STATUTORY INSTRUMENTS

1987 No. 443

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Legal Advice and Representation (Duty Solicitor) (Remuneration) Regulations 1987

Made - - - -	*16th March 1987*
Laid before Parliament	*20th March 1987*
Coming into force	*10th April 1987*

The Lord Chancellor, in exercise of the powers conferred on him by section 20(1)of the Legal Aid Act 1974(**a**) and section 1 of the Legal Aid Act 1982(**b**), and with the concurrence of the Treasury, hereby makes the following Regulations:–

Title and Commencement

1. These Regulations may be cited as the Legal Advice and Representation (Duty Solictor) (Remuneration) Regulations 1987 and shall come into force on 10th April 1987.

Interpretation

2. In these Regulations, unless the context otherwise requires:–

"the 1974 Act" means the Legal Aid Act 1974;

"the 1982 Act" means the Legal Aid Act 1982;

"bank holiday" means a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(**c**);

"duty day" means a day during which a duty solicitor is present at a magistrates' court in accordance with a scheme;

"duty solicitor" means a solicitor who is present at a magistrates' court in accordance with a scheme;

"the 1982 Regulations" means the Legal Aid in Criminal Proceedings (Costs) Regulations 1982(**d**);

"remuneration" means any sum payable to a duty solicitor under section 1 of the 1982 Act;

"scheme" means a scheme made under section 15 of the 1974 Act and section 1 of the 1982 Act which provides for the making of arrangements in accordance with which advice and representation is provided by solicitors in attendance at magistrates' courts.

Revocation

3. The Legal Advice and Representation (Duty Solicitor) (Remuneration) Regulations 1983(**e**) are hereby revoked.

(**a**) 1974 c. 4; section 20 was amended by the Legal Aid Act 1979 (c. 26) section 4(2) and by the Civil Jurisdiction and Judgments Act 1982 (c. 27), section 40(1).
(**b**) 1982 c. 44; section 1 was amended by the Police and Criminal Evidence Act 1984 (c. 60), section 59.
(**c**) 1971 c. 80.
(**d**) S.I. 1982/1197; relevant amending instruments are S.I. 1983/1049, 1984/112, 1986/273, 444, 1515, 1835 and 1987/369 made on 4th March 1987.
(**e**) S.I. 1983/1451.

General

4.—(1) Remuneration shall be determined by the Law Society in accordance with these Regulations.

(2) The Law Society may appoint or authorise the appointment of determining officers to act on its behalf under these Regulations in accordance with directions given by it or on its behalf.

Claims for remuneration

5.—(1) A claim for remuneration by a duty solicitor shall be submitted to the Law Society in such form and manner as it may direct and any such claim shall be submitted within 3 months of the duty day in respect of which the claim is made.

(2) The duty solicitor shall supply such further particulars, information and documents as the Law Society may require

(3) The time limit within which the claim for remuneration must be submitted may, for good reason, be extended by the Law Society.

Determination of remuneration

6.—(1) The Law Society shall consider the claim, any further particulars, information or documents submitted by the duty solicitor and any other relevant information and allow:–

(a) such time as it considers reasonable in respect of work done, including attendance and waiting, at a magistrates' court which it considers has been actually and reasonably done in accordance with a scheme; and

(b) such time as it considers was reasonably taken by a duty solicitor in travelling from his place of work (or, on a bank holiday, a Saturday or a Sunday after 10th April 1987, from his place of residence) to a magistrates' court; and in returning therefrom, where that solicitor is called out under a scheme to act as a duty solicitor at that court.

(2) The Law Society shall allow remuneration:–

(a) in respect of (1)(a) above at such rate as is the average of the two separate standard rates provided for advocacy and for travelling and waiting respectively in paragraph 1(a) of Schedule 1 to the 1982 Regulations; and

(b) in respect of (1)(b) above at the same rate as the standard rate provided for travelling and waiting in paragraph 1(a) of Schedule 1 to the 1982 Regulations;

provided that the standard rates shall be those which would apply to work done under the 1982 Regulations on the same day as the duty day in respect of which the claim is made.

Travelling expenses

7. Where the Law Society allows travelling time under Regulation 5(1)(b) above it may also allow such travelling expenses as it considers have been actually and reasonably incurred.

Payment of remuneration

8. Having determined the remuneration payable in respect of work done by a duty solicitor in accordance with these Regulations the Law Society shall authorise payment in accordance with the terms of a scheme.

Dated 13th March 1987 — *Hailsham of St Marylebone*, C.

We concur

Michael Neubert
Tim Sainsbury

Dated 16th March 1987 — Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the determination by the Law Society of the remuneration payable to duty solicitors providing advice and representation at magistrates' courts under section 1 of the Legal Aid Act 1982. The rates of remuneration are fixed by reference to the rates provided for advocacy and for travelling and waiting (currently £40.50 and £19.00 per hour respectively) in paragraph 1(*a*) of Schedule 1 to the Legal Aid in Criminal Proceedings (Costs) Regulations 1982, as amended by the Legal Aid in Criminal Proceedings (Costs) (Amendment) Regulations 1987.