LEGAL ADVICE

1959 No. 174 (S. 3)

The Legal Advice (Scotland) Regulations, 1959

Made - - - -	*27th January*, 1959
Laid before Parliament	*3rd February*, 1959
Coming into Operation	*2nd March*, 1959

In exercise of the powers conferred on me by sections 7 and 12 of the Legal Aid (Scotland) Act, 1949(a), I hereby make the following regulations:—

Citation, Commencement and Interpretation

1.—(1) These regulations may be cited as the Legal Advice (Scotland) Regulations, 1959, and shall come into force on the 2nd 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 (Scotland) Act, 1949;

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

"appropriate Local Committee" means the Local 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;

"the Central Committee" means the Central Committee appointed by the Society under the provisions of a scheme;

"Local Committee" means a Local Committee appointed by the Society under the provisions of a scheme;

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

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

"the Fund" means the Legal Aid (Scotland) Fund;

"income" means total income from all sources;

"legal advice" means oral advice on legal questions in accordance with subsections (2) and (12) of section 7 of the Act and includes help in preparing an application to an appropriate Local Committee, under the provisions of Regulation 4 of these regulations, for authority to seek legal advice, but does not include advice

(*a*) on any matter on which the applicant is receiving legal aid under the provisions of Part I of the Act; or

(*b*) on any matter in connection with any criminal proceedings in which the applicant is an accused person;

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

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

" 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(a) ;

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

" the Society " means the Law Society of Scotland established by the Solicitors (Scotland) Act, 1949(b) ;

" solicitor " means a solicitor whose name appears on a legal advice list prepared and maintained by a Local Committee under the provisions of a scheme.

General Conditions of Legal Advice

2.—(1) Subject to the provisions of these regulations legal advice shall be given by a solicitor to any person, not being a pupil, who—

(*a*) is entitled under the next following 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 whether or not 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.

(2) 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.

(3) 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 by more than one solicitor,

without the prior authority of the appropriate Local 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 Local 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 he, after allowing for any deduction made under paragraph (4) of this Regulation, received or became entitled to more than £4 10s. by way of income during or in respect of the seven days up to and including the date of his application.

(a) 11 & 12 Geo. 6. c. 29. (b) 12, 13 & 14 Geo. 6. c. 63, Pt. II.

(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, the 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*) £1:10s.:—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*) £1:5s.:—in respect of any child wholly or substantially maintained by him or, where the capital and income of any spouse of his are treated as his resources, by the spouse;

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

(*d*) any income tax paid or payable by him or his spouse on income to be taken into account for the purposes 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 the applicant's 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 date of his application.

(5) Any question arising under this Regulation shall be decided by the solicitor to whom the application is made and the solicitor, in deciding any such question, shall have regard to any guidance which may from time to time be given by the Central Committee 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 Central Committee may approve, with such information as will enable him to determine whether the applicant is entitled to legal advice.

(2) An applicant seeking 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 a matter on which he has already received legal advice from another solicitor,

shall apply for the authority of the appropriate Local Committee in writing on such form as the Central Committee may approve.

Repeated Applications for Legal Advice

5.—(1) Where a person has applied to a Local Committee under paragraph (2) of the last foregoing Regulation 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, they may, if

they think fit, direct that no consideration shall be given to any future application under that paragraph by that person for authority to seek legal advice on that legal question or matter and shall report thereon to the Central Committee with such recommendations as seem to them to be just; and while such a direction is in force no Local 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 a Local Committee that his conduct amounts to an abuse of the facilities provided by the Act, they 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 Central Committee with such recommendations as seem to them to be just; and while such direction is in force the person to whom the direction refers shall not be entitled to receive legal advice on the matter referred to therein or on any matter whatsoever as the case may be.

(3) The Central Committee, on receipt from a Local Committee of any report made under this Regulation, may, after giving the person referred to therein an opportunity of making (either himself or by some other person acting on his behalf) representations in writing and after such enquiries as seem to them to be necessary—

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

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

(4) No direction given (whether by a Local Committee or by the Central Committee) under this or the next following Regulation shall—

(*a*) apply to any person appointed by a court of competent jurisdiction to act on behalf of the person in respect of whom the direction was given applying for legal advice on behalf of that person; or

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

(5) Where under this or the next following Regulation a Local Committee give a direction or the Central Committee give a direction or confirm, vary or revoke a direction given by a Local Committee, the Local Committee or, as the case may be, the Central Committee shall forthwith intimate in writing to the person to whom the direction refers that they have so done.

