STATUTORY INSTRUMENTS

1962 No. 148

LEGAL AID AND ADVICE, ENGLAND

The Legal Aid (General) Regulations, 1962

Made - - - -	*24th January*, 1962
Laid before Parliament	*31st January*, 1962
Coming into Operation	*1st March*, 1962

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I, David, Viscount Kilmuir, Lord High Chancellor of Great Britain, in exercise of the powers conferred on me 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), and with the concurrence of the Treasury so far as is required by subsection (8) of section 4 of the said Act of 1949, hereby make the following Regulations:—

Title, Commencement, Interpretation and Revocations

1.—(1) These Regulations may be cited as the Legal Aid (General) Regulations, 1962, and shall come into force on the first day of March, 1962.

(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, unless the context otherwise requires, and without prejudice to the generality of paragraph (7) of this Regulation, the following expressions have the meanings hereinafter respectively assigned to them:—

"the Act" means the Legal Aid and Advice Act, 1949, as amended by the Legal Aid Act, 1960.

"Area Committee" means an Area Committee appointed by the Council of The Law Society under the provisions of a scheme;

"appropriate Area Committee" means the Area Committee in whose area an application for a certificate has been granted or refused;

"appropriate committee" means an Area Committee or Local Committee to whom an application for a certificate has been made or transferred;

"assisted person" means a person in respect of whom a certificate is in force;

"authorized summary proceedings" means the following proceedings in a magistrates' court, namely—

(*a*) proceedings for or relating to an affiliation order within the meaning of the Affiliation Proceedings Act, 1957(d), or an order under the Matrimonial Proceedings (Magistrates' Courts) Act, 1960(e);

(*b*) proceedings under the Guardianship of Infants Acts, 1886(f) and 1925(g); and

(*c*) proceedings under the Small Tenements Recovery Act, 1838(h);

"the Board" means the National Assistance Board;

"certificate" means a civil aid certificate issued in accordance with these Regulations entitling a person to legal aid and, if a further certificate is issued under the provisions of Regulation 9 (3) (*a*), means such further certificate (or the latest thereof if more than one further certificate is issued) and the word "certificate" also includes an emergency certificate issued under the provisions of Regulation 11;

"claim" means a claim which it is desired to assert or dispute where the question of taking, defending or being a party to proceedings before a court does not arise or has not yet arisen; but if it did arise the proceedings would or might properly be such that legal aid could be given in connection therewith under section 1 of the Act;

"the Fund" means the legal aid fund;

(a) 12, 13 & 14 Geo. 6. c. 51. (b) 8 & 9 Eliz. 2. c. 28. (c) 52 & 53 Vict. c. 63.
(d) 5 & 6 Eliz. 2. c. 55. (e) 8 & 9 Eliz. 2. c. 48. (f) 49 & 50 Vict. c. 27.
(g) 15 & 16 Geo. 5. c. 45. (h) 1 & 2 Vict. c. 74.

"legal aid" means legal aid under Part I of the Act;

"Legal Aid (Assessment of Resources) Regulations" means the Legal Aid (Assessment of Resources) Regulations, 1960(a), as amended by any subsequent Regulations;

"Local Committee" means a Local Committee appointed by an Area Committee and includes a Certifying Committee set up under the provisions of a scheme;

"scheme" means a scheme made under section 8 of the Act;

"secretary" means the secretary of an appropriate committee.

(4) Where a power to do any act or exercise any jurisdiction or discretion is conferred by any provision of these Regulations on a court, it may, unless it is exercisable only during the trial or hearing of the action, cause or matter, be exercised by—

(*a*) in the House of Lords, the Clerk of the Parliaments; or

(*b*) a judge, master or district registrar; or

(*c*) in the Probate, Divorce and Admiralty Division or in a county court, the registrar.

(5) Where, under any of the following provisions, namely:—

Paragraph (6) of Regulation 3,

Paragraph (5) of Regulation 4,

Paragraphs (5) (*a*) and (10) of Regulation 6,

Paragraph (1) (*a*), (*b*) (i), (ii) and (v), (*c*), (*d*), (*e*), (*f*) and (*h*) of Regulation 9,

Paragraphs (2) (*a*), (*c*), (*e*) (i) and (3) (*a*) (i) of Regulation 12,

Paragraphs (3) (*b*), (5) and (6) of Regulation 15,

Paragraph (ii) of the proviso to paragraph (2) of Regulation 17 and paragraphs (4) and (5) of Regulation 17,

Paragraph (2) of Regulation 19, and

Paragraph (1) of Regulation 24,

an Area or Local Committee is required or entitled to perform any function, that function may, if The Law Society so direct and to the extent specified in the direction, be performed on behalf of that committee by its chairman, vice-chairman or secretary.

(6) Where in any of the following provisions, namely:—

Paragraph (4) of Regulation 3,

Paragraph (2) of Regulation 4,

Paragraphs (2) and (7) of Regulation 5, and

Paragraphs (3), (5) (*a*), (9), (12) and (14) of Regulation 6,

there is a reference to an appropriate committee, that reference shall be deemed to include a reference to the secretary, in any case where the duty of considering the application for legal aid is, under these Regulations, to be discharged by him.

(7) In these Regulations, unless the context otherwise requires, a Regulation referred to by number means the Regulation so numbered in these Regulations, and a reference to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.

(a) S.I. 1960/1471 (1960 II, p. 1749).

(8) The Legal Aid (General) Regulations, 1960(a), the Legal Aid (General) (Amendment) Regulations, 1960(b), the Legal Aid (General) (Amendment No. 2) Regulations, 1960(c), the Legal Aid (General) (Amendment No. 3) Regulations, 1960(d), the Legal Aid (General) (Amendment No. 4) Regulations, 1960(e), and the Legal Aid (General) (Amendment) Regulations, 1961(f), are hereby revoked.

Effect of Certificates

2.—(1) Legal aid shall be available to any person to whom a certificate has been issued in accordance with these Regulations.

(2) Any document purporting to be a certificate issued in accordance with these Regulations shall, until the contrary is proved, be deemed to be a valid certificate issued to the person named therein.

Applications for Certificates

3.—(1) Any person desiring legal aid in respect of proceedings in an appellate court (other than an interlocutory appeal from a court below) may apply for a certificate—

(*a*) if resident in England or Wales, to any Area Committee; and

(*b*) if resident elsewhere, to the Area Committee for London.

(2) Any person desiring legal aid in respect of any other proceedings or in respect of any claim may apply for a certificate—

(*a*) if resident in England or Wales, to any Local Committee; and

(*b*) if resident elsewhere, to the Local Committee for London.

(3) Every application shall be made in writing on a form approved by The Law Society or in such other manner, being in writing, as the secretary may accept as sufficient in the circumstances of the case and shall be lodged with the secretary.

(4) Every application shall contain such information and shall be accompanied by such documents as may be requisite to enable—

(*a*) the appropriate committee to determine—

(i) the nature of the proceedings or the nature of the claim in relation to which legal aid is sought and the circumstances in which legal aid is required; and

(ii) the question whether it is reasonable that a certificate should be granted; and

(*b*) the appropriate committee or the Board to determine the disposable income, disposable capital and maximum contribution of the applicant;

and the applicant shall (for the purpose of providing additional information), if required by the secretary, the appropriate committee or the Board to do so, attend for an interview or supply such further information or documents as he or they may require.

(5) In the case of a person resident outside Great Britain and not able to be present in Great Britain while his application is being considered, the application shall be in English and shall be sworn, if the person is resident within the Commonwealth or the Republic of Ireland, before any Justice of the Peace or Magistrate or any person for the time being authorized by law in the place where he is to administer an oath for any

(a) S.I. 1960/408 (1960 II, p. 1757).
(b) S.I. 1960/730 (1960 II, p. 1795).
(c) S.I. 1960/1472 (1960 II, p. 1797).
(d) S.I. 1960/2057 (1960 II, p. 1799).
(e) S.I. 1960/2369 (1960 II, p. 1801).
(f) S.I. 1961/556 (1961 I, p. 1222).

judicial or other legal purpose, or, if he is resident elsewhere, before a Consular Officer in the service of Her Majesty's Government in the United Kingdom, or any other person for the time being authorised to exercise the functions of such Consular Officer or having authority to administer an oath in that place, and shall be accompanied by a statement in writing, signed by some responsible person who has knowledge of the facts, certifying that part of the application which relates to the applicant's income and capital :

Provided that these requirements may be waived by the secretary where compliance with them would cause serious difficulty, inconvenience or delay and the application satisfies the provisions of paragraphs (3) and (4) of this Regulation.

(6) If it appears to the appropriate committee that the application could, without prejudice to the applicant, be more conveniently or appropriately considered by another committee, the papers relating to the application shall be transferred to that other committee.

(7) The appropriate committee shall, except as is provided by paragraph (1) of Regulation 5 and paragraph (4) of Regulation 6, unless they shall have previously refused the application, submit to the Board so much of it as is relevant to the determination of the disposable income and disposable capital of the applicant.

Applications on behalf of Infants and Persons of Unsound Mind

4.—(1) Save as is hereinafter provided, an application for legal aid for an infant or person of unsound mind shall be made on his behalf by a person of full age and capacity and, where the application relates to proceedings which are required by rules of court to be brought or defended by a next friend or guardian *ad litem*, that person shall be the next friend or guardian *ad litem*, or, where the application relates to proceedings and they have not actually begun or to any claim, a person who, subject to any contrary order of the court, intends to act in either capacity when the proceedings begin or if the question of taking them were to arise.

