
STATUTORY INSTRUMENTS

1995 No. 2034

The Church of England (Legal Aid) Rules 1995

PART III

APPLICATIONS FOR LEGAL AID AND ISSUE OF CERTIFICATES

Applications for legal aid

8.—(1) An application for legal aid—

- (a) shall be made in writing in a form approved by the Commission or in such other manner, being in writing, as the secretary may accept as sufficient in the circumstances of the case; and
- (b) shall be lodged with the secretary.

(2) Every application for legal aid shall state the name and address of the solicitor selected by the applicant to act for him in the proceedings concerned, and shall also contain such information and be accompanied by such documents as may be requisite to enable the Commission to determine—

- (a) the nature of the proceedings to which the application relates;
- (b) whether the applicant could afford to proceed without legal aid; and
- (c) whether the applicant has reasonable grounds for taking or defending or being a party to the proceedings.

(3) Any application for legal aid shall contain an undertaking made by the applicant that he will comply with the provisions of the Measure which relate to legal aid and with these Rules, and any such undertaking shall be made on a form approved by the Commission, or in such other manner, being in writing, as the secretary may accept as sufficient in the circumstances of the case.

Provision of additional information

9. An applicant shall, if required by the secretary or the Commission to do so for the purpose of providing additional information—

- (a) attend for interview by the secretary or the Commission;
- (b) supply such further documents or other information as the secretary or the Commission may require.

Interim certificates

10.—(1) The secretary may issue an interim certificate for legal aid on behalf of the Commission in any case in which the secretary on receiving an application under rule 8 considers that there are reasonable grounds for concluding that the applicant should be granted legal aid in respect of the whole or part of the costs to be incurred by any person before the determination of the application by the Commission.

(2) Before issuing an interim certificate under paragraph (1) the secretary shall consult the chairman of the Commission or, if it is not practicable to do so, shall consult two other members of the Commission one of whom shall be legally qualified.

Determination of applications for legal aid

11.—(1) Without prejudice to section 2(4) of the Measure (which provides that an applicant shall not be given legal aid if it appears to the Commission that he could afford to proceed without it) and section 2(5) of the Measure (which provides that in cases to which that subsection applies an applicant shall not be given legal aid unless he shows that he has reasonable grounds for taking or defending the proceedings or being a party thereto), the Commission in considering whether and to what extent to grant legal aid on an application made in accordance with these rules shall have regard to all the circumstances of the case.

(2) Where the Commission considers that legal aid should be granted in respect of some but not all the costs incurred by the applicant, (being costs incurred in or in relation to or directly or indirectly arising out of the proceedings concerned), the Commission may issue a certificate for—

- (a) the payment of a contribution towards those costs of an amount specified in the certificate; or
- (b) the payment of those costs subject to a contribution from the applicant of an amount so specified; or
- (c) the payment of such proportion of those costs as may be so specified; or
- (d) the payment of the costs of, or a specified proportion of the costs of, such part of the proceedings as may be so specified, whether by reference to issues in or stages of those proceedings.

(3) Where on any application the Commission considers that legal aid should not be granted, the Commission before making a final decision shall afford the applicant an opportunity of making representations, whether in writing or orally and whether in person or by his solicitor or counsel with respect to the application.

(4) The secretary shall notify the applicant and his solicitor in writing of the Commission's decision on his application for legal aid, but neither the applicant or his solicitor shall be entitled to any information as to the grounds for the decision.

(5) The decision of the Commission on any application shall be final.

(6) Where an application for legal aid is refused, no further application for legal aid may be made by the same applicant in relation to the same proceedings unless it contains or is accompanied by further information showing a material change of circumstances.

Issue and contents of certificates

12.—(1) The secretary shall send any certificate issued by or on behalf of the Commission together with a copy of the certificate to the applicant's solicitor and shall send a further copy of the certificate to the applicant.

(2) In addition to any provision included in the certificate by virtue of rule 11, the certificate shall specify—

- (a) the date on which it is issued;
- (b) the name and address of the applicant;
- (c) the name and address of the applicant's solicitor; and
- (d) the proceedings to which the certificate relates.

Contribution by assisted person

13. Where a certificate is issued under rule 11(2)(b), any contribution to be made by the assisted person which is specified in the certificate shall not be payable to the Commission or into the Fund, but the amount paid or payable out of the Fund on the authority of the certificate shall not exceed the amount (if any) by which the total amount of the costs incurred by the applicant, as taxed or assessed in accordance with Part VI, exceeds the amount of that contribution.