

1988 No. 461

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Legal Advice and Assistance (Amendment)
Regulations 1988**

<i>Made - - - - -</i>	<i>9th March 1988</i>
<i>Laid before Parliament</i>	<i>11th March 1988</i>
<i>Coming into force</i>	
<i>Regulation 6</i>	<i>1st April 1988</i>
<i>Remainder</i>	<i>11th April 1988</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 2A, 4, 11, 20 and 25 of the Legal Aid Act 1974(a), and with the concurrence of the Treasury, hereby makes the following Regulations:

1.—(1) These Regulations may be cited as the Legal Advice and Assistance (Amendment) Regulations 1988.

(2) Regulation 6 of these Regulations shall come into force on 1st April 1988 and all other regulations shall come into force on 11th April 1988.

(3) In these Regulations, a regulation or Schedule referred to by number means the regulation or Schedule so numbered in the Legal Advice and Assistance Regulations (No.2) 1980(b).

2. Regulation 3 shall be amended as follows—

(a) after the definition of “extension”, there shall be inserted the following definition—

“ ‘family credit’ means family credit under the Social Security Act 1986(c);”;

(b) after the definition of “fund”, there shall be inserted the following definition—

“ ‘income support’ means income support under the Social Security Act 1986;”.

3. For regulation 5(2), there shall be substituted the following—

“(2) Except where regulation 7A or regulation 19A apply, the client shall furnish the solicitor with the information necessary to enable the solicitor to determine—

(a) his disposable capital,

(a) 1974 c.4; section 2A was inserted by the Legal Aid Act 1979 (c.26), section 1(2); section 4 was amended by the Legal Aid Act 1979 (c.26), section 3, by the Social Security Act 1986 (c.50), Schedule 10, paragraph 46 and by S.I. 1987/396; section 11 was amended by the Social Security Act 1980 (c.30), section 20, Schedule 4, paragraph 9(1)(2) and by the Social Security Act 1986 (c.50), Schedule 10, paragraph 46; 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 meanings assigned to the words “prescribed” and “regulations”.

(b) S.I. 1980/1898; relevant amending instruments are S.I. 1982/1592, 1983/1963, 1984/241, 1985/1491, 1879 and 1986/275.

(c) 1986 c.50.

- (b) where appropriate, whether he is in receipt of supplementary benefit, income support or family credit, and
- (c) his disposable income.”.

4. For regulation 6(2), there shall be substituted the following—

“(2) The person so authorised shall furnish the solicitor with the information necessary to enable the solicitor to determine—

- (a) the client’s disposable capital,
- (b) where appropriate, whether the client is in receipt of supplementary benefit, income support or family credit, and
- (c) the client’s disposable income.”.

5. For regulation 7(2), there shall be substituted the following—

“(2) Where the solicitor is satisfied that any of the persons whose disposable incomes are to be determined under paragraph (1) is in receipt of supplementary benefit, income support or family credit, he shall not determine that person’s disposable income.”.

6. For regulation 7B, there shall be substituted the following—

“Limits on advice and assistance under regulation 7A

7B. The cost of advice and assistance given to a client who has been arrested and held in custody or who is a volunteer except in connection with an arrestable offence shall not exceed the limit imposed by virtue of section 3(2) of the Act(a).”.

7. Paragraph 4 of Schedule 2 shall be amended by substituting, for the words “section 17 of the Supplementary Benefits Act 1976”(b), the words “section 26(3) and (4) of the Social Security Act 1986”.

8. After paragraph 7 of Schedule 2, there shall be inserted the following new paragraph—

“7A. In computing the capital of the person concerned where that person is (directly or indirectly) in receipt of income support and assistance by way of representation is to be given, there shall also be left out of account any sum which exceeds the sum for the time being specified in section 1(1) of the Act in relation to assistance by way of representation(c).”.

9. For paragraph 8(b)(ii) of Schedule 2, there shall be substituted the following—

“(ii) in the case of a dependent child or a dependent relative, at a rate equivalent to 25 per cent above the amount specified for the time being in paragraph 2 of Part I of Schedule 2 to the Income Support (General) Regulations 1987(d) appropriate to the age of the child or relative.”.

10. In paragraph 2(d) of Schedule 4, for the words “or section 18 of the Supplementary Benefits Act 1976;”, there shall be substituted the words “, section 18 of the Supplementary Benefits Act 1976 or section 24 of the Social Security Act 1986;”.

11. For paragraph (e) of Schedule 5, there shall be substituted the following—

“(dd) any payment made out of the social fund under section 32 of the Social Security Act 1986;

(e) supplementary benefit, family income supplement, income support, family credit and benefit payable under the Child Benefit Act 1975 (e);”.

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

(b) 1976 c.71.

(c) By S.I. 1986/643, the sum specified in section 1(1) of the Legal Aid Act 1974 in relation to assistance by way of representation is £3000.

(d) S.I. 1987/1967.

(e) 1975 c.61.

12. For paragraph (g) of Schedule 5, there shall be substituted the following—
“(g) any rebate or allowance under Part II of the Social Security and Housing Benefits Act 1982^(a) or housing benefit under the Social Security Act 1986;”.

Dated 8th March 1988

Mackay of Clashfern, C.

*Mark Lennox-Boyd
David Lightbown*

Dated 9th March 1988 Two of the Lords Commissioners of Her Majesty's Treasury

^(a) 1982 c.24.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Legal Advice and Assistance Regulations (No. 2) 1980

- (a) in consequence of the provisions of the Social Security Act 1986 relating to income support, family credit, housing benefit and the social fund (Regulations 1 to 5, 7 to 17), and
- (b) in consequence of the provisions of regulation 5(1) of the Legal Advice and Assistance at Police Stations (Remuneration) Regulations 1988 (S.I. 1988/423) (Regulation 6).

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