LEGAL ADVICE

1959 No. 47

The Legal Advice Regulations, 1959

Made - - - -	*9th January,* 1959
Laid before Parliament	*16th January,* 1959
Coming into Operation	*2nd March,* 1959

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In pursuance of the powers conferred upon me by Part I of the Legal Aid and Advice Act, 1949(a), I, David Viscount Kilmuir, Lord High Chancellor of Great Britain, hereby make the following Regulations:—

Title, Commencement and Interpretation

1.—(1) These Regulations may be cited as " The Legal Advice Regulations, 1959 " and shall come into operation on the second day of March, 1959.

(2) The Interpretation Act, 1889(b), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(3) In these Regulations unless the context otherwise requires the following expressions have the meanings hereinafter respectively assigned to them:—

" the Act " means the Legal Aid and Advice Act, 1949 ;

" applicant " means an applicant for legal advice acting either in person or through another person authorised by him to receive advice on his behalf ;

" appropriate Area Committee " means the Area Committee in whose area application for legal advice has been made or legal advice has been given or in whose area a solicitor carries on business ;

" Area Committee " means an Area Committee appointed by the Council of The Law Society under the provisions of a scheme ;

" capital " means the amount or value of every resource of a capital nature ;

(a) 12, 13 & 14 Geo. 6. c. 51. (b) 52 & 53 Vict. c. 63.

" child " means a person under the age of sixteen ;

" the Fund " means the legal aid fund ;

" income " means the total income from all sources ;

" legal advice " means oral advice on legal questions within the meaning of subsections (2) and (11) of section 7 of the Act and includes help in preparing an application to an appropriate Area Committee under the provisions of Regulation 4, but does not include advice on any matters on which the applicant is receiving legal aid under the provisions of Part I or Part II of the Act ;

" legal question " means a question as to the application of English law to given facts ;

" matter " means the subject in respect of which legal questions arise ;

" national assistance " means assistance under the provisions of Part II of the National Assistance Act, 1948 ;

" scheme " means a scheme made under section 8 of the Act.

Nature and General Conditions of Legal Advice

2.—(1) Legal advice under the Act and these Regulations shall be given by solicitors in ordinary practice and The Law Society shall make arrangements for the preparation and maintenance of panels of solicitors willing to be employed in giving such advice.

(2) Any solicitor who undertakes with The Law Society to give legal advice shall be entitled to have his name placed on the panels, or any of them, unless there is good reason for excluding him arising out of his conduct on receiving an application to give, or when giving, legal advice, or his professional conduct generally, or, in the case of a member of a firm of solicitors, out of that of any person who is for the time being a member of the firm.

(3) In the succeeding provisions of these Regulations the expression " solicitor " means a solicitor whose name appears on a legal advice panel.

(4) Subject to the provisions of these Regulations legal advice shall be given by a solicitor to any person (not being a child) who—

(*a*) is entitled under the next succeeding Regulation to legal advice and has an interest in the legal question on which legal advice is sought, whether directly, indirectly or in a representative, fiduciary or official capacity and notwithstanding that the interest arises jointly with or is the same as that of other persons, or

(*b*) is authorised to receive legal advice on his behalf by any other person so entitled and interested who cannot for good reason attend personally upon a solicitor,

notwithstanding that there are available to the applicant other rights or facilities for legal advice or that he has a reasonable expectation of receiving financial or other help from a body of which he is a member.

(5) A person seeking legal advice shall be liable to pay to the solicitor on behalf of the Fund a fee of half a crown in respect of the interview (or, if he has more than one interview, in respect of the first of such interviews) at which he seeks legal advice on a particular legal question unless he or, as the case may be, the person on whose behalf he is seeking legal advice, or (in either case) the spouse of such person living with him, is in receipt of national assistance at the date of the application.