(2) The appropriate committee shall not issue a certificate applied for by a person on behalf of an infant or person of unsound mind unless that person has signed an undertaking to pay to The Law Society (if called upon to do so) any sum which, by virtue of any provision of the Act or these Regulations, the appropriate committee may require an assisted person of full age and capacity to pay upon the issue or during the currency or upon discharge or revocation of the certificate.

(3) Any certificate issued by virtue of this Regulation shall be in the name of the infant or person of unsound mind, stating the name of the person by whom he has applied.

(4) In any matter relating to the issue, amendment, revocation or discharge of a certificate issued by virtue of this Regulation and in any other matter which may arise as between an assisted person and an appropriate committee, the person by whom the infant or person of unsound mind has applied for a certificate shall be treated for all purposes (including the receipt of notices) as the agent of the infant or person of unsound mind.

(5) The appropriate committee may, where the circumstances appear to make it desirable, waive all or any of the requirements of the preceding paragraphs of this Regulation.

(6) Where an infant is an assisted person, his means for the purpose of determining his liability for costs under section 2 (2) (*e*) of the Act (which limits the liability of an assisted person under an order for costs made against him) shall be taken as including the means of any person whose disposable income and disposable capital has, by virtue of the Legal Aid (Assessment of Resources) Regulations, been included by the Board in computing the infant's rate of income and amount of capital.

(7) Where an order for costs is made against a next friend or guardian *ad litem* of an infant assisted person or of an assisted person of unsound mind, he shall have the benefit of section 2 (2) (*e*) of the Act in like manner as it applies to an assisted person, and the means of the next friend or guardian *ad litem* shall be taken as being the means of the infant as defined in the immediately preceding paragraph of this Regulation or of the person of unsound mind.

Duties of Committees receiving Applications for Certificates

5.—(1) An application for a certificate in respect of a claim shall be considered by the secretary and if, after consideration by him of the general circumstances in which it was made, including questions of fact or law arising out of the claim, and after determination by him of the disposable income and disposable capital of the applicant and the maximum contribution payable by the applicant, it appears to the secretary—

(*a*) that the applicant has reasonable grounds for taking steps to assert or dispute a claim ; and

(*b*) that it is reasonable in the circumstances that he should receive legal aid ; and

(*c*) that the total cost of asserting or disputing the claim would not be likely to exceed one hundred pounds ; and

(*d*) that the question of taking, defending or being a party to proceedings before a court or tribunal does not arise or has not yet arisen ;

he shall (subject to paragraph (3) of this Regulation) approve the application on behalf of the committee ; and in every other case he shall refer the application to his committee for their consideration and approval or refusal.

(2) The determination of disposable income, disposable capital and maximum contribution for the purposes of the immediately preceding paragraph shall be made in accordance with the provisions of the First Schedule to these Regulations ; save that, where the disposable income and disposable capital have been determined by the Board in accordance with subsection (6) of section 4 of the Act and the Legal Aid (Assessment of Resources) Regulations before the appropriate committee come to make their determination, they shall adopt the figures so determined by the Board.

(3) Where the appropriate committee determine the maximum contribution payable by an applicant or his disposable capital at an amount greater than the maximum amount which makes legal aid in respect of a claim available to an applicant under the provisions of the First Schedule to these Regulations, they shall refuse the application.

(4) Where an application is made for a certificate relating to proceedings and the secretary considers that the question of taking, defending or being a party to proceedings does not arise or has not yet arisen, but that, if the application had been for a certificate in respect of a claim, he would have approved it in accordance with the provisions of paragraph (1) of this Regulation, the secretary may with the consent of the applicant so approve it.

(5) Subject to the provisions of Regulation 11 and of paragraphs (4) and (6) of this Regulation, an application for a certificate in respect of proceedings shall not be approved except after consideration by the appropriate committee of the general circumstances in which it is made, including questions of fact or law arising out of the proceedings, nor, except as is provided by paragraph (11) of this Regulation and paragraph (4) of Regulation 6, shall the application be approved except after determination by the Board of the disposable income, disposable capital and maximum contribution of the applicant.

(6) Subject to the provisions of Regulation 11—

(*a*) an application for a certificate in respect of authorized summary proceedings shall be considered by the secretary who, having regard to the general circumstances in which it was made, including questions of fact or law and either the determination or the estimate made by the Board of the disposable income and disposable capital of the applicant and the maximum contribution payable by him or the terms of any undertaking lodged by him under the provisions of paragraph (13) of Regulation 6, may (save in the circumstances mentioned in paragraph (9) of this Regulation) approve the application on behalf of the appropriate committee ; and in every case in which he does not approve the application he shall refer it to the committee for their consideration and approval or refusal ;

(*b*) an application for a certificate in respect of authorized summary proceedings that has been referred to an appropriate committee by the secretary shall be considered by that committee, which, having regard to the general circumstances in which it was made, including questions of fact or law and either the determination or the estimate made by the Board of the disposable income and disposable capital of the applicant and the maximum contribution payable by him or the terms of any undertaking lodged by him under the provisions of paragraph (13) of Regulation 6, may approve the application.

(7) Without prejudice to the generality of subsection (6) of section 1 and subsection (3) of section 5 of the Act (which provide 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 unless he has reasonable grounds for taking steps to assert or dispute the claim, 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 appropriate committee that only a trivial advantage would be gained by the applicant in asserting or disputing the claim, or from the proceedings, to which the application relates, or that, on account of the simple nature of the claim or proceedings, a solicitor would not ordinarily be employed.

(8) (*a*) Where an application is made for a certificate relating to proceedings and refused on the ground that the applicant has not shown reasonable grounds for taking, defending or being a party to proceedings, or that it is not reasonable that he should receive it in the particular circumstances of the case, the appropriate committee may treat the application as relating to a claim and, if satisfied in accordance with paragraphs (1) and (3) of this Regulation, may approve the application ;

(*b*) where an application is made for a certificate relating to a claim and the appropriate committee consider that the applicant has reasonable grounds for taking, defending or being a party to proceedings and that it is reasonable in all the circumstances that he should receive legal aid in

respect of proceedings, the committee may treat the application as relating to proceedings and, subject to the provisions of paragraphs (5) and (7) of this Regulation, may approve the application.

(9) Where the Board determine that an applicant, having a disposable income of an amount which makes legal aid available for him, has a disposable capital of an amount which renders him liable to be refused legal aid, if it appears that he can afford to proceed without it, the appropriate committee shall not approve the application unless they estimate that the applicant's costs which might reasonably be incurred by him in taking, defending or being a party to any proceedings in respect of which the application was made would exceed the maximum contribution payable by the applicant under the Act.

(10) Where a person applies for legal aid in connection with any proceedings or claim in which he is concerned in a representative, fiduciary or official capacity and it appears to the appropriate committee that in the circumstances the court would, if proceedings were to be brought, order the taxed costs of the proceedings to be paid out of any property, estate or fund, the committee shall not grant the application, unless it appears that the property, estate or fund would be so diminished or exhausted by that order as to cause hardship to any person beneficially interested.

(11) Where an application is made by a person who is concerned in the proceedings or claim only in a representative, fiduciary or official capacity, then, for the purposes of determining any contribution to be made to the Fund, the personal resources of the applicant shall not be taken into account, but the appropriate committee may, in their discretion, have regard to the value of the property or estate, or the amount of the fund out of which the applicant is entitled to be indemnified, and to the resources of the persons, if any, who are beneficially interested.

(12) Where an application is made by or on behalf of a person in connection with a cause or matter in which numerous persons have the same interest and, in accordance with rules of court, one or more persons may sue or be sued, or may be authorised by a court to defend any such cause or matter on behalf of or for the benefit of all persons so interested, the appropriate committee shall refuse the application if they are satisfied—

(*a*) that such refusal would not seriously prejudice the right of the applicant; or

(*b*) that it would be reasonable and proper for the other persons having the same interest in the matter as the applicant to defray so much of the costs as would be payable from the Fund in respect of the proceedings if a certificate were issued.

(13) Where an application is made by or on behalf of a person who has the right, in accordance with rules of court, to be joined in one action as plaintiff with others in whom any right to relief in respect of or arising out of the same transaction or series of transactions is alleged to exist, whether jointly, severally or in the alternative, because, if those persons brought separate actions, a common question of law or fact would arise, an appropriate committee may issue a certificate limited to such proceedings as may be necessary to preserve the applicant's right to relief.

(14) Where it appears to an appropriate committee that the applicant has available rights or facilities making it unnecessary for him to obtain legal aid or has a reasonable expectation of obtaining financial or other help from a body of which he is a member, they shall not approve the application unless the applicant has failed to enforce or obtain such rights, facilities

or help, after having, in the opinion of the committee, taken all reasonable steps to enforce or obtain them or after having permitted the appropriate committee to take those steps on his behalf:

Provided that, where it appears that the applicant has a right to be indemnified against expenses incurred in connection with any proceedings, it shall not, for the purpose of this paragraph, be deemed a failure to take a reasonable step if he has not taken proceedings to enforce that right, whether for a declaration as to that right or otherwise.

Issue of Certificates

6.—(1) A certificate may be issued in respect of—

(*a*) one or more steps to assert or dispute a claim, or

(*b*) the whole or part of—

(i) proceedings in a court of first instance, or

(ii) proceedings in an appellate court,

but no certificate shall relate to proceedings (other than interlocutory appeals) both in a court of first instance and in an appellate court or to proceedings in more than one appellate court.

