STATUTORY INSTRUMENTS

1966 No. 1348

LEGAL AID AND ADVICE, ENGLAND

The Legal Aid (Assessment of Resources) (Amendment) Regulations 1966

Made - - -	*25th October* 1966
Laid before Parliament	*1st November* 1966
Coming into Operation	*28th November* 1966

I, Gerald, Baron Gardiner, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by sections 4 and 12 of the Legal Aid and Advice Act 1949(a), and with the concurrence of the Treasury, hereby make the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the Legal Aid (Assessment of Resources) (Amendment) Regulations 1966, shall be read as one with the Legal Aid (Assessment of Resources) Regulations 1960(b), as amended (c) (hereinafter called "the principal regulations"), and shall come into operation on 28th November 1966.

Substitution for paragraph 5 *of Schedule* 1 *to the principal regulations*

2. For paragraph 5 of Schedule 1 to the principal regulations (disregard of income) there shall be substituted the following paragraph:—

" **5.**—(1) There shall be disregarded 40s. a week of the income consisting of any one or more of the following, that is to say,—

(*a*) any retired pay or pension to which section 380(1) of the Income Tax Act 1952(d) applies, including any payment in respect of dependants' allowance attached thereto;

(*b*) any disablement pension awarded under the Personal Injuries (Emergency Provisions) Act 1939(e), including any increase in such a pension in respect of dependants;

(*c*) any weekly payment by way of compensation under any enactment relating to workmen's compensation;

(*d*) any disablement benefit under the National Insurance (Industrial Injuries) Act 1965(f);

(*e*) any payment under the Industrial Diseases (Benefit) Acts 1951 and 1954(g), or the Workmen's Compensation (Supplementation) Act 1951(h);

(*f*) 7s. 6d. of any of the payments mentioned in sub-paragraph (6) of this paragraph;

(a) 1949 c. 51.
(b) S.I. 1960/1471 (1960 II, p. 1749).
(c) There are no amendments relevant to the subject matter of these regulations.
(d) 1952 c. 10.
(e) 1939 c. 82.
(f) 1965 c. 52.
(g) 1951 c. 4. and 1954 c. 16.
(h) 1951 c. 22.

(*g*) 5s. 6d. of any of the payments mentioned in sub-paragraph (7) of this paragraph;

(*h*) so much of any of the pensions and allowances mentioned in sub-paragraph (8) of this paragraph as exceeds the rate specified in Schedule 3 to the National Insurance Act 1965(**a**) for a widow's pension under that Act;

(*i*) any payment or part of a payment analogous to those mentioned in this sub-paragraph.

(2) There shall be disregarded subject to sub-paragraph (3) of this paragraph, 20s. a week of the income taken into account except so far as it consists of any earnings or of any of the following, that is to say—

(*a*) any benefit under the National Insurance Acts 1965 and 1966(**b**);

(*b*) industrial injury benefit under the National Insurance (Industrial Injuries) Acts 1965 and 1966;

(*c*) allowances under the Family Allowances Act 1965(**c**);

(*d*) any payment for the maintenance of the person concerned being a payment made under the order of a court or a payment made by a person who for the purposes of the Ministry of Social Security Act 1966(**d**) is liable to maintain the person concerned;

(*e*) any widow's pension under section 19 of the National Insurance (Industrial Injuries) Act 1965 and any of the pensions or allowances mentioned in sub-paragraph (8)(*b*) of this paragraph;

(*f*) any payment analogous to those mentioned in this sub-paragraph.

(3) Where any amount is disregarded under sub-paragraph (1) of this paragraph, then, if that amount equals 40s. a week no further amount shall be disregarded under sub-paragraph (2) of this paragraph and, if it is less than 40s. a week, the amount disregarded under sub-paragraph (2) shall not, together with that amount, exceed 40s. a week.

(4) Where under section 4(4) of the Act the resources of two or more persons are to be aggregated, the preceding provisions of this paragraph shall apply to the aggregate of the resources of both or all of the said persons.

