1955 No. 1829

The Legal Aid (General) (Amendment No. 2) Regulations, 1955

Made - - - -	*2nd December*, 1955
Laid before Parliament	*7th December*, 1955
Coming into Operation	*1st January*, 1956

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:—

1.—(1) These Regulations may be cited as the Legal Aid (General) (Amendment No. 2) Regulations, 1955, and shall come into operation on the 1st day of January, 1956.

(2) In these Regulations a Regulation or Form referred to by number means the Regulation or Form so numbered in the Legal Aid (General) Regulations, 1950(b), as amended(c).

2. There shall be inserted after paragraph (1) of Regulation 4 (which relates to the duties of Local Committees) the following new paragraph, which shall stand as paragraph (1A)—

"(1A) Without prejudice to the generality of subsection (6) of section 1 of the Act (which provides that a person shall not be given legal aid unless he has reasonable grounds for taking, defending or being a party to the proceedings and may also be refused legal aid if it appears unreasonable that he should receive it in the particular circumstances of the case) an application for a certificate shall not be approved where it appears to the Local Committee that only a trivial advantage would be gained by the applicant from the proceedings to which the application relates or that, on account of the simple nature of the proceedings, a solicitor would not ordinarily be employed."

3. Regulation 5 (which relates to the issue of certificates) shall be amended as follows—

(1) In the last sentence of paragraph (3) there shall be inserted after the words "the Local Committee shall" the words "save as aforesaid".

(2) In paragraph (14)—

(*a*) for the words "shall issue to him a certificate in Form I and shall send two copies thereof to the solicitor" there shall be substituted the words "shall issue a certificate in Form I and shall send it and one copy thereof to the solicitor";

(*b*) there shall be added at the end the words "and shall send a copy of the certificate to the applicant".

(a) 12, 13 & 14 Geo. 6. c. 51. (b) S.I. 1950/1359 (1950 I, p. 1199).
(c) S.I. 1954/166 (1954 I, p. 1123).

4. In paragraph (3) of Regulation 7 (which relates to cases in which a certificate has been repeatedly refused) there shall be inserted before the words "Local Committee" the words "Area or".

5. Regulation 8 (which relates to the amendment of certificates) shall be amended as follows—

(1) In paragraph (1) (*b*) the words "the circumstances of an assisted person's case have altered since his certificate was issued, so that" shall be deleted.

(2) After paragraph (1) (*d*) there shall be added the following sub-paragraph, which shall stand as sub-paragraph (*e*)—

"(*e*) when, under the provisions of paragraph (5) of Regulation 5, they increase the amount of an assisted person's contribution."

(3) In paragraph (3) the words "to the assisted person" shall be deleted, and for the words "send two copies thereof to his solicitor" there shall be substituted the words "send it and one copy thereof to the assisted person's solicitor and a further copy to the assisted person".

(4) For paragraph (6) there shall be substituted the following paragraph—

"(6) An Area Committee shall amend a certificate whenever—

(*a*) under the provisions of paragraph (1) (*d*) of this Regulation they increase the amount of an assisted person's contribution; or

(*b*) they authorise a solicitor to take the steps referred to in paragraph (3) (*a*) or (*e*) of Regulation 14."

6. In paragraph (3) of Regulation 9 (which relates to appeals against refusals of certificates) for the word "twenty-eight" there shall be substituted the word "four".

7. Regulation 10 (which relates to emergency certificates) shall be amended as follows—

(1) In paragraph (3) there shall be added at the end the words "and shall furnish such additional information and documents (if any) as may be sufficient to constitute an application for a certificate under the provisions of Regulation 3:

Provided that, if it appears to the person to whom the application is made that the applicant cannot at the time of the application reasonably furnish that information, or any part of it, that person shall nevertheless have power to issue an emergency certificate subject to such conditions as to the furnishing of additional information as he thinks reasonable."

(2) For paragraph (4) there shall be substituted the following paragraph—

"(4) An emergency certificate shall be in Form III and the certificate and one copy thereof shall be sent to the solicitor selected by the applicant from the appropriate panel and one copy shall be sent to the applicant."

(3) For paragraphs (6) to (11) inclusive there shall be substituted the following paragraphs, which shall stand as paragraphs (6), (7) and (8)—

"(6) An emergency certificate shall remain in force for a period of six weeks, or such longer period not exceeding three months as the Local Committee may allow, and unless within that period a certificate is issued in respect of the proceedings to which the emergency certificate relates, it shall, at the end of that period, be deemed to have been revoked:

Provided that if within that period a Local Committee refuse the application for a certificate in respect of the proceedings to which the emergency certificate relates they shall forthwith revoke the emergency certificate.