(2) A certificate shall not, except in the case of authorized summary proceedings, relate to more than one action, cause or matter, but may relate—

(*a*) to more than one claim, where the claims arise in connection with the same circumstances and, if proceedings were taken on them, they could conveniently be joined in the same action, cause or matter; or

(*b*) both to a claim and to proceedings where the question of taking the proceedings arises out of the same general circumstances as the claim;

and may relate to an application for a grant of representation to enable the action to be brought which is the subject of the certificate and may include proceedings which may be taken under section 1 of the Act to enforce or to give effect to any agreement made in enforcing or disputing the claim, or any order, or agreement made in the proceedings to which the certificate relates; and for the purposes of this paragraph proceedings to enforce or give effect to an agreement or order shall include proceedings in bankruptcy or to wind up a company.

(3) It shall be the duty of the appropriate committee to assess the amount of the contribution, if any, that is payable in respect of a certificate and, in so doing, the committee shall have regard to the probable cost of taking the steps to assert or dispute the claim or of the proceedings, and, save as is provided by these Regulations, shall not assess an amount in excess of any maximum amount of contribution determined by them or by the Board. Where the probable cost of taking the steps or of the proceedings exceeds the maximum amount of contribution determined, the committee shall, save as aforesaid, assess the maximum amount as the amount of contribution payable in respect of the claim or proceedings.

(4) Where an application is approved relating to—

(*a*) proceedings (other than interlocutory proceedings) in an appellate court in any action, cause or matter, in which the applicant was an assisted person in the court below; or

(*b*) proceedings by way of a new trial ordered by an appellate court before whom the applicant was an assisted person;

the appropriate committee shall not require the Board to redetermine the applicant's disposable income and disposable capital, but shall, save as is hereinafter provided, assess the amount of contribution, if any, payable

in respect of the proceedings at an amount not greater than the maximum contribution determined by the Board in relation to the previous proceedings less any amount assessed by any appropriate committee to be paid in respect of those proceedings:

Provided that, if, since the last determination by the Board of the disposable income and disposable capital of the applicant, his circumstances have altered otherwise than as a result of the payment of a contribution in respect of the previous proceedings, they may require the Board to redetermine his disposable income and disposable capital and shall take into account any increase or decrease in the amount of his disposable income by an amount greater than twenty-six pounds and any increase in the amount of his disposable capital by an amount greater than seventy-five pounds.

(5) (*a*) Where the appropriate committee have assessed the amount of contribution payable at a sum less than the maximum amount determined or redetermined by the Board or the appropriate committee and it appears that the cost of the steps taken or to be taken or of the proceedings has been or is in the opinion of the appropriate Area Committee likely to be greater than the contribution assessed, the appropriate Area Committee shall increase the amount of contribution up to the amount which the steps or proceedings have or are likely to cost or to the maximum contribution determined or redetermined, where that amount is less.

(*b*) Whenever the circumstances upon which the Board have determined the disposable income or disposable capital of an assisted person have altered so that he has reason to believe that his disposable income has increased by an amount greater than twenty-six pounds or his disposable capital has increased by an amount greater than seventy-five pounds, he shall, if his certificate relates to proceedings, inform the appropriate Area Committee of that alteration in his circumstances.

(6) Where the appropriate committee approve an application made to them in the circumstances described in paragraph (12) of Regulation 5, they may take into account the means of all or any of the persons having the same interest in the matter as the applicant, and shall not assess an amount in excess of the aggregate of the applicant's maximum contribution as determined by the Board and of any sums which they think are reasonable in the circumstances for such persons to pay towards the cost of the proceedings.

(7) Where the appropriate committee approve an application made to them in the circumstances described in paragraph (14) of Regulation 5 and the applicant appears to be a member of a body which might reasonably have been expected to give him financial help towards the cost of the proceedings, but does not appear to have any right to be indemnified by them against expenses incurred in connection therewith, the appropriate committee shall require the applicant to sign an undertaking to pay to The Law Society, in addition to his contribution, if any, any sum received from that body on account of the cost of the proceedings.

(8) A certificate issued in respect of a claim shall authorize the assisted person to incur expenditure of a sum not exceeding a specified amount.

(9) In fixing the method by which any contribution shall be paid, the appropriate committee shall—

(*a*) require any contribution payable out of capital to be paid forthwith if the sum is readily available or, if it is not, by such time as seems to them reasonable in all the circumstances; and

(*b*) require any contribution payable out of income to be paid by instalments at a rate which would, if the maximum contribution from income was required, secure that that maximum amount would be paid within the twelve months next ensuing, or within the period in relation to which the disposable income has been computed, whichever is the later.

(10) After the appropriate committee have approved an application for a certificate they shall—

(*a*) if the certificate is to relate to proceedings, other than authorized summary proceedings, draw the attention of the assisted person to the provisions of section 2 (2) (*e*) of the Act (which limits the liability of an assisted person under an order for costs made against him); and

(*b*) except where the certificate is to be one under which no contribution will be payable by the assisted person, or is to be a certificate issued against an undertaking in accordance with paragraph (13) of this Regulation, or is to be an emergency certificate, notify the applicant—

(i) of the maximum amount of his contribution, as determined by them or the Board; and

(ii) of the terms upon which a certificate will be issued to him.

(11) Where an application relates to a matrimonial cause and the disposable income of the applicant is not more than one hundred and thirty pounds and his disposable capital is not more than eighty-five pounds, then, notwithstanding anything contained in section 6 (7) of the Act, the appropriate committee shall not, unless they are of the opinion that the circumstances are such as specially to warrant it (in which case they shall notify the applicant), arrange for the case to be conducted, in accordance with the said section 6 (7), by a solicitor employed by The Law Society for a salary to act in connection with matrimonial causes.

(12) Subject to the next paragraph of this Regulation, an applicant who desires that a certificate should be issued to him on the terms notified to him by an appropriate committee shall, within twenty-eight days of being so notified, or within such other period as the appropriate committee may allow—

(*a*) signify his acceptance of those terms on a form approved by The Law Society and lodge it with The Law Society; and

(*b*) if those terms require a contribution to be paid, sign on a form approved by The Law Society and lodge with them an undertaking to pay the contribution by the method stated in the terms and, if the contribution or a part of it is required to be paid before the certificate is issued, make that payment accordingly; and

(*c*) except where paragraph (11) of this Regulation applies to the application, notify the secretary of the name of the solicitor (being a member of an appropriate panel) whom he has selected to act for him.

(13) An applicant for legal aid in connection with authorized summary proceedings may, with a view to expediting the issue to him of a certificate, lodge with the secretary, at the time of applying for the certificate or at any time prior to its being issued, an undertaking in a form approved by The Law Society to pay any contribution that may be assessed by the appropriate committee or its secretary in accordance with these Regulations.

(14) When an applicant has complied with such of the provisions of paragraphs (12) and (13) of this Regulation as are relevant to his case the appropriate committee shall issue a civil aid certificate in the appropriate Form prescribed in the Third Schedule to these Regulations, send a copy of the certificate to the applicant and send the certificate and one copy thereof to the solicitor selected by him or, where the application was one to which paragraph (11) of this Regulation related, arrange for the case to be conducted by a solicitor employed by The Law Society for a salary to act in connection with matrimonial causes.

Refusal of Certificates

7. If an appropriate committee refuse an application for a certificate, they shall notify the applicant, stating that the application has been refused on one or more of the following grounds—

(*a*) that the Board have determined the applicant's disposable income at an amount greater than the maximum amount which makes legal aid available to an applicant; or

(*b*) that the Board have determined that the applicant, having a disposable income of an amount which makes legal aid available for him, has a disposable capital of an amount which renders him liable to be refused legal aid, if it appears that he can afford to proceed without it, and it appears to the committee that, if the application were refused, the applicant's costs, which might reasonably be incurred by him in taking, defending or being a party to any proceedings in respect of which the application was made, would be less than the maximum contribution payable by the applicant under the Act; or

(*c*) that the application relates to a claim and the maximum contribution payable by the applicant or his disposable capital has been determined at an amount greater than the maximum amount which makes legal aid in respect of a claim available to an applicant; or

(*d*) that the proceedings to which the application relates or, where the application relates to a claim, the proceedings which would have to be taken, defended or participated in, if the question of doing so were to arise, are not proceedings for which legal aid may be given; or

(*e*) that the applicant has not shown that he has reasonable grounds for taking steps to assert or dispute the claim, or for taking, defending or being a party to proceedings; or

(*f*) that it appears unreasonable that he should receive legal aid in the particular circumstances of the case (whether as a result of any discretion given to an appropriate committee under any provision of these Regulations or otherwise);

and shall inform him of the provisions, if any, of these Regulations which relate to the circumstances in which he may appeal to the appropriate Area Committee for the decision to be reviewed.

Repeated refusal of Certificates

8.—(1) Where a person has applied for and has been refused a certificate on more than four occasions and it appears to any Area or Local Committee to whom such person applies that his conduct may amount to an abuse of the facilities provided by the Act, then, if the last application has been made to a Local Committee, the Committee may report thereon to the appropriate Area Committee.

(2) If the last application has been made to an Area Committee, or if a report under the provisions of the immediately preceding paragraph of this Regulation has been made to them by a Local Committee, then the Committee may—

(*a*) enquire whether any other Local or Area Committee has received an application from the person referred to;

(*b*) call for a report as to the circumstances of any such other application; and

(*c*) if they consider that the person named in the report has abused the facilities provided by the Act, report thereon to The Law Society, making such recommendations as seem to the Area Committee to be just.

(3) The Law Society, on receipt of such report, shall give the person referred to therein an opportunity of making (either himself or by some other person acting on his behalf) representations in writing on the matter and shall make such other enquiries as seem to be necessary and, if they are satisfied that his conduct has amounted to an abuse of the facilities provided by the Act, may make a direction (hereinafter in this Regulation referred to as "a prohibitory direction") that no consideration shall, for a period not exceeding five years, be given by any Area or Local Committee either—

(*a*) to any future application by that person for a certificate with regard to any particular matter; or

(*b*) in exceptional circumstances, to any further application by him whatsoever.