(6) Where under this or the next following Regulation the Central Committee give any direction or confirm or vary a direction given by a Local Committee, the Society shall inform the Secretary of State thereof and shall, if so requested, give him the Central Committee's reasons therefor.

False Statements, etc.

6.—(1) Where the appropriate Local 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 a false representation they shall report thereon to the appropriate criminal authority and to the Central Committee; and where they are satisfied that an applicant has wilfully failed to comply with the provisions of paragraph (2) of Regulation

4, they shall report thereon to the Central Committee and may, in addition, give a direction, which shall have immediate effect, that no consideration shall be given by any solicitor to any future application by that applicant for legal advice on the legal question or matter in relation to which such failure occurred; and while such direction is in force the person to whom the direction refers shall not be entitled to receive legal advice on that legal question or matter.

(2) The Central Committee, on receipt from a Local Committee of any report made under the preceding paragraph of this Regulation, may, after giving the person referred to therein an opportunity of making (either himself or by some other person acting on his behalf) representations in writing and after making such enquiries as seem to them to be necessary—

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

(i) to any future application by that person for legal advice on the legal question or matter in relation to which the failure occurred or the false statement or false representation was made; or

(ii) to any future application whatsoever by that person for legal advice; or

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

(3) While a direction given under paragraph (*a*) of the last foregoing paragraph remains in force the person to whom it refers shall not be entitled to receive legal advice on the question or matter referred to therein or on any matter whatsoever as the case may be.

Legal Advice obtained in breach of Regulations, etc.

7. 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 occurred or the false statement or false representation was made prior to the receipt by the applicant of legal advice, or has obtained legal advice when under these Regulations he was not entitled to receive it, the Central Committee may declare that the legal advice so given was not given under the Act and these regulations and shall inform the applicant and the solicitor accordingly; and thereafter

(*a*) the 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 fees and outlays payable in accordance with the normal rules applicable as between solicitor and client.

Dated this 27th day of January, 1959.

John S. Maclay,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

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 to persons with capital of not more than £75 and income of not more than £4 10s.

in the week preceding the application for legal advice. In computing capital, the value of the applicant's dwellinghouse, furniture and certain other articles is to be left out of account, and deductions are to be made in respect of dependants, income tax and national insurance and other contributions. Unless the applicant or his spouse is in receipt of national assistance, he will be required to pay 2s. 6d. Special arrangements are made for the case in which advice is required for longer than one hour and a half. Provision is made for dealing with vexatious applicants and those making false statements.

LOCAL GOVERNMENT, ENGLAND AND WALES

PROCEDURE

1959 No. 1

The Local Government (Allowances to Members) (Prescribed Bodies) Regulations, 1959

Made - - - -	*1st January*, 1959
Laid before Parliament	*5th January*, 1959
Coming into Operation	*6th January*, 1959

The Minister of Housing and Local Government, in exercise of his powers under sections 111, 115 and 117 of the Local Government Act, 1948(a) (in these regulations called " the Act of 1948 ") and of all other powers enabling him in that behalf, hereby makes the following regulations:—

1.—(1) These regulations may be cited as the Local Government (Allowances to Members) (Prescribed Bodies) Regulations, 1959, and shall come into operation on the 6th day of January, 1959.

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

2. The following bodies are hereby prescribed as bodies to which Part VI of the Act of 1948 (which makes provision in relation to allowances to members of local authorities and other bodies) shall apply, that is to say :—

(*a*) standing joint committees of quarter sessions and county councils appointed under section 30 of the Local Government Act, 1888(c) ;

(*b*) combined police authorities constituted in accordance with amalgamation schemes under the Police Act, 1946(d) ;

(*c*) local fisheries committees constituted under the Sea Fisheries Regulation Act, 1888(e) ;

(*d*) joint education committees established under paragraph 2 or 3 of Part II of the First Schedule to the Education Act, 1944(f), the members of which are not all representatives of local authorities ;

(*e*) licensing planning committees under section 54 of the Licensing Act, 1953(g) ;

(*f*) joint planning boards constituted under the Town and Country Planning Act, 1947(h), and the National Parks and Access to the Countryside Act, 1949(i), for areas being or including the whole or any part of National Parks ;

(a) 11 & 12 Geo. 6. c. 26. (b) 52 & 53 Vict. c. 63. (c) 51 & 52 Vict. c. 41.
(d) 9 & 10 Geo. 6. c. 46. (e) 51 & 52 Vict. c. 54. (f) 7 & 8 Geo. 6. c. 31.
(g) 1 & 2 Eliz. 2. c. 46. (h) 10 & 11 Geo. 6. c. 51. (i) 12, 13 & 14 Geo. 6. c. 97.