STATUTORY INSTRUMENTS

1971 No. 1877 (L.38)

LEGAL AID AND ADVICE, ENGLAND

The Legal Aid (General) (Amendment) Regulations 1971

Made - - - -	16*th November* 1971
Laid before Parliament	24*th November* 1971
Coming into Operation	1*st December* 1971

The Lord Chancellor, in exercise of the powers conferred on him by sections 1, 2, 3, 4, 5, 6 and 12 of, and the Third Schedule to, the Legal Aid and Advice Act 1949**(a)** as amended by the Legal Aid Act 1960**(b)**, hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Legal Aid (General) (Amendment) Regulations 1971 and shall come into operation on 1st December 1971.

(2) The Interpretation Act 1889**(c)** 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 a regulation so numbered in the Legal Aid (General) Regulations 1971**(d)**.

2. In the Arrangement of Regulations at the beginning of the Legal Aid (General) Regulations 1971 after "26. The Lands Tribunal." there shall be inserted "26(A). The National Industrial Relations Court."

3. Regulation 5 (which relates to the duties of committees receiving applications for certificates) shall be amended as follows:—

(1) In paragraph (1) after the words "in respect of" there shall be inserted the words "proceedings by a petitioner for divorce or judicial separation or".

(2) In paragraph (2) for the words "authorised summary proceedings" there shall be substituted "any proceedings mentioned in paragraph (1)" and for the words "by him or" there shall be substituted the words "by him and, in the case of any application for a certificate in respect of authorised summary proceedings,".

4. In regulation 9(4)(*a*) (which relates to issuing amendments to certificates) for the words "send it to the assisted person's solicitor and a copy" there shall be substituted "send two copies to the assisted person's solicitor and a further copy".

(a) 1949 c. 51.
(b) 1960 c. 28.
(c) 1889 c. 63.
(d) S.I. 1971/62 (1971 I. p. 75).

5.—(1) The following regulation shall be inserted after regulation 26:—

"*The National Industrial Relations Court*

26(A).—(1) In this regulation the expression "the Industrial Court" means the National Industrial Relations Court established under section 99 of the Industrial Relations Act 1971**(a)** and the expression "the secretary of the court" means the person appointed to be secretary of the Industrial Court and includes any officer of the Industrial Court authorised to act as his deputy.

(2) Except in so far as otherwise provided by this regulation, these Regulations shall apply to applications for legal aid for proceedings in the Industrial Court and to the conduct of all proceedings in it for which a certificate is granted in like manner as they apply to applications for legal aid for, and the conduct of, proceedings in any other court.

(3) Where any power to do any act or exercise any jurisdiction or discretion is conferred by these Regulations on a court it shall, in relation to proceedings in the Industrial Court, be exercised by that court and may, unless it is exercisable only during the hearing of the proceedings by a judge or by the full court, be exercised by the secretary of the court.

(4)(*a*) Where it appears to the appropriate committee that an application for a certificate relates to proceedings which are likely to be conducted in Scotland, they shall transmit the application forthwith to the Secretary of the Legal Aid Central Committee of the Law Society of Scotland and shall notify the applicant and his solicitor that they have done so.

(*b*) Where it appears to the appropriate committee doubtful whether the proceedings to which an application for a certificate relates will be conducted in the Industrial Court when sitting in England and Wales or in Scotland they shall request the secretary of the court to determine that question and that determination shall be binding upon the committee.

(5) Where a certificate has been issued and there is a change of circumstances regarding the conduct of the proceedings in that, by direction of the court, they will be wholly or partly conducted in Scotland—

(*a*) the certificate shall remain in force;

(*b*) the assisted person shall continue to be represented in the proceedings in Scotland by the solicitor who represented him in England and that solicitor may instruct either a member of the English or the Scottish bar from the panel maintained by the Law Society of barristers and advocates willing to act for assisted persons in proceedings before the Industrial Tribunal; and

(*c*) no question as to the propriety of appearing in Scotland shall be raised on a taxation in accordance with the provisions of the Third Schedule to the Act or on an assessment by an area committee in accordance with regulation 22.

(6) The provisions of regulation 18 shall not apply to any payment of money in accordance with an order made by the Industrial Court and monies so payable shall not be the subject of a charge within the terms of section 3(4) of the Act.

(a) 1971 c. 72.

(7)(*a*) The provisions of the Third Schedule to the Act shall apply to proceedings in the Industrial Court as they apply to proceedings in the House of Lords, the Court of Appeal and the High Court and the sums allowed in connection with those proceedings shall be, to a solicitor, the full amount allowed on taxation of the costs on account of disbursements and 90% of the amount so allowed on account of profit costs and, to counsel, 90% of the amount so allowed.

(*b*) The costs of an assisted person shall be assessed by an area committee in accordance with regulation 22 or taxed in accordance with the Third Schedule to the Act by a Taxing Master of the Supreme Court and the provisions of Order 62 of the Rules of the Supreme Court shall apply with the necessary modifications to the taxation of those costs as if the proceedings in the Industrial Court were a cause or matter in the Supreme Court.

(8) Where on the coming into force of these Regulations a certificate has been granted in respect of an appeal to the Divisional Court from a decision of an industrial tribunal and that appeal has been transferred to the Industrial Court in pursuance of any order made under section 114 of the Industrial Relations Act 1971, the certificate shall be deemed to have been granted in respect of an appeal to the Industrial Court, and any order for the taxation of the costs of the assisted person in accordance with the Third Schedule to the Act shall apply to any step in the proceedings that took place in the Divisional Court."

Dated 16th November 1971.

Hailsham of St. Marylebone, C.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations amend the Legal Aid (General) Regulations so as to provide (*a*) that the secretary of an appropriate committee may consider and approve (but not refuse) an application by a petitioner in respect of proceedings for divorce or judicial separation, (*b*) for sending two copies of an amendment of a certificate to the assisted person's solicitor (instead of the original) and (*c*) so as to apply the Regulations to legally aided proceedings in the National Industrial Relations Court, to make provision for applications in England where those proceedings are likely to be conducted in Scotland, or where those proceedings move to Scotland after a certificate is issued, for the taxation of costs in those proceedings and for the remuneration of solicitors and Counsel and make transitional provisions.

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