(4) The Law Society may in its discretion—

(*a*) include within the terms of any prohibitory direction any receiver, next friend or guardian *ad litem* applying for a certificate on behalf of the person referred to in the prohibitory direction; and

(*b*) at any time vary or revoke any prohibitory direction in whole or in part.

(5) Where The Law Society make a prohibitory direction, they shall inform the Lord Chancellor thereof and shall, if so requested, give him their reasons for making the same.

Amendment of Certificates

9.—(1) The appropriate Area Committee may amend a certificate—

(*a*) where it appears to them that there has been some error or mistake in a certificate; or

(*b*) when, in their opinion, it has become desirable either for the certificate to extend to—

(i) other claims arising in connection with the same circumstances, or

(ii) other steps to assert or dispute a claim, or

(iii) proceedings, or

(iv) other proceedings being part of the same action, cause or matter to which the certificate relates, or

(v) proceedings which may be taken under section 1 of the Act to enforce or give effect to any order or agreement made in enforcing or disputing the claim, or, as the case may be, in the proceedings, in respect of which it was issued;

or for the certificate not to extend to certain of the steps or certain of the proceedings in respect of which it was issued; or

(*c*) when an assisted person desires to change the solicitor who is acting for him or a solicitor gives up an assisted person's case; or

(*d*) where the certificate relates to proceedings and the circumstances upon which the Board have determined an assisted person's disposable income or disposable capital have altered so that—

(i) his disposable income has increased or decreased by an amount greater than twenty-six pounds; or

(ii) his disposable capital has increased by an amount greater than seventy-five pounds; or

(*e*) when, under the provisions of these Regulations, they alter the amount of an assisted person's contribution; or

(*f*) where it appears to them reasonable in all the circumstances that the amount of expenditure which is authorized by a certificate in respect of a claim should be increased; or

(*g*) where, under the provisions of paragraph (3) of Regulation 15, they authorise a solicitor to add any further party to proceedings, or to set up or set off any right or claim, or to reply to any right or claim set up or set off by any other party; or

(*h*) where under the provisions of paragraph (4) of Regulation 17 they direct that proceedings to enforce or give effect to an order or agreement be not taken by the assisted person.

(2) The provisions of Regulations 3, 4, 5 and 6 shall apply, so far as applicable, to applications for the amendment of certificates as they apply to applications for certificates, but with the substitution for references to an appropriate committee of references to the appropriate Area Committee.

(3) Where an Area Committee—

(*a*) amend a certificate, they shall issue a further certificate showing on the face thereof that it replaces and amends the certificate previously issued, and shall send it and one copy thereof to the assisted person's solicitor and a further copy to the assisted person;

(*b*) refuse an application for the amendment of a certificate, they shall notify the assisted person's solicitor in writing.

(4) The decision of an Area Committee on any question relating to the amendment of a certificate shall be final.

Appeals against refusal of Certificates

10.—(1) Where a Local Committee refuse an application for a certificate in respect of proceedings other than authorized summary proceedings or an applicant feels aggrieved by the terms upon which the Local Committee would be prepared to issue it, the applicant may appeal to the appropriate Area Committee:

Provided that no appeal shall lie to an Area Committee from—

(*a*) any determination of the Board; or

(*b*) any decision by a Local Committee as to the amount of any contribution or the method by which it shall be paid.

(2) Such appeal shall be by way of review of the general circumstances in which the application for a certificate was made.

(3) Every appeal shall be brought by giving to the appropriate Area Committee, within four days of the date of notice of refusal of a certificate or of the terms upon which a certificate would be issued (or such longer period as the Local Committee or Area Committee may allow), notice of appeal in writing on a form approved by The Law Society or in such other manner, being in writing, as the secretary of the Area Commitee may accept as sufficient in the circumstances of the case.

(4) Upon an appeal the appellant may, at his own expense, furnish further statements, whether oral or in writing, in support of his application, conduct the appeal himself, be represented by counsel or solicitor, or be assisted by any other person whom he may appoint for the purpose.

(5) The Area Committee shall determine the appeal in such manner as seems to them to be just and, without prejudice to the generality of the foregoing, may—

(*a*) dismiss the appeal ; or

(*b*) direct the Local Committee to issue a certificate subject to such terms and conditions as the Area Committee think fit ; or

(*c*) instead of themselves settling such terms and conditions, direct the Local Committee to do so ; or

(*d*) refer the matter or any part of it back to the Local Committee for their determination or report.

(6) Any decision of an Area Committee with regard to an appeal shall be final, and they shall give notice of their decision, in a form approved by The Law Society, to the Local Committee, to the appellant and to any solicitor acting for him.

Emergency Certificates

11.—(1) The chairman, vice-chairman or secretary of the appropriate committee, or any member of the committee nominated by the chairman or vice-chairman with the approval of the appropriate Area Committee, shall have power, in accordance with the provisions of this Regulation, to issue an emergency certificate in the Form prescribed in the Third Schedule to these Regulations on behalf of the committee and without reference to them or to the Board.

(2) Any person who desires legal aid in relation to proceedings as a matter of urgency may apply for an emergency certificate on a form approved by The Law Society, or in such other manner as the person to whom application is made may accept.

(3) Subject to the provisions of the next following paragraph, an application for an emergency certificate shall be made to the Local or Area Committee to whom application for legal aid in respect of the proceedings would have to be made in accordance with these Regulations.

(4) Where a certificate is in force in respect of a claim, any application in respect of proceedings relating to the claim shall be made to the appropriate Area Committee, and, where the Area Committee issue an emergency certificate, they shall direct that no further steps may be taken in relation to the claim and shall amend the certificate in respect of the claim accordingly.

(5) An applicant for an emergency certificate shall give such information as may be requisite to enable the person to whom application is made to determine whether—

(*a*) the applicant is likely to fulfil the conditions under which legal aid may be granted under the Act and Regulations made thereunder ; and

(*b*) it is in the interests of justice that the applicant should, as a matter of urgency, be granted legal aid;

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.

(6) The emergency 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.

(7) An emergency certificate shall have the same effect in all respects as a certificate and any person holding an emergency certificate shall, while it is in force, be deemed for the purposes of Part I of the Act and these Regulations to have a disposable income of an amount which makes legal aid available for him.

(8) An emergency certificate shall, subject to the next succeeding paragraph of this Regulation, remain in force for a period of six weeks, or such longer period, not exceeding three months, as the appropriate 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.

(9) Where, within the period referred to in the preceding paragraph—

(*a*) the applicant is offered a certificate in respect of the proceedings to which the emergency certificate relates and fails to signify his acceptance within the time specified in paragraph (12) of Regulation 6, the emergency certificate shall be deemed to be revoked on the expiration of that time;

(*b*) the appropriate committee refuse an application for a certificate in respect of the proceedings to which the emergency certificate relates, or the Area Committee dismiss an appeal from the refusal of a Local Committee to grant such a certificate, the committee when refusing the application or dismissing the appeal shall revoke the emergency certificate; and the revocation shall take effect forthwith unless an appeal against the refusal to grant a certificate lies under the provisions of paragraph (1) of Regulation 10, in which case—

(i) if notice of appeal has been given to the appropriate Area Committee within the time limits laid down by paragraph (3) of that Regulation, the revocation shall not take effect, or

(ii) if no such notice has been given, the revocation shall take effect on the expiration of that time limit.

(10) Upon an emergency certificate being extended, revoked or deemed to be revoked, the appropriate committee shall forthwith issue a notice to that effect 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.

(11) A certificate issued within the period referred to in paragraphs (8) and (9) of this Regulation 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 number and date of issue of the emergency certificate; and

(*b*) that the emergency certificate has been continuously in force from that date until the date of the certificate.

Discharge and Revocation of Certificates

12.—(1) A certificate may be either discharged or revoked by the authorities, and in the circumstances, specified in this Regulation.

(2) The appropriate Area Committee may discharge a certificate—

(*a*) at any time at the request of the person to whom it is issued; or

(*b*) where an assisted person has been required to make a contribution and any payment in respect thereof is more than twenty-one days in arrear; or

(*c*) if they are satisfied, after considering any report of the assisted person's solicitor, that the claim or proceedings to which the certificate relates have been disposed of; or

(*d*) where the assisted person's solicitor or counsel has given up the case and the Area Committee are satisfied that the assisted person has required the claim to be asserted or disputed, or the proceedings to be conducted, unreasonably so as to incur an unjustifiable expense to the Fund or has required unreasonably that the claim be continued to be asserted or disputed or the proceedings be continued:

Provided that a certificate shall not be discharged under this sub-paragraph until notice has been served on the assisted person that the Area Committee may do so and that he may show cause why the certificate should not be discharged; or

(*e*) on being satisfied by the report of an assisted person's solicitor or otherwise—

(i) that the assisted person has died, or

(ii) that the assisted person has had a receiving order made against him; or

(*f*) where the Committee have offered to extend to proceedings a certificate relating to a claim and the offer has been refused or has not been accepted within the time limits provided by these Regulations.

(3) The appropriate Area Committee shall discharge a certificate if—

(*a*) as a result of a determination by the Board it appears that—

(i) the disposable income of the assisted person exceeds the maximum amount which makes legal aid available to an applicant;

(ii) the disposable capital of the assisted person is of an amount which renders him liable to be refused legal aid, if it appears that he can afford to proceed without it, and the probable costs which might reasonably be incurred by him in continuing the proceedings, otherwise than as an assisted person, would not exceed the maximum contribution payable under the determination; or

(*b*) as a result of any information coming to their knowledge they consider that the assisted person no longer has reasonable grounds for asserting

or disputing the claim or for taking, defending or being a party to the proceedings, or that it is unreasonable in the particular circumstances for him to continue to receive legal aid (and for the purposes of providing information under this paragraph, any party may disclose to an Area Committee communications relating to the proceedings sent to or by the assisted person's solicitor, whether or not marked " without prejudice ") :

Provided that a certificate shall not be discharged under this subparagraph until notice has been served on the assisted person that the Area Committee may do so and that he may show cause why the certificate should not be discharged.