(7) Upon an emergency certificate being extended or being or being deemed to be revoked under the provisions of the immediately preceding paragraph the Local Committee shall forthwith issue a notice in Form VIII or Form V (as applicable) and shall send the notice and one copy thereof to the solicitor acting for the person to whom the emergency certificate was issued and shall send a further copy to that person and it shall be the duty of the solicitor to notify forthwith any counsel whom he may have instructed that the certificate has been revoked.

(8) A certificate issued within the period referred to in paragraph (6) in respect of proceedings to which an emergency certificate relates shall take effect from the date upon which the emergency certificate was issued and shall state—

(*a*) the date of issue of the emergency certificate;

(*b*) the date and the period of any extension of the emergency certificate under the provisions of that paragraph; and

(*c*) the date of issue of the certificate."

8. In paragraph (5) of Regulation 11 (which relates to the discharge and revocation of certificates) the words " to him " shall be deleted and for the words " two copies thereof " there shall be substituted the words " the notice and one copy thereof ", and there shall be added at the end the words " and the Area Committee shall send a further copy of Form IV, Form IVA or Form V (as the case may be) to the assisted person ".

9. In Regulation 13 (which relates to cases in which legal aid has been granted after the commencement of proceedings) for paragraphs (2) and (3) there shall be substituted the following paragraphs, which shall stand as paragraphs (2), (3) and (4)—

" (2) Any solicitor who has acted in the proceedings on behalf of the assisted person before the date of the certificate, and any solicitor who has by law a lien on any documents necessary for the proceedings to which the certificate relates and who has delivered them up subject to his lien, may give notice of the fact to the appropriate Area Committee.

(3) If damages or costs are recovered for the assisted person in the proceedings, The Law Society shall pay to such solicitor out of the sum so recovered the costs to which he would have been entitled on a taxation between solicitor and own client:

Provided that in any case where the sums so recovered are insufficient to pay those costs in full in accordance with this paragraph and also to meet the net liability of the Fund on the assisted person's account, the sums recovered in the proceedings shall be divided between the Fund and the solicitor in proportion to the amount owing to each, and the first charge for the benefit of the Fund imposed by virtue of section 3 (4) of the Act on property recovered or preserved in the proceedings shall take effect accordingly.

(4) In any case where there has been no order for taxation, the amount of the costs payable to a solicitor by The Law Society in accordance with this Regulation shall be fixed by the Area Committee."

10. Regulation 14 (which relates to the conduct of proceedings on behalf of assisted persons) shall be amended as follows—

(1) For paragraph (4) there shall be substituted the following paragraph—

"(4) The Law Society may give general authority to solicitors acting for assisted persons in any particular class of case to obtain experts' reports or opinions and to tender expert evidence, and if so they shall state the maximum fee to be paid for any report or opinion or expert witness.

(2) In paragraph (5) (*b*) for the words "to obtain the report or opinion of more than one expert or to tender the expert evidence of more than one person" there shall be substituted the words "to obtain more reports or opinions or to tender more experts as witnesses than have been authorised".

11. Regulation 15 (which relates to the service of notices, etc.) shall be amended as follows—

(1) For paragraph (5) there shall be substituted the following paragraph—

"(5) A solicitor receiving from an Area or Local Committee under the provisions of these Regulations Form I, II, III, IV, IVA, V or VIII shall within fourteen days of the date of its issue by a Local or Area Committee, or, if the proceedings have not then begun, upon their commencement, file it in the appropriate court office or registry. The time for filing may be extended on *ex parte* application to the court showing reasonable grounds on such terms as may be just."

(2) In paragraph (7) for the words "any Form filed by him under paragraph (5)" there shall be substituted the words "Form I or Form II".

12. At the end of Regulation 16 (which relates to the recovery or preservation of property for, and the award of costs to an assisted person) there shall be added the following new paragraph, which shall stand as paragraph (9)—

"(9) Where a certificate relates to a matrimonial cause and an application under section 17 of the Married Women's Property Act, 1882, is made in that cause, the appropriate Area Committee may, if they think fit, treat the application as a separate proceeding for the purposes of section 3 (4) of the Act."

13. Regulation 18 (which contains miscellaneous provisions as to costs) shall be amended as follows—

(1) For paragraph (1) there shall be substituted the following paragraph—

"(1) Where—

(*a*) the retainer of an assisted person's solicitor or counsel is determined before proceedings are actually begun; or

(*b*) proceedings have begun and the solicitor is of the opinion that the total amount which he and counsel (if any) would receive after a taxation as between solicitor and client in accordance with the provisions of the Third Schedule to the Act would be less than £10,

the solicitor may apply to the appropriate Area Committee for payment to himself and counsel (if any) in respect of work done on behalf of the assisted person."

(2) In paragraph (3) after the words "application in chambers" there shall be inserted the words "or to the registrar as the case may be".

14. The Appendix to the Legal Aid (General) Regulations, 1950, as amended, shall be further amended as follows—

(1) For Form IV there shall be substituted the following Form—

"LEGAL AID (GENERAL) REGULATIONS, 1950

FORM IV

THE LAW SOCIETY

Certificate No.