(6) A person shall not be given legal advice—

(*a*) on any one legal question (whether at one or more interviews) for longer than one hour and thirty minutes, or

(*b*) on the same matter from more than one solicitor,

without the prior authority of the appropriate Area Committee and such authority shall be given only on such terms and conditions, whether as to payment of a further fee or otherwise, as the Area Committee may in their discretion think fit to impose.

Financial Conditions of Legal Advice

3.—(1) Subject to the provisions of these Regulations, an applicant shall be entitled to legal advice if he satisfies a solicitor that he cannot afford to obtain it in the ordinary way, but in no case shall any person be entitled to legal advice if he has capital of more than £75 or (save where he is in receipt of national assistance) if, after allowing for any deduction made under paragraph (4) of this Regulation, he received or became entitled to more than £4 10*s*. 0*d*. by way of income during or in respect of the seven days up to and including the date of his application.

(2) In computing the capital and income of an applicant, the resources of any spouse of his shall be treated as the applicant's resources unless—

(*a*) the spouse has a contrary interest in the matter on which the applicant is seeking legal advice, or

(*b*) the applicant and his spouse are living separate and apart, or

(*c*) in all the circumstances of the case it would be either inequitable or impracticable to do so.

(3) In computing the capital of an applicant the value of his dwelling-house, household furniture and effects, articles of personal clothing and the tools and implements of his trade shall be left out of account.

(4) The deductions to be made from the income of an applicant shall be—

(*a*) £1 10*s*. 0*d*. in respect of any spouse of his if wholly or substantially maintained by him, or where the capital and income of the spouse are treated as his resources;

(*b*) £1 5*s*. 0*d*. in respect of any child wholly or substantially maintained by him, or by any spouse of his where the capital and income of the spouse are treated as his resources;

(*c*) £1 10*s*. 0*d*. in respect of any other person wholly or substantially maintained by him, or by any spouse of his where the capital and income of the spouse are treated as his resources;

(*d*) any income tax paid or payable by him or his spouse on income to be taken into account for the purpose of this Regulation; and

(*e*) any contribution paid or payable by him or, where the capital and income of any spouse of his are treated as his resources, by the spouse, under the provisions of the National Insurance Acts, 1946 to 1957, the National Insurance (Industrial Injuries) Acts, 1946 to 1957, and the National Health Service Contribution Acts, 1957 and 1958, in the contribution week ended during the seven days up to and including the the date of his application.

(5) Any question arising under this Regulation shall be decided by the solicitor to whom the application is made who, in deciding any such question, shall have regard to any guidance which may from time to time be given by The Law Society as to the application of this Regulation.

Applications for Legal Advice

4.—(1) Every person applying for legal advice shall furnish the solicitor, on such form as The Law Society may approve, with such information as will enable the solicitor to determine whether the applicant is entitled to legal advice.

(2) An applicant seeking legal advice—

(*a*) on any one legal question for longer than one hour and thirty minutes, or

(*b*) on a matter on which he has already received legal advice from another solicitor,

shall apply for the authority of the appropriate Area Committee in writing on such form as The Law Society may approve.

Duties of Solicitors

5.—(1) A solicitor shall be entitled for reasonable cause either to refuse to accept an application for legal advice or (having accepted an application) to decline to give legal advice, and may, if he thinks fit, refuse to disclose his reason to the applicant or person seeking legal advice on his behalf, but shall give the appropriate Area Committee such information as the Committee may from time to time require for the purpose of performing their functions under the scheme.

(2) A solicitor who has given legal advice shall complete such form as The Law Society may approve and shall send it to the appropriate Area Committee and shall give them such additional information as they may from time to time require for the purpose of performing their functions under the scheme and shall not be precluded, by reason of any privilege arising out of the relationship between solicitor and client, from disclosing such information to them.

(3) Nothing in these Regulations shall prevent a solicitor from entrusting any function under these Regulations to a partner of his or to a competent and responsible representative of his employed in his office.

Payment of Solicitors

6.—(1) A solicitor shall be responsible for receiving any fee payable by an applicant under the provisions of paragraph (5) of Regulation 2 and shall notify The Law Society of every fee which has become so payable.

