STATUTORY INSTRUMENTS

1986 No. 275

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Legal Advice and Assistance (Amendment) Regulations 1986

Made - - - -	17*th February* 1986
Laid before Parliament	19*th February* 1986
Coming into Force	12*th March* 1986

The Lord Chancellor, in exercise of the powers conferred on him by section 20 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 1986 and shall come into force on 12th March 1986.

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

2. In regulation 3—

(a) in the definition of "secretary", for "secretary of the appropriate area committee" and "the secretary's" respectively there shall be inserted "Area Director for each area" and "his";

(b) after the definition of "secretary" there shall be inserted the following definition—

" 'serious service offence' means an offence under any of the Army Act 1955 **(c)**, the Air Force Act 1955 **(d)** or the Naval Discipline Act 1957 **(e)** which cannot be dealt with summarily or which appears to an interviewing service policeman to be serious;".

3. For regulation 4, there shall be substituted—

"4. Any function, except the determination of an appeal under regulation 21(B), which an area committee is required or entitled to perform under these Regulations may be performed on behalf of the committee by the secretary.".

4. In regulation 7A, after paragraph (1)*(a)*, there shall be inserted the following new paragraph—

"(aa) is being interviewed in connection with a serious service offence; or,".

(a) 1974 c.4.
(b) S.I. 1980/1898, as amended by S.I. 1985/1491 and 1879 and other instruments not relevant to these Regulations.
(c) 1955 c.18. **(d)** 1955 c.19. **(e)** 1957 c.53.

5. For regulation 16 there shall be substituted—

"16. The appropriate authority for the approval of assistance by way of representation under section 2A of the Act shall be the area committee.".

6. After regulation 21, there shall be inserted—

"Appeals against refusal of assistance by way of representation etc.

21A.—(1) Where the secretary—

(a) refuses an application for the approval of assistance by way of representation; or

(b) refuses authority in respect of any of the matters set out in paragraph (4)*(a)* to *(c)* of regulation 17; or

(c) withdraws approval of assistance by way of representation,

the client may appeal to the appropriate area committee.

(2) An appeal shall be made by giving notice on a form approved by the Law Society within 14 days of the secretary's decision to refuse the application or authority or withdraw approval.

Determination of appeals

21B.—(1) The area committee shall, on an appeal under regulation 21A, reconsider the application for approval or authority or the circumstances set out in paragraph (1)*(a)* to *(c)* of regulation 21 and shall–

(a) dismiss the appeal; or

(b) in the case of an application for approval or authority, grant the application subject to such terms and conditions as the committee thinks fit; or

(c) in the case of a decision to withdraw approval, quash that decision.

(2) The decision of the area committee on an appeal shall be final and it shall give notice of its decision, and the reasons for it, to the client and to any solictor acting for him.

(3) Where the secretary's decision to withdraw approval is quashed on appeal by the area committee, the solicitor shall, in respect of proceedings specified in schedule 4, notify any other party to the proceedings and the court, if any, in which the proceedings are pending.".

7. In subparagraphs (i) and (ii) of paragraph 8*(b)* of schedule 2 for "50 per cent" there shall be substituted "25 per cent".

8. The regulations specified in column 1 of the Schedule to these Regulations shall be amended in accordance with column 2 of that Schedule.

Dated 13th February 1986.

*Hailsham of St. Marylebone,*C.

Dated 17th February 1986.

Donald Thompson,
T. Garel-Jones,
Two of the Lords Commissioners of Her Majesty's Treasury.

Regulation 8

SCHEDULE

Regulation	Amendment
Regulation 3	The definition of "general committee" shall be omitted.
Regulation 8	In paragraph (1), for "general committee" and "it", in the first and second places in which it appears, there shall be substituted "secretary" and "he".
Regulation 9	For "general committee" and "it", in the first place in which it appears, there shall be substituted "secretary" and "he".
Regulation 10	In paragraphs (1) and (2), for "general committee" there shall be substituted "secretary" and, in paragraph (1), for "committee" and "its" there shall be substituted "he" and "his".
Regulation 12	For "general committee", "it" and "its" there shall be substituted "secretary", "the secretary" and "his".
Regulation 13	For "general committee", "it", in the first place in which it appears, "its" and "it", in the second place in which it appears, there shall be substituted respectively "secretary", "he", "his" and "him".
Regulation 15	In paragraphs (1), (2), (3) and (4), for "general committee" there shall be substituted "secretary"; in paragraph (2), for "it" there shall be substituted "he"; in paragraph (3), for the first place in which "it" appears, there shall be substituted "he"; and in paragraph (4), for "it", in each place in which it appears apart from the first place, there shall be substituted "he".
Regulation 17	In paragraphs (1), (2), (4) and (5), for "general committee" there shall be substituted "secretary"; in paragraph (4), for "its" and "it", in the first place in which it appears, there shall be substituted "his" and "he"; in paragraph (5), for "it", in the second place in which it appears, there shall be substituted "he" and paragraph (6) shall be omitted.
Regulation 18	For "general committee" and "its" there shall be substituted "secretary" and "his" and for "it", in the second and third places in which it appears, there shall be substituted "he".
Regulation 19	For "general committee" there shall be substituted "secretary".
Regulation 19A	For "general committee" there shall be substituted "secretary".
Regulation 21	In paragraphs (1) and (2), for "general committee" there shall be substituted "secretary" and in paragraph (1), for "it", in the first and second places in which it appears, and for "its" there shall be substituted "he" and "his".

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Legal Advice and Assistance Regulations (No. 2) 1980, providing that the powers presently exercisable under the Regulations by the general committees of the Law Society shall be exercised instead by the secretary of each legal aid area. Provision is made for appeals against the refusal of applications for approval of assistance by way of representation and in respect of certain other matters to lie to the area committee. The dependants' allowances applied in assessing eligibility for legal advice and assistance are reduced from 50% to 25% above supplementary benefit levels. Other amendments of a minor and drafting nature are also made.

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