
STATUTORY INSTRUMENTS

1998 No. 1191

**LEGAL AID AND ADVICE,
ENGLAND AND WALES**

**The Legal Aid in Criminal and Care Proceedings
(Costs) (Amendment) Regulations 1998**

<i>Made</i>	- - - -	<i>7th May 1998</i>
<i>Laid before Parliament</i>		<i>11th May 1998</i>
<i>Coming into force</i>	- -	<i>1st June 1998</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 34 and 43 of the Legal Aid Act 1988⁽¹⁾, having had regard to the matters specified in section 34(9) and having consulted the General Council of the Bar and the Law Society and with the consent of the Treasury, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Legal Aid in Criminal and Care Proceedings (Costs) (Amendment) Regulations 1998 and shall come into force on 1st June 1998.

Interpretation

2. In these Regulations, any reference to a regulation or Schedule by number alone is a reference to the regulation or Schedule so numbered in the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989⁽²⁾.

Transitional provisions

3.—(1) Regulations 6 and 8 shall apply for the determination of costs payable in respect of attendance at a pleas and directions hearing or pre-trial review on or after 1st June 1998, and costs payable in respect of attendance at such a hearing before that date shall be payable as if these Regulations had not come into force.

(2) The remaining provisions of these Regulations shall apply for the determination of costs which are payable in respect of work done under a legal aid order made on or after 1st June 1998,

(1) 1988 c. 34; sections 34 and 43 were amended by the Courts and Legal Services Act 1990 (c. 41). Schedule 18, paragraphs 60 and 63. Section 43 is cited because of the meaning given to “regulations”.
(2) S.I. 1989/343, as amended by S.I. 1990/488, 1991/529, 1993/934, 1994/1477, 1995/952 and 1996/644 and 2655.

and costs payable in respect of work done under a legal aid order made before that date shall be determined as if these Regulations had not come into force.

Amendments to the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989

4. In regulations 6(3) and 9(5)(a), for “1998” there shall be substituted “1999”.
5. The following shall be substituted for paragraph 4(d) of Schedule 3—
 - “(d) one or more registered medical practitioners has given oral evidence for the purposes of section 37(2)(a) of the Mental Health Act 1983(3); or”.
6. In paragraph 11 of Schedule 3—
 - (a) for “an advocate” in sub-paragraph (1) there shall be substituted “any person”;
 - (b) sub-paragraphs (2) and (3) shall be omitted.
7. Paragraph 19(1) of Schedule 3 shall be amended as follows:—
 - (a) in paragraph (b), the words “to and from a prison” shall be omitted;
 - (b) in paragraph (b), after the word “person” there shall be inserted “, where the appropriate authority is satisfied that the legally assisted person was unable or could not reasonably have been expected to attend a conference at the advocate’s office or chambers;”;
 - (c) after paragraph (b) there shall be inserted the following:—

“and where that fee is allowed the advocate shall also be paid the reasonable expenses of travelling to and from the conference”.
8. In the Table following paragraph 21 of Schedule 3, the entries entitled “Pleas and directions hearing—length of trial uplift” and “Appearing at pleas and directions hearing or pre-trial review (other than by advocate)” shall be omitted.

Dated 5th May 1998

Irvine of Lairg, C.

We consent,

Dated 7th May 1998

Bob Ainsworth
John McFall
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989 so that—

- (a) the date after which certain work may be remunerated at discretionary instead of prescribed rates is altered from 30th June 1998 to 30th June 1999;
- (b) cases in which medical evidence is given under section 37(2) of the Mental Health Act 1983 are excluded from the graduated fees scheme;
- (c) the fixed fee for attendance at a pleas and directions hearing or pre-trial review is the same whether or not the person who attends is the advocate in the case, and the length of trial uplift to that fee is abolished;
- (d) an advocate remunerated under the graduated fees scheme is entitled to a fee for the time spent travelling to and from conferences with the legally assisted person, if that person could not reasonably have been expected to attend at the advocate's office or chambers, and to the reasonable expenses of such travel.