(2) A solicitor shall be entitled to receive from the Fund the sum of £1 for every half-hour spent on giving legal advice to an applicant (whether at one or more interviews) or, where the total time spent on interviews is less than half an hour, to £1 for the time spent thereon, and to such further fee as the appropriate Area Committee may authorise in any case to which paragraph (6) of Regulation 2 applies, any fee payable to the solicitor under paragraph (5) of that Regulation being treated as a payment on account:

Provided that if the time so spent on interviews does not exceed 40 minutes the solicitor shall not be entitled to receive more than £1 in respect of those interviews.

(3) The Law Society shall pay to the solicitor the sum to which he is entitled under the last foregoing paragraph after deducting therefrom the amount of any fee due to the Fund under paragraph (5) of Regulation 2 and shall credit the Fund with that amount.

Repeated Applications for Legal Advice

7.—(1) Where a person has applied to an Area Committee under paragraph (2) of Regulation 4 on more than four occasions relating to the same

legal question or matter and has on each occasion been refused authority to obtain further legal advice and it appears to the Committee that his conduct amounts to an abuse of the facilities provided by the Act the Committee may, if they think fit, direct that no consideration shall be given to any future application for legal advice by that person on that legal question or matter and shall report thereon to The Law Society with such recommendations as seem to them to be just, and while the direction is in force no Area Committee need consider an application to which the direction applies.

(2) Where a person has sought legal advice on different legal questions, whether or not from the same solicitor and whether or not on the same matter, on more than six occasions and it appears to an Area Committee that his conduct amounts to an abuse of the facilities provided by the Act, the Committee may, if they think fit, direct that no consideration shall be given by any solicitor to any future application for legal advice by that person—

(*a*) with regard to any particular matter, or

(*b*) in exceptional circumstances, on any matter whatsoever,

and shall report thereon to The Law Society with such recommendations as seem to them to be just and while the direction is in force no solicitor shall give legal advice to the person to whom the direction refers.

(3) On receipt of any report from an Area Committee as provided by this Regulation, The Law Society shall give the person referred to therein an opportunity of making representations in writing on the recommendations (either directly or through some person acting on his behalf) and shall make such other enquiries as seem to them to be necessary and may—

(*a*) revoke or, if they are satisfied that such person's conduct has amounted to an abuse of the facilities provided by the Act, confirm or vary any direction made by the Area Committee, or

(*b*) if no direction has been given, give any direction which could have been given by an Area Committee under the provisions of this Regulation.

(4) No direction (whether given by an Area Committee or by The Law Society) under this or the next succeeding Regulation shall—

(*a*) apply to any committee, receiver, next friend or guardian *ad litem* applying for legal advice on behalf of the person in respect of whom the direction was given;

(*b*) remain in force for more than five years.

(5) Where under this or the next succeeding Regulation The Law Society give any direction or confirm or vary a direction given by an Area Committee they shall notify the Lord Chancellor thereof and shall, if so requested, furnish him with their reasons for the direction.

False Statements, etc.

8.—(1) Where the appropriate Area Committee are satisfied that an applicant has wilfully failed to comply with the provisions of these Regulations as to the information to be furnished by him or, in furnishing such information has knowingly made a false statement or false representation, or has wilfully failed to comply with the provisions of paragraph (2) of Regulation 4, the Committee may, if they think fit, report thereon to The Law Society, with such recommendations as seem to them to be just and where

they are satisfied that an applicant has wilfully failed to comply with the provisions of paragraph (2) of Regulation 4, the Committee may, in addition, give a direction (which shall have immediate effect) that no consideration shall be given by any solicitor to any future application for legal advice by that applicant on the legal question or matter in respect of which the failure arose.

