STATUTORY INSTRUMENTS

1976 No. 338

LEGAL AID AND ADVICE, ENGLAND

The Legal Aid (General) (Amendment) Regulations 1976

Made - - - -	*2nd March* 1976
Laid before Parliament	10*th March* 1976
Coming into Operation	30*th March* 1976

The Lord Chancellor, in exercise of the powers conferred on him by section 20 of the Legal Aid Act 1974**(a)**, hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Legal Aid (General) (Amendment) Regulations 1976 and shall come into operation on 30th March 1976.

(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 a regulation so numbered in the Legal Aid (General) Regulations 1971**(c)**, as amended **(d)**.

2. In the Arrangement of Regulations at the beginning of the Legal Aid (General) Regulations 1971, for the words "26(A). The National Industrial Relations Court." there shall be substituted "26(A). The Employment Appeal Tribunal.".

3. The following regulation shall be substituted for regulation 26(A):—

"*The Employment Appeal Tribunal*

26A.—(1) In this regulation—

"the 1974 Act" means the Legal Aid Act 1974;

"the 1975 Act" means the Employment Protection Act 1975**(e)**;

"the Appeal Tribunal" means the Employment Appeal Tribunal established under section 87 of the 1975 Act; and

"the Registrar" means the Registrar of the Appeal Tribunal and includes any officer of the Appeal Tribunal authorised to act on behalf of the Registrar.

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

(a) 1974 c. 4. **(b)** 1889 c. 63.
(c) S.I. 1971/62 (1971 I, p. 75).
(d) The relevant amending instrument is S.I. 1971/1877 (1971 III, p. 5114).
(e) 1975 c. 71.

(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 Appeal Tribunal, be exercised by that Tribunal and may, unless it is exercisable only during the hearing of the proceedings by a judge or member of the Appeal Tribunal or by the Appeal Tribunal as required to be constituted by paragraph 14 of Schedule 6 to the 1975 Act, be exercised by the Registrar.

(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 Appeal Tribunal when sitting in England and Wales or in Scotland, they shall request the Registrar 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 Appeal Tribunal 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 Appeal 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 Schedule 2 to the 1974 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 Appeal Tribunal and money so payable shall not be the subject of a charge within the terms of section 9(6) of the 1974 Act.

(7) (*a*) The provisions of Schedule 2 to the 1974 Act shall apply to proceedings in the Appeal Tribunal 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 Schedule 2 to the 1974 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 Appeal Tribunal 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 High Court from a decision of an industrial tribunal and that appeal has been transferred to the Appeal Tribunal by virtue of paragraph 9 of Schedule 17 to the 1975 Act, the certificate shall be deemed to have been granted in respect of an appeal to the Appeal Tribunal, and any order for the taxation of the costs of the assisted person in accordance with Schedule 2 to the 1974 Act shall apply to any step in the proceedings that took place in the High Court.".

Dated 2nd March 1976.

Elwyn-Jones, C.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Legal Aid (General) Regulations 1971 so as to apply the Regulations to legal aid for proceedings before the Employment Appeal Tribunal. Provision is made for the transfer of applications made 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, the remuneration of solicitors and counsel and for transitional matters.

SI 1976/338
ISBN 0-11-060338-9

