STATUTORY INSTRUMENTS

1985 No. 1879

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Legal Advice and Assistance (Amendment) (No. 2) Regulations 1985

Made - - - -	*3rd December* 1985
Laid before Parliament	*5th December* 1985
Coming into Operation	*1st January* 1986

The Lord Chancellor, in exercise of the powers conferred on him by section 20 of the Legal Aid Act 1974 (**a**), hereby makes the following Regulations:—

1. These Regulations may be cited as the Legal Advice and Assistance (Amendment) (No. 2) Regulations 1985 and shall come into operation on 1st January 1986.

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

3. In regulation 3—

(a) after the definition of "appropriate area committee" insert the following definition—

" 'arrestable offence' has the meaning given to it by section 24 of the Police and Criminal Evidence Act 1984 (**c**);"; and

(b) after the definition of "supplementary benefit" insert the following definition—

" '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.".

4. In regulation 5—

(a) in paragraph (1), after "England and Wales)", there shall be inserted "or paragraph (2) of regulation 7A (provision of advice and assistance at police stations)";

(b) in paragraph (2), after "regulation 7A", there shall be inserted "or regulation 19A".

5. In regulation 7—

(a) in paragraph (1), after "regulation 7A", there shall be inserted "or regulation 19A";

(b) in paragraph (3), after "regulation 7A", there shall be inserted "or regulation 19A";

(c) in paragraph (4), after "shall not", there shall be inserted ", except where regulation 7A applies".

(**a**) 1974 c.4.
(**b**) S.I. 1980/1898, as amended by S.I. 1985/1491 and other instruments not relevant to these Regulations.
(**c**) 1984 c.60.

6. For regulation 7A there shall be substituted—

"Provision of advice and assistance at police stations

7A—(1) A client who—

(*a*) is arrested and held in custody at a police station or other premises; or

(*b*) is a volunteer,

and seeks advice and assistance from a solicitor shall not be required to pay a contribution under section 4(2) of the Act towards any charges or fees incurred in respect of the advice and assistance.

(2) An application for advice and assistance in the circumstances specified in paragraph (1) may be made by telephone to the solicitor from whom the advice and assistance is sought.".

7. After regulation 7A there shall be inserted—

"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 in connection with an offence otherwise than an arrestable offence or who is a volunteer shall not exceed the limit imposed by virtue of section 3(2) of the Act.".

8. In regulation 8—

(a) in paragraph (1), after "shall", there shall be inserted ", except where paragraph (1A) applies,"; and

(b) after paragraph (1) there shall be inserted—

"(1A) A solicitor may accept an application for advice and assistance from a child who—

(a) is arrested and held in custody at a police station or other premises; or

(b) is a volunteer,

where the solicitor is satisfied that the application cannot reasonably be made by any of the persons specified in paragraph (2) *(a), (c)* or *(d)*.".

9. For regulation 10 there shall be substituted—

"**10.**—(1) A person shall not, except where regulation 7A applies, be given advice and assistance for the same matter by more than one solicitor without the prior authority of the general committee, and such authority may be given on such terms and conditions as the committee may in its discretion see fit to impose.

(2) Where regulation 7A applies, a person may be given advice and assistance for the same matter by more than one solicitor without the prior authority of the general committee provided that the cost of that advice and assistance shall not exceed the cost that would have been incurred had it been given by one solicitor.".

10. In paragraph (1) of regulation 15, after "regulation 17(5)", there shall be inserted "and except where regulation 7A applies".

11. After regulation 19 there shall be inserted—

"Representation by a solicitor in respect of application for warrants of further detention

19A—(1) The approval of a general committee shall not be required for assistance by way of representation given by a solicitor to a person in relation to whom an application for a warrant of further detention or for an extension of such a warrant is made to the magistrates' court under section 43 or 44 of the Police and Criminal Evidence Act 1984.

(2) A person given assistance by way of representation in the circumstances specified in paragraph (1) shall not be required to pay a contribution under section 4(2) of the Act towards any charges or fees incurred in respect of the assistance by way of representation.".

12. In regulation 23—

(a) in paragraph (1), after "shall", there shall be inserted ", except where paragraph (1A) applies,";

(b) after paragraph (1), there shall be inserted—

"(1A) A claim for charges or fees properly chargeable for advice and assistance given in the circumstances specified in regulation 7A shall be made to the appropriate area committee in accordance with the Advice and Assistance at Police Stations (Remuneration) Regulations 1985 (**a**).''; and

(c) in paragraph (2), in paragraph (3) where it appears for the first time and in paragraph (4), the word "approved" shall be omitted.

Hailsham of St. Marylebone, C.

Dated 3rd December 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Legal Advice and Assistance Regulations (No. 2) 1980 making the following main changes:—

(i) assistance by way of representation under section 2A of the Legal Aid Act 1974 is extended to persons in respect of whom an application for a warrant of further detention or for an extension of such a warrant is made under section 43 or 44 of the Police and Criminal Evidence Act 1984;

(ii) the means test and contributions conditions which would otherwise apply under the Legal Aid Act 1974 are abolished in respect of applications for advice and assistance by persons being questioned at police stations and for assistance by way of representation in relation to proceedings under section 43 or 44 of the Police and Criminal Evidence Act 1984.

(**a**) S.I. 1985/1880.

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