(4) Where the appropriate Area Committee have considered the discharge of a certificate in consequence of information brought to their knowledge by any person, they may, if they think fit, inform that person whether or not the certificate has been discharged.

(5) Where the appropriate Area Committee are satisfied that an assisted person has wilfully failed to comply with any Regulation as to the information to be furnished by him, or in furnishing any such information has knowingly made a false statement or false representation, they may, if they think fit—

(*a*) where such omission or act occured prior to the issue of a certificate, revoke the certificate ; or

(*b*) where such omission or act occurred after the issue of the certificate, discharge the certificate from the date upon which such omission or act occurred ; or

(*c*) in the case of a failure by an assisted person to provide additional information (when required to do so under paragraph (4) of Regulation 3), revoke the certificate, whether such omission or act occurred prior to or after the issue of the certificate.

(6) At any time during the hearing of any proceedings to which an assisted person is a party the court may, upon application by or on behalf of any other party to the proceedings or by The Law Society, consider whether the assisted person—

(*a*) has wilfully failed to comply with any Regulation as to the information to be furnished by him ; or

(*b*) in furnishing any such information has knowingly made a false statement or false representation ;

and on any such application the court may make an order revoking the certificate or discharging it from such date as may be appropriate and the court's decision shall be final:

Provided that no order shall be made under this paragraph until the assisted person has been given an opportunity to show cause why the certificate should not be discharged or, as the case may be, revoked.

(7) Where an Area Committee discharge or revoke an assisted person's certificate, they shall forthwith issue a notice of discharge or revocation, as the case may be, and shall send the notice and one copy thereof to his solicitor, who shall forthwith inform any counsel instructed by him in the proceedings of the Committee's decision, and the Area Committee shall send a further copy of the notice to the assisted person.

(8) When a court makes an order revoking or discharging an assisted person's certificate, his solicitor shall forthwith inform the appropriate Area Committee.

Effect of Discharge and Revocation of Certificates

13.—(1) Subject to the provisions of this Regulation, a person whose certificate is revoked shall be deemed never to have been an assisted person in relation to the claim or proceedings to which the certificate related, and a person whose certificate is discharged shall, from the date of discharge, cease to be an assisted person in the claim or proceedings.

(2) Upon receipt by him of notice of revocation or discharge of a certificate by an Area or Local Committee or upon revocation or discharge of a certificate by the court, the retainer of any solicitor and counsel selected by or acting on behalf of the assisted person in the claim or proceedings to which the certificate relates shall forthwith determine:

Provided that, if an Area Committee revoke or discharge a certificate or if a certificate has been revoked under the provisions of paragraph (8) of Regulation 11 and proceedings have commenced, whether *ex parte* or *inter partes*, the retainer of the solicitor shall not determine until he has filed and, if the proceedings are *inter partes*, has served any notice required by Regulation 16.

(3) Upon determination of a retainer under this Regulation—

(*a*) the costs of the claim or proceedings to which the certificate related, incurred by or on behalf of the person to whom it was issued, shall, as soon as practicable thereafter—

(i) in the case of a claim be assessed in accordance with the provisions of the Act and these Regulations;

(ii) in the case of proceedings be taxed or so assessed, as the case may be;

(*b*) the Fund shall remain liable for the payment of any costs so taxed or assessed.

(4) Where a certificate has been revoked or discharged, those provisions of section 3 of the Act which provide for a charge upon property recovered or preserved for an assisted person shall apply to any property recovered or preserved as a result of the person whose certificate has been revoked or discharged continuing to assert or dispute the claim, whether by taking proceedings or otherwise, or continuing to take, defend or be a party to the proceedings to which the certificate related and, for the purpose of this paragraph, the reference to a person whose certificate has been discharged shall, where the certificate has been discharged under paragraph 2 (*e*) of Regulation 12, include his personal representatives, or his trustee in bankruptcy or the Official Receiver, as the case may be.

(5) Where a certificate has been revoked—

(*a*) The Law Society shall have the right to recover from the person to whom the certificate was issued the costs paid or payable under subparagraph (*b*) of paragraph (3) of this Regulation less any amount received from him by way of contribution; and

(*b*) the solicitor who has acted under the certificate shall have the right to recover from that person the difference between the amount paid or payable out of the Fund and the full amount of his solicitor and own client costs.

(6) Where a certificate has been discharged, the person to whom the certificate was issued shall remain liable for the payment of his maximum contribution, if any, as determined by the appropriate committee or by the Board up to the amount paid or payable by The Law Society under subparagraph (*b*) of paragraph (3) of this Regulation, and where he continues

to assert or dispute the claim or to take, defend or be a party to the proceedings to which the certificate related—

(*a*) those provisions of section 2 of the Act which relate to sums recovered by virtue of an order or agreement for costs made in favour of an assisted person shall apply in so far as the costs were incurred while he was an assisted person; and

(*b*) those provisions of section 2 of the Act which relate to an assisted person's liability by virtue of an order for costs made against him shall apply in so far as the costs were incurred while he was an assisted person.

Legal Aid granted after Costs incurred

14.—(1) Where, after proceedings have been instituted in any court, any party becomes an assisted person in regard to those proceedings, the provisions of section 2 (2) (*e*) of the Act (which limits the liability of an assisted person under an order for costs made against him) shall apply only to so much of the costs of the proceedings as are incurred while a certificate is in force.

(2) Any solicitor who has acted on behalf of the assisted person in the claim or proceedings to which the certificate relates before the date of the certificate, and any solicitor who has by law a lien on any documents necessary for asserting or disputing the claim, or for the proceedings, 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, The Law Society shall pay to such solicitor out of the sum so recovered the costs to which he would have been entitled following 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 sums paid or payable out 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 the same proportion as those costs bear to the costs allowed on taxation as between party and party in respect of the period during which the certificate was in force, 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 in which—

(*a*) the costs payable to the solicitors under this Regulation, or

(*b*) the party and party costs incurred during the period in which the certificate was in force,

have not been ascertained by taxation they shall for the purpose of this Regulation be fixed by the appropriate Area Committee.

Conduct of Proceedings, etc., on behalf of Assisted Persons

15.—(1) Where it appears to an assisted person's solicitor that the proper conduct of proceedings requires counsel, such counsel shall be selected from the appropriate panel.

(2) Every set of papers delivered by an assisted person's solicitor to counsel shall be marked "Legal Aid" and no fees shall be marked thereon.

(3) Where it appears to the assisted person's solicitor necessary for the proper conduct of the proceedings to take or to apply to the court for leave to take one or more of the following steps, namely—

(*a*) to add any further party to the proceedings;

(*b*) to lodge any interlocutory appeal;

(*c*) to instruct more than one counsel;

(*d*) to set up or set off any right or claim having the same effect as a cross-action (other than a counterclaim or set-off arising out of the same transaction and capable of being pleaded as a defence), or to reply to any right or claim so set up or so set off by any other party;

he shall (unless the certificate provides for the act in question to be done) apply to the appropriate Area Committee for authority to do so, and no payment shall be allowed on taxation for any such step taken without their approval.

(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, tender expert evidence or bespeak transcripts of shorthand notes of any proceedings, and, if they do so, they shall state the fee to be paid for any report, opinion, expert evidence, or transcript.

(5) Where it appears to an assisted person's solicitor necessary for asserting or disputing the claim or for the proper conduct of the proceedings to do any of the following acts, namely—

(*a*) to obtain a report or opinion of one or more experts or to tender expert evidence in a case of a class not included in any general authority under the foregoing paragraph; or

(*b*) in a case of a class so included, to pay a higher fee than that stated by The Law Society or to obtain more reports or opinions or to tender more experts as witnesses than have been authorized; or

(*c*) to bespeak any transcript of shorthand notes of any proceedings not included in any general authority under the foregoing paragraph;

he may (unless the necessary authority is given in the certificate) apply to the appropriate Area Committee for authority so to do and, if the Area Committee give authority, they shall, as the case may be, 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.

(6) Where it appears to the assisted person's solicitor necessary for asserting or disputing the claim or for the proper conduct of the proceedings for any act to be done, but that the act is either unusual in its nature or involves unusually large expenditure, he may request the appropriate Area Committee to obtain The Law Society's prior approval of the act.

(7) Where prior authority or approval has been given under the provisions of paragraph (4), (5) or (6) of this Regulation, no question as to the propriety of the act 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 19 or 24; but where no such prior authority or approval has been obtained, payment for the act shall be made only if it has been allowed on the taxation or assessment.

(8) Without prejudice to the right of solicitors or counsel to give up a case for good reason, any solicitor or counsel may give up an assisted person's case if, in his opinion, the assisted person has required it to be conducted unreasonably so as to incur an unjustifiable expense to the Fund or has required unreasonably that the case be continued.

(9) Where any solicitor or counsel exercises the right to give up an assisted person's case—

(*a*) under the provisions of paragraph (8) of this Regulation; or

(*b*) on the ground that the assisted person has wilfully failed to comply with any Regulation as to the information to be furnished by him or in furnishing such information has knowingly made a false statement or false representation ;

the solicitor shall make a report to the appropriate Area Committee of the circumstances in which that right was exercised.

