STATUTORY INSTRUMENTS

1990 No. 484

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Civil Legal Aid (Assessment of Resources) (Amendment) Regulations 1990

Made - - - -	*5th March 1990*
Laid before Parliament	*9th March 1990*
Coming into force	
regulation 4(5)(a), (b) and (d)	*1st April 1990*
remainder	*9th April 1990*

The Lord Chancellor, in exercise of the powers conferred on him by sections 15(1), 16, 34 and 43 of the Legal Aid Act 1988**(a)** and with the consent of the Treasury, hereby makes the following Regulations:–

Citation and commencement

1.—(1) These Regulations may be cited as the Civil Legal Aid (Assessment of Resources) (Amendment) Regulations 1990.

(2) Regulation 4(5)(a), (b) and (d) of these Regulations shall come into force on 1st April 1990 and the other regulations shall come into force on 9th April 1990.

Interpretation

2. In regulation 3(4) and regulation 4 of these Regulations a regulation or Schedule referred to by number means a regulation or Schedule so numbered in the Civil Legal Aid (Assessment of Resources) Regulations 1989**(b)**.

Transitional provisions

3.—(1) Subject to paragraphs (2) and (3) below–

(a) these Regulations shall apply to applications for legal aid where the period of computation as defined in regulation 3(1) of the Civil Legal Aid (Assessment of Resources) Regulations 1989 begins on or after 9th April 1990;

(b) assessments and reassessments made in respect of applications where the period of computation begins before 9th April 1990 shall be made as if these Regulations had not come into force.

(2) Regulations 4(2), 4(3), 4(5)(e) and 4(6) (c) shall apply to all assessments and reassessments made on or after 9th April 1990.

(3) Regulations 4(5)(a), (b) and (d) shall apply to all assessments and reassessments made on or after 1st April 1990.

(4) Where an assessment has been made in relation to–

(a) an application by or on behalf of a child under the upper limit of compulsory school age before the commencement of regulation 4(2); and

(b) a contribution is still payable; and

(a) 1988 c.34; section 43 is an interpretation provision and is cited because of the meanings assigned to the words "prescribed" and "regulations". **(b)** S.I. 1989/338.

(c) these facts are brought to the attention of the assessment officer;

there shall be deemed to be a change of circumstances for the purposes of regulation 12.

Amendment of the Civil Legal Aid (Assessment of Resources) Regulations 1989

4.—(1) For regulation 4 there shall be substituted the following regulation:

"Computation of disposable capital, disposable income and maximum contribution

4.—(1) Subject to the provisions of these Regulations, the assessment officer shall –

(a) take into account the financial resources of the person concerned; and

(b) compute his income and capital in accordance with Schedules 2 and 3;

and, in these Regulations, "disposable income" and "disposable capital" mean the amounts of income and capital available for the making of a contribution after the person concerned's income and capital have been computed in accordance with those Schedules.

(2) Subject to paragraph (3) below, legal aid shall be available to a person whose disposable income does not exceed £6,350 a year but a person may be refused legal aid where–

(a) his disposable capital exceeds £6,310; and

(b) it appears to the Area Director that he could afford to proceed without legal aid.

(3) Where the subject matter of the dispute in respect of which the legal aid application has been made includes a claim in respect of personal injuries, legal aid shall be available to a person whose disposable income does not exceed £7,000 a year but a person may be refused legal aid where–

(a) his disposable capital exceeds £8,000; and

(b) it appears to the Area Director that he could afford to proceed without legal aid.

(4) The maximum contribution which a person who desires to receive legal aid shall be liable to make is –

(a) where his disposable income exceeds £2,645 a year, a contribution in respect of disposable income not greater than on quarter of the excess;

(b) where his disposable capital exceeds £3,000, a contribution in respect of disposable capital not greater than the excess.

(5) In this regulation "personal injuries" includes any death and any disease or other impairment of a person's physical or mental condition."

(2) Regulation 8 shall be omitted.