(2) On receipt of any such report from an Area Committee, The Law Society may, after giving the applicant referred to in the report an opportunity of making representations in writing (either himself or by some other person acting on his behalf), either—

(*a*) direct that no consideration shall be given by an Area Committee or solicitor—

(i) to any future application for legal advice by the said applicant on the legal question or matter in respect of which the failure arose or the false statement or false representation was made, or

(ii) to any future application whatsoever for legal advice by the said applicant, or

(*b*) in the case of a wilful failure to comply with the provisions of paragraph (2) of Regulation 4, confirm, vary or revoke any direction given by the Area Committee.

(3) Where an applicant has wilfully failed to comply with the provisions of these Regulations as to the information to be furnished by him or, in furnishing such information, has knowingly made a false statement or false representation and the failure arose or the false statement or false representation was made prior to the receipt by the applicant of legal advice, The Law Society may declare that the legal advice so given was not given under the Act and these Regulations and shall so inform the applicant and the solicitor; and thereafter—

(*a*) The Law Society shall be entitled to recover from the applicant any sums paid out of the Fund to the solicitor in respect of the legal advice so given, and

(*b*) the solicitor shall be entitled to recover from the applicant the full amount of his costs payable in accordance with the normal rules applicable as between solicitor and own client.

Duties of Area Committees

9. Where under the provisions of Regulations 2, 3, 4 and 5 an Area Committee is required to perform any function, that function may, if the Area Committee so resolve, be performed on their behalf by their Chairman, Vice-Chairman or Secretary.

Dated this 9th day of January, 1959.

Kilmuir, C.

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations make provision for the giving of legal advice by solicitors in ordinary practice to persons with capital of not more than £75 and income of not more than £4 10*s.* 0*d.* in the week preceding the application for legal advice. In computing capital, the value of the applicant's

dwelling-house, furniture and certain other articles is to be left out of account, and deductions are to be made in computing income in respect of dependants, income tax, national insurance and other contributions. Unless the applicant or his spouse is in receipt of national assistance, he will be required to pay 2*s.* 6*d.* for the legal advice he gets and the solicitor giving it will normally be entitled to £1 for every half-hour spent giving it up to a maximum of £3. Special arrangements are made for the case in which legal advice is required for longer than one hour and a half. Provision is made for dealing with vexatious applicants and those making false statements.

1959 No. 1244

The National Assistance (Disregard of Assets) Order, 1959

Made - - - -	20*th July*, 1959
Laid before Parliament	23*rd July*, 1959
Coming into Operation	7*th September*, 1959

The Minister of Pensions and National Insurance, after consultation with the National Assistance Board and in exercise of powers conferred by section 1 of the National Assistance Act, 1959(a) and of all other powers enabling him in that behalf hereby makes the following order:—

Citation, commencement and interpretation

1.—(1) This order may be cited as the National Assistance (Disregard of Assets) Order, 1959, and shall come into operation on the 7th September, 1959.

(2) The Interpretation Act, 1889(b) applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

Amendment of paragraph 3 *of the Second Schedule to the National Assistance Act*, 1948

2. Paragraph 3 of the Second Schedule to the National Assistance Act, 1948(c), (hereinafter referred to as "the Act") shall be amended by substituting—

(*a*) for the words "fifty pounds" in both places where those words occur the words "one hundred pounds"; and

(*b*) for the words "four hundred pounds" the words "six hundred pounds";

and accordingly the said paragraph 3 shall have effect in the form set out in the First Schedule to this order.

Amendment of paragraph 5 *of the Second Schedule to the Act*

3.—(1) Paragraph 5 of the Second Schedule to the Act shall be amended by substituting—

(*a*) for the words "one pound" the words "thirty shillings", and

(*b*) for the words "ten shillings and sixpence" in both places where those words occur the words "fifteen shillings";

and accordingly the said paragraph 5 shall have effect in the form set out in the Second Schedule to this order.

(a) 7 & 8 Eliz. 2. c. 52. (b) 52 & 53 Vict. c. 63. (c) 11 & 12 Geo. 6. c. 29.