(10) Where an Area Committee to whom such report is made do not discharge the assisted person's certificate under the provisions of Regulation 12, they shall require the assisted person to select another solicitor from the appropriate panel to act for him, or, if the case has been conducted by a solicitor employed by The Law Society for a salary to act in connection with matrimonial causes, shall arrange for another solicitor so employed to act for him and shall thereupon certify in writing that the first solicitor has ceased to act for the assisted person and shall send that certificate to that solicitor.

(11) On any application made under rules of court for an order to the effect that a solicitor has ceased to be the solicitor for the assisted person, a certificate issued under the immediately preceding paragraph shall be conclusive evidence of the facts stated therein.

(12) No solicitor or counsel acting for an assisted person shall entrust the conduct of any part of the case to any other person save to a solicitor or counsel who is a member of an appropriate panel :

Provided that nothing in this paragraph shall prevent a solicitor from entrusting the conduct of any part of the case to a person who is his partner or who is employed in his office.

(13) An assisted person's solicitor and his counsel (if any) shall give the appropriate Area Committee such information regarding the progress and disposal of the claim or proceedings to which the certificate relates as the Area Committee may from time to time require for the purpose of performing their functions under the Scheme and, without prejudice to the generality of the preceding words, a solicitor who has acted or is acting for an assisted person, on being satisfied that the assisted person has died or has had a receiving order made against him, shall report the facts to the appropriate Area Committee.

(14) Neither solicitor nor counsel shall be precluded, by reason of any privilege arising out of the relationship between counsel, solicitor and client, from disclosing to an Area Committee any information or from giving any opinion which may enable that Committee to perform their functions under the provisions of paragraph (3) (*b*) of Regulation 12.

Service of Notices, etc.

16.—(1) Any notice required to be served under any provision of these Regulations shall be served either—

(*a*) personally, or

(*b*) by sending it by prepaid post to the last known address of the person required to be served, or

(*c*) if served together with any process of a court by any mode of service authorized by rules of court for service of that process.

(2) Whenever an assisted person becomes a party to proceedings, or a party to proceedings becomes an assisted person, his solicitor shall forthwith serve all other parties with notice of the issue of a certificate in the Form prescribed in the Third Schedule to these Regulations and shall, if at any

time thereafter any other person becomes a party to the proceedings, forthwith serve similar notice upon such person.

(3) Where an assisted person's solicitor commences proceedings for the assisted person in the county court and at the same time files a copy of the notice to be served in accordance with the preceding paragraph of this Regulation, the registrar shall annex the copy of the notice to the originating process for service on the defendant.

(4) A solicitor receiving from an appropriate committee under the provisions of these Regulations a notice that the certificate has been amended under the provisions of paragraph (1) (*a*), (*b*) or (*g*) of Regulation 9, discharged or revoked, or receiving a certificate in respect of proceedings to which an emergency certificate related, shall forthwith serve notice of the fact in the Form prescribed in the Third Schedule to these Regulations upon any other persons who are parties to the proceedings and are not in default in entering appearance.

(5) Copies of the notices referred to in paragraphs (2) and (4) of this Regulation shall form part of the papers for the use of the judge at the trial.

(6) When a solicitor receives from an appropriate committee under the provisions of these Regulations—

(*a*) a certificate which relates to proceedings ; or

(*b*) a notice that a certificate has been discharged or revoked ; or

(*c*) a notice that an emergency certificate has been extended ;

he shall, within fourteen days of the date of its issue by the appropriate committee or, if the proceedings have not then begun, upon their commencement, file it in the appropriate court office or registry, and in Chancery proceedings in the High Court shall give notice in the appropriate Chambers. The time for filing may be extended on application to the court *ex parte ;* but, unless reasonable grounds are shown for the application, the court may impose such terms as it may think fit.

(7) Any person, not being himself an assisted person, who is a party to proceedings to which an assisted person is a party, may, at any time before the judgment, file in the appropriate court office or registry an affidavit exhibiting thereto a statement setting out the rate of his own income and amount of his own capital and any other facts relevant to the determination of his means in accordance with the provisions of section 2 (2) (*e*) of the Act.

(8) Any person filing an affidavit under the provisions of the last foregoing paragraph of this Regulation shall serve a copy thereof, together with the exhibit, upon the assisted person's solicitor, who shall forthwith serve him with a copy of the civil aid certificate, or, as the case may be, amended civil aid certificate, but, save as aforesaid, no document and no extract from a document filed or exhibited under paragraphs (6) and (7) of this Regulation shall be disclosed save by leave of the court.

(9) Any document filed or exhibited under the provisions of this Regulation shall be bespoken or made available for the use of the judge at the hearing.

(10) Save as is otherwise provided by these Regulations, in any proceedings in any court to which an assisted person is a party the procedure shall be regulated by the rules of procedure for that court.

(11) Paragraphs (2) to (9), inclusive, of this Regulation shall not apply to authorized summary proceedings and, where an assisted person is a

party to such proceedings, his solicitor shall, before or at the first hearing that takes place after the certificate has been issued, file a copy of the certificate with the clerk to the justices.

Property Recovered or Preserved for and Costs agreed to be paid to or awarded to an Assisted Person

17.—(1) Subject to the provisions of paragraph (9) of this Regulation, all monies payable to an assisted person—

(*a*) by virtue of any agreement or order made in connection with the claim or the action, cause or matter to which his certificate relates, whether such agreement be made before or after proceedings are actually begun; or

(*b*) being monies paid into court by him or on his behalf and ordered to be repaid to him; or

(*c*) being monies standing in a court to the credit of any proceedings to which his certificate relates;

shall be paid or repaid, as the case may be, to the solicitor of the assisted person or, if he is no longer represented by a solicitor, The Law Society, and only the solicitor, or, as the case may be, The Law Society, shall be capable of giving a good discharge for monies so payable, provided that the payment of any sum under an order for costs in favour of an assisted person in authorized summary proceedings shall be made to the clerk to the justices who shall pay it to The Law Society or as The Law Society shall direct and only the clerk to the justices shall be able to give a good discharge therefor.

(2) All monies received by an assisted person's solicitor under the foregoing paragraph shall be paid by him to The Law Society or as The Law Society shall direct:

Provided that, where—

(*a*) by virtue of an order or agreement in connection with any claim, or with any action, cause or matter, for which in consequence of paragraph (1) (*a*), (*b*), (*c*) (i) or (*c*) (ii) of Regulation 19 his remuneration falls to be determined by the appropriate Area Committee, or

(*b*) the Area Committee so direct, because in the special circumstances of the case payment of the whole sum into the Fund would be inequitable or impracticable,

he shall—

(i) inform the Area Committee of any property recovered or preserved for the assisted person; and

(ii) pay to The Law Society any sum paid to him by virtue of an order or agreement made in the assisted person's favour which in the opinion of the Area Committee should be retained by The Law Society in order to safeguard the rights of the Fund under any provisions of the Act and these Regulations; and

(iii) pay any other monies to the assisted person.

(3) Where in any proceedings to which an assisted person is a party—

(*a*) an order or agreement is made providing for the recovery or preservation of property for the benefit of the assisted person and, by virtue of the Act, there is a first charge on the property for the benefit of the Fund; or

(*b*) an order or agreement is made for the payment of costs to the assisted person;

the assisted person shall, subject to the provisions of the next following paragraph, take such proceedings, being proceedings which may be taken under section 1 of the Act, as may be necessary to enforce or give effect to such order or agreement.

(4) An appropriate Area Committee may (either of its own motion or on application by the assisted person) direct that the foregoing paragraph shall not apply to an assisted person on the ground that, having regard to the probable cost of any proceedings referred to, or to the likelihood of their being successful, or to any other relevant circumstance, it would be unreasonable for him to take such proceedings.

(5) Where the order is for the payment of money and an Area Committee, having directed that proceedings be not taken by the assisted person, are nevertheless of the opinion that proceedings should be taken, The Law Society may take the proceedings by the issue of a judgment summons in the county court, or by instituting proceedings in bankruptcy, or, where the debtor is a company, to wind up the company, and for that purpose may authorize any person to swear an affidavit, file a proof, receive a dividend, or take any other step in the proceedings; and the costs incurred by The Law Society in any such proceedings shall be a first charge on any sum so recovered.

(6) Upon receipt of monies paid to them by virtue of this Regulation, The Law Society shall retain—

(*a*) any sum paid by virtue of an order or agreement for costs made in the assisted person's favour;

(*b*) a sum equal to the amount (if any) by which any property recovered or preserved is charged for the benefit of the Fund by virtue of section 3 (4) of the Act (which provides that any sums remaining unpaid on account of an assisted person's contribution and, if the total contribution is less than the net liability of the Fund on his account, a sum equal to the deficiency shall be a first charge on any property recovered or preserved for him in the proceedings); and

(*c*) any costs of proceedings taken by the Area Committee under the provisions of paragraph (5) of this Regulation in so far as such costs have not been recovered from the person against whom the proceedings have been taken;

and shall pay the balance to the assisted person.

(7) The appropriate Area Committee may defer the payment to an assisted person's solicitor of his profit costs in connection with the proceedings until he has, in their opinion, given effect to any provisions of this Regulation.

(8) Where any monies recovered or preserved for an assisted person in any proceedings are ordered to be paid into or remain in court and invested for the benefit of the assisted person, the charge created by section 3 (4) of the Act shall attach only to such part of those monies as, in the opinion of the appropriate Area Committee, as notified in writing to the court, will be sufficient to safeguard the rights of the Fund under any provisions of the Act or these Regulations.

