1962 No. 1714

LEGAL AID AND ADVICE, ENGLAND

The Legal Aid (General) (Amendment) Regulations 1962

Made - - - -	3*rd August* 1962
Laid before Parliament	10*th August* 1962
Coming into Operation	1*st October* 1962

I, Reginald Edward, Baron Dilhorne, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by section 12 (1) of the Legal Aid and Advice Act 1949(a), hereby make the following Regulations :—

1.—(1) These Regulations may be cited as the Legal Aid (General) (Amendment) Regulations 1962 and shall come into operation on the 1st day of October 1962.

(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, a regulation referred to by number means the regulation so numbered in the Legal Aid (General) Regulations 1962(c).

2. Regulation 15 (which relates to the conduct of proceedings on behalf of assisted persons) shall be amended as follows:—

(*a*) There shall be inserted at the end of paragraph (2) the words " but where authority has been given in the certificate or by the appropriate Area Committee for counsel to be instructed in any authorized summary proceedings a statement to that effect shall be endorsed thereon ".

(*b*) In paragraph (5) the words following sub-paragraph (*c*) shall be deleted and the following shall be inserted :—

" or (*d*) to instruct counsel in authorized summary proceedings ;

he may (unless authority has been given in the certificate) apply to the appropriate Area Committee for authority so to do ; and, if that Committee give authority for any purpose mentioned in sub-paragraph (*a*) or (*b*) of this paragraph, they shall state the number of reports or opinions that may be obtained or the number of persons who may be tendered to give expert evidence and the total fee to be paid."

3. Regulation 24 (which relates to the remuneration of counsel and solicitors in magistrates' courts) shall be amended by substituting in paragraph (2) for the words " if aggrieved as to any sum allowed " the words " if he is dissatisfied with any decision ".

4. The Second Schedule to these Regulations shall be amended as follows:—

(*a*) At the beginning of paragraphs 1 and 2 there shall be inserted the words " Subject to paragraph 6 of this Schedule ".

(a) 12, 13 & 14 Geo. 6. c. 51. (b) 52 & 53 Vict. c. 63. (c) S.I. 1962/148 (1962 I, p. 117).

(*b*) The following paragraph shall be inserted after paragraph 5:—

"6. Where a solicitor who is acting on behalf of an assisted person has instructed counsel without obtaining authority in accordance with these Regulations, the Area Committee shall—

(*a*) if, in assessing sums payable to a solicitor or counsel, they consider that the proper conduct of the proceedings required counsel, allow to the solicitor and counsel such fees as they shall assess in accordance with the preceding provisions of this Schedule; or

(*b*) if, in assessing such sums, they consider that the proper conduct of the proceedings did not require counsel, allow fees of such total amount as they would have considered proper to allow to the solicitor under paragraph 1 of this Schedule if counsel had not been instructed and the solicitor had conducted the case alone; and in such case the Committee shall determine the amount which they would have allowed to counsel under paragraph 2 had counsel been authorized, and such amount shall (to the extent that the total amount suffices) be paid to counsel and the balance, if any, of the total amount shall be paid to the solicitor."

Dated 3rd August 1962.

Dilhorne, 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 1962.

Regulation 15 is amended so as to enable an assisted person's solicitor to obtain authority (if authority has not previously been given) from the Area Committee to instruct counsel for domestic proceedings in the Magistrates' Courts and at Quarter Sessions.

Paragraph 6 is added to the Second Schedule to the Regulations which provide for the remuneration of solicitors and counsel in these cases. It requires the Area Committee to assess the remuneration of solicitors and counsel in cases in which authority to instruct counsel has not previously been given according to whether they consider that the proper conduct of the proceedings required counsel or not.