Category Date

DEAR SIR/MADAM,

Legal Aid and Advice Act, 1949

The Area Committee have considered the report of your solicitor upon the procedings to which your civil aid certificate related and are satisfied that no further step remains to be taken. The Area Committee have accordingly discharged the certificate issued to you and numbered as above. You have therefore ceased to be an assisted person in connection with such proceedings and your solicitor and counsel (if any) have ceased to act for you therein.

Unless you have already heard to the contrary from The Law Society you must continue to pay any instalments of your contribution remaining unpaid.

You will hear further in due course regarding the financial position between yourself and The Law Society.

Yours faithfully,

Area Secretary.

To

of ."

(2) For Form IVA there shall be substituted the following Form—

"LEGAL AID (GENERAL) REGULATIONS, 1950

FORM IVA

THE LAW SOCIETY

Certificate No.

Category Date

DEAR SIR/MADAM,

Legal Aid and Advice Act, 1949

I am requested by the Area Committee to inform you that they have discharged the civil aid certificate issued to you and numbered as above. Accordingly—

1. You are no longer an assisted person in the proceedings to which your certificate related.

2. Your solicitor and counsel (if any) will cease to act further for you in the proceedings to which your certificate related unless you yourself re-employ him or them and become responsible for his or their fees for the future.

3. If you wish to continue the proceedings without a solicitor you should write to the Court informing them of this otherwise you may not receive any notices relating to your case.

4. If you continue the proceedings to which your certificate related and property is recovered or preserved for you, there may be a first charge on such property for the benefit of the legal aid fund in respect of any liability of the fund on your account.

5. You are entitled to protection under Section 2 of the Legal Aid and Advice Act, 1949, in respect of any order for costs which may be made against you only insofar as these costs were incurred while you were an assisted person.

I should further draw your attention to the fact that under the Rules of Court where a party discontinues proceedings he may thereby render himself liable for the costs of his opponent.

Unless you have already heard to the contrary from The Law Society you must continue to pay any instalments of your contribution remaining unpaid. You will hear further in due course regarding the financial position between yourself and The Law Society.

Yours faithfully,

Area Secretary.

To

of ."

(3) There shall be added at the end the following new Form which shall stand as Form VIII—

"LEGAL AID (GENERAL) REGULATIONS, 1950

FORM VIII

THE LAW SOCIETY

Certificate No.

Date

DEAR SIR/MADAM,

Legal Aid and Advice Act, 1949

I am requested by the Area/Local Committee to inform you that they have extended the period covered by the Emergency Certificate issued to you and numbered as above which will now remain in force until the day of 19 .

Yours faithfully,

Area/Local Secretary.

To

of ."

Dated the second day of December, 1955.

Kilmuir, C.

EXPLANATORY NOTE

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

These Regulations amend the Legal Aid (General) Regulations, 1950, as amended by the Legal Aid (General) (Amendment No. 1) Regulations, 1954, which make provision for legal aid in proceedings in or commencing in the Supreme Court, any county court and certain local courts. By Regulation 2 legal aid may be refused in a trivial case or in proceedings which are normally conducted in person; Regulation 6 reduces the period within which an appeal against the refusal of legal aid must be brought; Regulation 9 clarifies the position of a solicitor whose client obtains legal aid during the course of proceedings; by Regulation 12 the charge for the benefit of the Legal Aid Fund on property recovered in proceedings under the Married Women's Property Act, 1882, may be limited to the net deficiency in the Fund due to those proceedings alone even though they may form part of wider proceedings in a matrimonial cause. Other amendments are of a drafting character or make minor administrative or procedural changes.

1955 No. 1904

The Legal Aid (Various Courts) Regulations, 1955

Made - - - -	*16th December,* 1955
Laid before Parliament	*21st December,* 1955
Coming into Operation	*1st January,* 1956

In pursuance of the powers conferred upon me by paragraphs 1 (3) and 2 (4) of the Third Schedule to the Legal Aid and Advice Act, 1949(a), I, David Viscount Kilmuir, Lord High Chancellor of Great Britain, hereby make the following Regulations:—

1.—(1) These Regulations may be cited as the Legal Aid (Various Courts) Regulations, 1955, and shall come into operation on the first day of January, 1956.

(2) In these Regulations—

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

proceedings in a court to which the Regulations extend shall be deemed to include proceedings before any person to whom a case is referred in whole or in part by that court.

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

2.—(1) The provisions of paragraphs 1 to 4 of the Third Schedule to the Act (which relates to the remuneration to be paid to barristers and solicitors giving legal aid under Part I of the Act) shall apply—

(*a*) to proceedings in the Mayor's and City of London Court being proceedings within the jurisdiction of a county court; and

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