(9) The provisions of this Regulation shall not apply to—

(*a*) payments of money under the provisions of—

(i) sections 3 (2) and 5 (4) of the Guardianship of Infants Act, 1925, or

(ii) section 1 of the Inheritance (Family Provision) Act, 1938(a), or

(a) 1 & 2 Geo. 6. c. 45.

(iii) sections 19, 20, 22, 23, 26 and 28 of the Matrimonial Causes Act, 1950(a), or

(iv) sections 2, 3, 4 and 5 of the Matrimonial Causes (Property and Maintenance) Act, 1958(b), or

(v) section 4 of the Affiliation Proceedings Act, 1957; or

(*b*) periodical payments of money under the provisions of the Matrimonial Proceedings (Magistrates' Courts) Act, 1960, in respect of the maintenance of a spouse or child; or

(*c*) monies paid in lieu of or with respect to arrears of any payments referred to in sub-paragraphs (*a*) or (*b*) of this paragraph; or

(*d*) monies payable, whether by way of arrears or otherwise, under an agreement in writing made between parties to a marriage for the purposes of their living separately and containing financial arrangements (whether made during the continuance or after the dissolution or annulment of the marriage); or

(*e*) payments of money under the provisions of any Act which provides for the enforcement of or for giving effect to an order made under one of the sections set out in sub-paragraph (*a*) of this paragraph;

and monies so payable or property passing in lieu shall not be the subject of a charge within the terms of section 3 (4) of the Act.

(10) Where a certificate relates to a matrimonial cause and an application under section 17 of the Married Women's Property Act, 1882(c), 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.

(11) For the purposes of this Regulation the expression "assisted person" includes a person in respect of whom a certificate has been but is no longer in force.

Costs awarded against an Assisted Person

18.—(1) Where an order for costs is made against an assisted person, the determination of the amount of his liability for costs in accordance with section 2 (2) (*e*) of the Act shall be made at the trial or hearing of the action, cause or matter:

Provided that the court may, if it thinks it expedient in the interests of justice and upon such terms, if any, as it thinks fit—

(*a*) postpone or adjourn the determination for such time and to such place, including chambers, as the court thinks fit, so however that the determination shall take place before the judge, official referee, master or registrar before whom the trial or hearing took place, or

(*b*) refer to a master, registrar or the Clerk of the Parliaments or, in the case of an appeal from a decision of a county court or court of quarter sessions or court of summary jurisdiction, to the county court registrar, clerk of the peace or clerk to the justices respectively of the court from which the appeal is brought, for investigation in chambers, any question of fact relevant to the determination, requiring him to report his finding on that question to the court.

(2) In determining the amount of the assisted person's liability—

(*a*) his dwelling-house and household furniture and the tools and implements of his trade shall be left out of account to the like extent as they are left out of account by the Board in determining his disposable income and disposable capital; and

(a) 14 Geo. 6. c. 25. (b) 6 & 7 Eliz. 2. c. 35. (c) 45 & 46 Vict. c. 75.

(*b*) any certificate, notice or affidavit which may have been filed under the provisions of Regulation 16 shall be evidence of the facts stated therein:

Provided that the court may, if it thinks fit, order the assisted person and any party who has filed an affidavit pursuant to paragraph (7) of Regulation 16 to attend for oral examination as to his means and as to any other facts (whether stated in any document before the court or otherwise) relevant to determine the amount of the assisted person's liability and may permit any party to give evidence and call witnesses thereon.

(3) The court may direct—

(*a*) that payment under the order for costs shall be limited to such amount, payable by instalments or otherwise, including an amount to be determined on taxation not exceeding the amount, as the court thinks reasonable having regard to all the circumstances, or

(*b*) where the court thinks it reasonable either for payment under sub-paragraph (*a*) of this paragraph not to be made immediately or for the assisted person to have no liability for payment, that payment under the order for costs be suspended either until such date as the court may determine or *sine die*.

(4) The party in whose favour the order is made may, within six years from the date thereof, apply to the court for the order to be varied on the grounds that there has been a change in the assisted person's circumstances since the date of the order and on any such application the order may be varied as the court thinks fit; but save as aforesaid the determination of the court shall be final.

(5) Where an assisted person serves notice of discontinuance or where an order for costs is made against him by reason of his default of appearance or defence or by reason of summary judgment, or upon application by him for leave to discontinue, he shall be liable for the full amount of the costs, unless he makes an application for determination of the amount of his liability under the provisions of section 2 (2) (*e*) of the Act, in which case the court may make any such order for payment as may be made in determining an assisted person's liability by virtue of an order for costs made against him at a trial or hearing of an action, cause or matter and shall to the same extent be final.

(6) Where an order for costs is made against an assisted person who is concerned in the proceedings in a representative, fiduciary or official capacity, he shall have the benefit of section 2 (2) (*e*) of the Act and his personal resources shall not (unless there is reason to the contrary) be taken into account for that purpose, but regard shall be had to the value of the property or estate, or the amount of the fund out of which he is entitled to be indemnified.

Miscellaneous Provisions as to Costs

19.—(1) Where—

(*a*) the work done by an assisted person's solicitor relates to a claim; or

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

(*c*) proceedings have begun and—

(i) the solicitor is of opinion that the total amount which he and counsel (if any) would receive after a taxation in accordance with the provisions of the Third Schedule to the Act would not be more than £40; or

(ii) the case of an assisted person (who is not such a person as is referred to in Rule 30 of the Supreme Court Costs Rules, 1959(a)), has been settled after the commencement of proceedings, without any direction of the court as to costs, on terms that include provision for an agreed sum in respect of costs to be paid to the assisted person which the solicitor and counsel (if any) is willing to accept in full satisfaction of the work done ; or

(iii) there has been a change of solicitor and it appears unlikely to the solicitor whose retainer is determined that there will be a taxation of his costs within six months of the date the retainer was determined ; or

(iv) there are special circumstances where a taxation would be against the interest of the assisted person or would increase the amount payable from the Fund ; or

(v) after a direction or order that the assisted person's costs shall be taxed in accordance with the Third Schedule to the Act, the solicitor incurs costs for the purpose of recovering monies payable into the Fund ;

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

(2) On any such application the appropriate Area Committee shall authorize the payment to the solicitor and counsel (if any) of such an amount as, in their opinion—

(*a*) in the case of work done in relation to a claim, or where the retainer of the assisted person's solicitor or counsel was determined before proceedings were actually begun, or where a settlement is reached within the terms of paragraph (1) (*c*) (ii) of this Regulation, or where proceedings were begun in the county court, is fair remuneration for work actually and reasonably done ; and

(*b*) in any other case, is the amount which would have been allowed to the solicitor or counsel had the costs been taxed under the provisions of the Third Schedule to the Act.

(3) Where in any proceedings to which an assisted person is a party—

(*a*) judgment is signed in default of appearance or defence, the judgment shall contain a direction that the costs of any assisted person shall be taxed in accordance with the provisions of the Third Schedule to the Act ;

(*b*) the court gives judgment or makes a final order in the proceedings, the judgment or order shall include a direction (in addition to any other direction as to taxation contained in the judgment or order) that the costs of any assisted person shall be so taxed.

(4) Where in any proceedings to which an assisted person is a party—

(*a*) the proceedings are, or have been, brought to an end without a direction having been given, whether under the foregoing paragraph of this Regulation or otherwise, as to the assisted person's costs being taxed in accordance with the Third Schedule to the Act ; or

(*b*) a judgment or order in favour of an opposite party, which includes a direction that the assisted person's costs be so taxed, has not been drawn up or, as the case may be, entered by him ; or

(a) S.I. 1959/1958 (Second Schedule) (1959 II, p. 2535).

(*c*) a retainer is determined under the provisions of paragraph (2) of Regulation 13 in such circumstances as to require a taxation in accordance with the provisions of the Act and these Regulations;

an order that the assisted person's costs be taxed in accordance with the Third Schedule to the Act shall be made on application in chambers, *ex parte*, to the Clerk of the Parliaments or to the registrar, as the case may be, by his solicitor and the costs of the application and taxation shall be deemed to be costs in the proceedings to which the certificate relates or related.

(5) Costs incurred by reason of any report made by an assisted person's solicitor under Regulation 12 and of any application made under Regulation 15 shall be taxed in accordance with the provisions of the Third Schedule to the Act and costs incurred by reason of Regulation 16 shall be costs in the cause.

(6) The amount allowed to counsel retained by a solicitor employed by The Law Society for a salary to act in connection with matrimonial causes in the High Court shall, in the case of any matrimonial cause concluded after the first day of July, 1959, be seventy-five *per cent.* of the amount allowed on taxation of the costs in accordance with the provisions of the Third Schedule to the Act, or, where the retainer was determined before proceedings were actually begun, the full amount allowed on assessment under paragraph (2) of this Regulation.

(7) The sums allowed to counsel in connection with proceedings in the House of Lords or the Supreme Court, other than proceedings to which the foregoing paragraph applies, shall, if the instructions or brief, as the case may be, are delivered on or after the first day of January, 1961, be ninety *per cent.* of the amount allowed on taxation of the costs.

(8) The sums allowed to a solicitor in connection with proceedings in the House of Lords or the Supreme Court shall, in respect of costs incurred in relation to business done on or after the first day of January, 1961, be the full amount allowed on taxation of the costs on account of disbursements and ninety *per cent.* of the amount so allowed on account of profit costs:

Provided that so much of this paragraph as relates to profit costs shall not apply to a solicitor employed for a salary to act in connection with matrimonial causes.

Taxation of Costs

20.—(1) The costs of proceedings to which an assisted person is a party shall be taxed in accordance with any direction or order given or made in the proceedings irrespective of the interest (if any) of the assisted person in the taxation, and for the purpose of these Regulations an order for the taxation of the costs of a review of taxation or of the costs of an appeal from a decision of the judge on such a review shall be deemed to be a final order.