(5) Any sums payable to any person as holder of the Victoria Cross or of the George Cross shall be wholly disregarded.

(6) The payments referred to in sub-paragraph (1)(*f*) of this paragraph are—

(*a*) any increase of widow's allowance or widowed mother's allowance under column 3 or 4 of Schedule 3 to the National Insurance Act 1965;

(*b*) any child's special allowance under column 2 or increase thereof under column 4 of Schedule 3 to the National Insurance Act 1965; and

(*c*) any increase under head (i) or (ii) of paragraph 11(*b*) of Schedule 3 to the National Insurance (Industrial Injuries) Act 1965 of an allowance payable under section 21(1) of that Act.

(7) The payments referred to in sub-paragraph (1)(*g*) of this paragraph are—

(*a*) any increase of widow's allowance, widowed mother's allowance or child's special allowance under column 5 of Schedule 3 to the National Insurance Act 1965; and

(*b*) any increase under head (iii) of paragraph 11(*b*) of Schedule 3 to the National Insurance (Industrial Injuries) Act 1965 of an allowance payable under section 21(1) of that Act.

(**a**) 1965 c. 51.
(**b**) 1966 c. 6.
(**c**) 1965 c. 53.
(**d**) 1966 c. 20.

(8) The pensions and allowances referred to in sub-paragraph 1(*h*) of this paragraph are—

(*a*) a widow's pension under section 19(3) of the National Insurance (Industrial Injuries) Act 1965 payable by virtue of paragraphs (*a*) to (*e*) thereof; and

(*b*) any widow's pension or allowance granted under powers conferred by or under the Ministry of Pensions Act 1916(a), the Air Force (Constitution) Act 1917(b), the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(c), the Personal Injuries (Emergency Provisions) Act 1939 or the Polish Resettlement Act 1947(d), but not including any allowance in respect of children."

Amendments to paragraph 10 *of Schedule* 1 *to the principal regulations*

3. In paragraph 10 of Schedule 1 to the principal regulations (rates of deduction from income in respect of dependants):—

(*a*) for sub-paragraph 1(*a*) there shall be substituted—

" (*a*) in the case of a spouse at a rate equivalent to the amount by which the amount in sub-paragraph (*a*) of paragraph 9 of Schedule 2 to the Ministry of Social Security Act 1966 for a husband and wife exceeds the amount in sub-paragraph (*b*) of that paragraph for a person living alone ";

(*b*) in sub-paragraph 1(*b*) for the words from " at the rate " to " amended " there shall be substituted the words " at the amount in Part II of the said Schedule appropriate to a dependant of the age of that child or other dependant ".

Amendment to paragraphs 9 *and* 13 *of Schedule* 2 *to the principal regulations*

4. In paragraphs 9 and 13 of Schedule 2 to the principal regulations (disregard of dwelling house in which the person concerned resides) the word " house ", wherever the same appears, shall be omitted.

Dated 24th October 1966. *Gardiner, C.*

We concur *E. Alan Fitch,*
Dated 25th October 1966. *Harry Gourlay,*
Lords Commissioners of Her Majesty's Treasury.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Legal Aid (Assessment of Resources) Regulations 1960 in consequence of the Ministry of Social Security Act 1966.

The regulations apply the rules for disregarding income, other than earnings, in the Ministry of Social Security Act 1966 to the assessment of the resources of an applicant for legal aid under the Legal Aid and Advice Act 1949. The deductions made in respect of an applicant's dependants are based on the scales for benefit under the Ministry of Social Security Act 1966. The provisions for disregarding the capital value of the dwelling house in which the applicant resides are extended to any dwelling in which he resides.

Hitherto provisions of the National Assistance Act 1948 had been applied.

(a) 1916 c. 65. (b) 1917 c. 51.
(c) 1939 c. 83. (d) 1947 c. 19.