(3) In regulation 9 after the words "disposable capital" there shall be inserted the words ", whether for the purpose of making himself eligible for legal aid, reducing his liability to pay a contribution towards legal aid or otherwise".

(4) In regulation 15(2) for the words "regulation 4(2) and (3)" there shall be substituted the words "regulation 4(2) to (4)".

(5) In Schedule 2–

(a) after paragraph 4 there shall be inserted the following new paragraph–

"**4A.** In computing the income of the person concerned, there shall be deduted any sums payable (net of community charge benefit) by the person concerned in respect of the personal community charge to which he is subject by virtue of section 2 of the Local Government Finance Act 1988**(a)**,";

(b) in sub-paragraph (2) of paragraph 9 for the word "rates" there shall be substituted the words "any domestic rates and water and sewerage charges,";

(a) 1988 c.41.

(c) in paragraph 5 for the words "regulation 4(3)(a)" there shall be substituted the words "regulation 4(4)(a)";

(d) in paragraph 10 after the words "in the circumstances" there shall be inserted the words "including any net sum payable by him by way of contribution towards the community charge to which the person with a qualifying interest in such accommodation is subject by virtue of section 5 of the Local Government Finance Act 1988"

(e) in paragraph 11(1)(b)(i) and (ii) the words "for the time being" shall be omitted and after "**(a)**" and "**(b)**" respectively there shall be inserted the words "which applied at the beginning of the computation period".

(6) In Schedule 3 –

(a) in paragraph 7 for the words "regulation 4(3)(b)" there shall be substituted the words "regulation 4(4)(b)";

(b) after paragraph 14 there shall be inserted the following new paragraph–

"**14A.**—(1) Where the person concerned is of pensionable age and his annual disposable income (excluding any net income derived from capital) is less than the figure for the time being prescribed in regulation 4(4)(a) there shall be disregarded the amount of capital as specified in the following table:–

annual disposable income (excluding net income derived from capital)	*amount of capital disregard*
up to £400	£25,000
£401–900	£20,000
£901–1,400	£15,000
£1,401–1,900	£10,000
£1,901 and above	£ 5,000

(2) in this Schedule "pensionable age" means –

(a) in the case of a man, the age of 65; and

(b) in the case of a woman, the age of 60.";

(c) after paragraph 14A of Schedule 3 there shall be inserted the following new paragraph–

"**14B**. In computing the amount of capital of the person concerned there shall be wholly disregarded any capital payment received from any source which is made in relation to the incident giving rise to the dispute in respect of which the legal aid application has been made.".

Dated 28th February 1990

Mackay of Clashfern, C.

We consent,

John Taylor

Stephen Dorrell
Two of the Lords Commissioners
of Her Majesty's Treasury

Dated 5th March 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Legal Aid (Assessment of Resources) Regulations 1989 by –

(1) increasing the free limit and eligibility limit of disposable income for civil legal aid from £2,515 and £6,035 to £2,645 and £6,350 respectively (regulation 4(1));

(2) increasing the eligibility limit for disposable capital from £6,000 to £6,310 (regulation 4(1));

(3) increasing the eligibility limits for disposable income to £7,000 and disposable capital to £8,000 where the application for legal aid is made in respect of a personal injury claim (regulation 4(1));

(4) omitting regulation 8 of the 1989 Regulations so that a child's resources are separately assessed and are no longer taken to include sums to another payable for his maintenance (regulation 4(2));

(5) amending regulation 9 of the 1989 Regulations to allow account to be taken of resources of which an applicant has deprived himself for whatever reason (regulation 4(3));

(6) making provision for allowances to be made in respect of the community charge and water and sewerage charges (regulation 4(5)(a), (b) ands (d));

(7) preserving the dependents' allowances applicable at the beginning of the computation period (regulation 4(5)(e);

(8) allowing an additional disregard of capital on a sliding scale in respect of persons of pensionable age where their disposable income (excluding investment income) is below the free income limit (regulation 4(6)(b));

(9) allowing a disregard in respect of capital payments made in relation to the incident which has led to the litigation (eg disaster fund payments) (regulation 4(6)(c)).

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