations (Remuneration) Regulations 1985	S.I. 1985/1880	The whole Regulations except in relation to work done before 1st April 1988.
The Legal Advice and Assistance at Police Stations (Remuneration) (Amendment) Regulations 1986	S.I. 1986/445	The whole Regulations except in relation to work done before 1st April 1988.
The Legal Advice and Assistance at Police Stations (Remuneration) (Amendment) (No.2) Regulations 1986	S.I. 1986/1559	The whole Regulations except in relation to work done before 1st April 1988.
The Legal Advice and Assistance at Police Stations (Remuneration) (Amendment) Regulations 1987	S.I. 1987/388	The whole Regulations except in relation to work done before 1st April 1988.

SCHEDULE 2

Regulation 5

1.—(1) The Law Society shall, subject to paragraph 2 in the case of item (a), allow fees for work allowed by it under regulation 5 at the following rates:

<i>Class of work</i>	<i>Rate</i>
(a) availability during duty period	£2.90 per hour served, to a maximum of £69.60 (£2.95 per hour served to a maximum of £70.80 in respect of a solicitor whose office is situated within legal aid area 1, 13 or 14)
(b) advice and assistance to a person arrested and held in custody in connection with an arrestable offence, being interviewed in connection with a serious service offence or to a volunteer in connection with any such offence, given	
(i) by a duty solicitor in unsocial hours	£45 per hour
(ii) by a duty solicitor in all other hours	£34.50 per hour (£36.50 per hour in respect of a solicitor whose office is situated within legal aid area 1, 13 or 14)
(iii) by an own solicitor	£34.50 per hour (£36.50 per hour in respect of a solicitor whose office is situated within legal aid area 1, 13 or 14)
(c) all other advice and assistance	£34.50 per hour (£36.50 per hour in respect of a solicitor whose office is situated within legal aid area 1, 13 or 14)
(d) travelling and waiting	
(i) by a duty solicitor in unsocial hours	£45 per hour
(ii) by a duty solicitor in all other hours	£34.50 per hour (£36.50 per hour in respect of a solicitor whose office is situated within legal aid area 1, 13 or 14)
(iii) by an own solicitor	£19.50 per hour
(e) advising and assisting over the telephone	£15 per item (£15.50 per item in respect of a solicitor whose office is situated within legal aid area 1, 13 or 14)
(f) routine telephone calls	£1.60 per item (£1.70 per item in respect of a solicitor whose office is situated within legal aid area 1, 13 or 14)

(2) In paragraph 1(1), "legal aid area 1, 13 or 14" means the area so numbered in the Schedule to the Legal Aid Scheme 1985 (which is made under section 15 of the 1974 Act and which provides for England and Wales to be divided into areas for the purposes of the Scheme).

2. The fee allowed under paragraph 1(1)(a) shall be reduced by the amount of any other fees allowed under that paragraph for work done as a duty solicitor during that duty period to a maximum of one half of the fee allowed under paragraph 1(1)(a).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate the Legal Advice and Assistance at Police Stations (Remuneration) Regulations 1985 (which are revoked except in relation to work done before 1st April 1988) and provide for the determination of the remuneration which may be paid to solicitors (both those acting as duty solicitors in accordance with a scheme made under section 15 of the Legal Aid Act 1974 and section 1 of the Legal Aid Act 1982 and those acting as own solicitors) who give advice and assistance to suspects at police stations and prescribe rates of payment for that remuneration.

By these Regulations, the rates previously payable under the 1985 Regulations are increased by 5.4% overall. An additional 2 per cent overall increase is made to the rates prescribed in respect of some items of work done by solicitors whose offices are situated within a London borough.