(2) It shall be the duty of an assisted person's solicitor to safeguard the interests of the Fund on any taxation as between party and party pursuant to an order for costs made in favour of the assisted person where that person may himself have no interest in the result of the taxation and for this purpose to take such steps as may appear to the solicitor to be necessary to obtain a review of taxation under the succeeding provisions of this Regulation.

(3) (*a*) Any proceedings under the succeeding provisions of this Regulation or under Regulation 22 shall be deemed to be proceedings to which

the assisted person's certificate relates, whether or not it has been discharged or revoked, and the costs of such proceedings shall be paid out of the Fund.

(*b*) Where the assisted person has no interest in the taxation or would, save for the provisions of this Regulation, have an interest adverse to that of his solicitor, he shall not be required to make any contribution to the Fund on account of the costs of the taxation or in consequence of any order made thereon, nor shall any resulting increase in the net liability of the Fund be a charge on any property recovered or preserved for the assisted person in the proceedings to which his certificate relates.

(4) Where—

(*a*) an assisted person is dissatisfied with any decision of a taxing officer in regard to the amount which he is entitled to recover by virtue of an order or agreement for costs made in his favour or for which he is liable by virtue of an order for costs made against him; or

(*b*) the assisted person's solicitor is dissatisfied with any decision of the taxing officer—

(i) on a taxation as between party and party pursuant to an order for costs made in favour of the assisted person; or

(ii) on a taxation in accordance with the Third Schedule to the Act;

the solicitor shall apply to the appropriate Area Committee for authority to carry in objections to the taxation and if the Area Committee give authority the solicitor may thereupon carry in objections in accordance with rules of court; and where the assisted person has no interest in the taxation or would, save for the provisions of this Regulation, have an interest adverse to that of his solicitor, it shall be the duty of the solicitor to place before the taxing officer all matters which are proper to be taken into account on the consideration of the objections and the taxing officer shall reconsider and review the taxation accordingly.

(5) Where the assisted person or his solicitor, as the case may be, is dissatisfied with the decision of the taxing officer on any matter to which objection has been taken as aforesaid, the solicitor shall apply to The Law Society for authority to have the taxation reviewed, and, if the Society give authority, the solicitor may thereupon apply to a judge either personally or by counsel to review the taxation in accordance with rules of court; and where the assisted person has no interest in the taxation or would, save for the provisions of this Regulation, have an interest adverse to that of his solicitor, it shall be the duty of the solicitor to ensure that there are placed before the judge all matters which are proper to be taken into account on the review and the judge shall hear and determine the application accordingly.

(6) Where any party to a taxation is an assisted person, the certificate or allocatur shall not, save by consent, be signed within twenty-one days after the taxing officer's decision; and where an assisted person's solicitor applies under either of the two foregoing paragraphs for authority to carry in objections or to have a taxation reviewed, he shall do so before the expiration of the time allowed by rules of court for applying to the taxing officer for a reconsideration or review of a taxation and shall thereupon give notice of his application to the taxing officer and to the opposite party and the time so allowed shall thereupon be extended by one month.

(7) Where counsel acting for an assisted person is dissatisfied with any decision on a taxation in accordance with the Third Schedule to the Act, it shall be the duty of the assisted person's solicitor to report the matter to the appropriate Area Committee or to The Law Society, as the case may be, and, if the Committee or the Society give authority in that behalf, to carry in objections to the taxation, to apply to a judge to review the taxation or to appeal from the decision of the judge, as the case may be, and paragraphs (3), (4) and (5) of this Regulation and paragraph (1) of Regulation 22 shall apply as if the solicitor were the person dissatisfied.

(8) If, in proceedings to which an assisted person is a party, any other party carries in objections to a taxation as between party and party or applies to a judge to review the taxation, the assisted person's solicitor may be heard on the objection or review notwithstanding that the assisted person himself may have no interest in the taxation.

Appointment of Solicitor to Intervene

21.—(1) The Lord Chancellor may appoint a solicitor to intervene for the purposes hereinafter mentioned in any review by a judge of a taxation of the costs of proceedings to which an assisted person is a party, and such appointment may be made in respect of a particular review or may extend to any review of taxation during the period for which the solicitor is appointed.

(2) Whenever The Law Society give authority to an assisted person's solicitor to apply to a judge to review a taxation, they shall notify the Lord Chancellor and inform him of the name and address of the assisted person's solicitor.

(3) If, in proceedings to which an assisted person is a party, any other party applies to a judge to review a taxation between party and party or the assisted person's solicitor applies to a judge to review any such taxation as is referred to in paragraph (4) of Regulation 20, the assisted person's solicitor shall inform The Law Society of that fact and the Society shall notify the Lord Chancellor and inform him of the name and address of the assisted person's solicitor and, where the taxation to be reviewed is as between party and party, the name and address of the solicitor acting for the other party.

(4) The solicitor appointed by the Lord Chancellor to intervene in a review of taxation shall be entitled to production of all documents relevant to the matters in issue before the judge and to delivery of copies thereof and to appear by counsel and be heard on the review, with a view to ensuring that all considerations which are proper to be taken into account are placed before the court, whether they relate to the interests of the Fund or of the assisted person or to the fair remuneration of solicitors and counsel acting for assisted persons.

(5) On any review in which the solicitor appointed by the Lord Chancellor has intervened the judge may make such order as may be just for the payment to or by that solicitor of the costs incurred by him or any other party, so however that any sum due to the solicitor by virtue of any such order shall be paid by him to The Law Society and any sum so payable by the solicitor shall be paid out of the Fund; and the solicitor shall be entitled to receive from the Fund his costs of a review in which he has intervened.

Appeal from Review of Taxation

22.—(1) An assisted person's solicitor may, with the authority of The Law Society, appeal from the decision of the judge on a review of taxation under paragraph (5) or (7) of Regulation 20 and shall be entitled to appear by counsel and be heard on an appeal by any other party notwithstanding that the assisted person may have no interest in the appeal or would, save for the provisions of Regulation 20, have an interest adverse to that of his solicitor:

Provided that nothing in this Regulation shall be deemed to confer a right of appeal where there is no such right in proceedings to which an assisted person is not a party.

(2) The solicitor appointed by the Lord Chancellor under paragraph (1) of the last foregoing Regulation may appeal from the decision of the judge on a review of taxation under paragraph (5) or (7) of Regulation 20, and paragraphs (2) to (5) of the last foregoing Regulation shall apply to an appeal as they apply to a review.

Charges upon Property Recovered or Preserved

23.—(1) Any charge on property recovered or preserved for an assisted person arising under section 3 (4) of the Act shall vest in The Law Society.

(2) The Law Society may enforce any such charge in any manner which would be available if the charge had been given *inter partes*.

(3) Any such charge affecting land shall be a land charge of Class B within the meaning of section 10 of the Land Charges Act, 1925(a).

(4) Subject to the provisions of the Land Charges Act, 1925, all conveyances and acts done to defeat, or operating to defeat, such charge shall, except in the case of a conveyance to a *bona fide* purchaser for value without notice, be void as against The Law Society.

Remuneration of Counsel and Solicitors in Magistrates' Courts, etc.

24.—(1) Regulations 19 to 22 inclusive shall not apply in respect of the following proceedings in a magistrates' court or a court of quarter sessions:—

(*a*) proceedings for or relating to an affiliation order within the meaning of the Affiliation Proceedings Act, 1957, or an order under the Matrimonial Proceedings (Magistrates' Courts) Act, 1960;

(*b*) proceedings under the Guardianship of Infants Acts, 1886 and 1925;

(*c*) proceedings under the Small Tenements Recovery Act, 1838;

and the sums allowed to counsel and solicitors in connection with those proceedings shall be assessed by the appropriate Area Committee in accordance with the provisions of the Second Schedule to these Regulations.

(2) With the leave of the appropriate Area Committee, any solicitor or counsel may, if aggrieved as to any sum allowed on an assessment in accordance with the provisions of the Second Schedule to these Regulations, make written representations to the Council of The Law Society and that Council may allow such costs and fees in respect of the work to which the certificate relates as appears to it to represent fair remuneration according to the work actually and reasonably done.

(a) 15 & 16 Geo. 5. c. 22.

Forms

25. The Forms in the Third Schedule to these Regulations shall be used wherever applicable with such variations as circumstances may require.

Dated the twenty-fourth day of January, 1962.

Kilmuir, C.

We, the undersigned, two of the Lords Commissioners of Her Majesty's Treasury, do hereby concur in Regulation 5 of and the First Schedule to the above Regulations.

John Hill.
Michael Hughes-Young.

FIRST SCHEDULE Regulation 5 (2)

Assessment of Resources of Applicant for Certificate Relating to a Claim

1. In this Schedule, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them—

"capital" means the amount or value of every resource of a capital nature;

"income" means the total income from all sources which the applicant may reasonably expect to receive during the twelve months next ensuing from the date of the application; that income in the absence of other means of ascertaining it being taken to be the income received during the preceding twelve months.

2. Any question arising under this Schedule shall be decided by the appropriate committee who, in deciding any such question, shall have regard to any guidance which may from time to time be given by The Law Society as to the application of this Schedule.

3. The disposable capital and disposable income of an applicant shall be the capital and income as determined by the appropriate committee after deducting any sums which are to be left out of account or for which allowance is to be made under the provisions of this Schedule.

4.—(1) Where an application is made on behalf of an infant, the capital and income of the infant shall, subject to the provisions of the next succeeding sub-paragraph, be treated as the capital and income of the applicant and the applicant's capital and income shall be left out of account.

(2) The resources of any person who, under section 42 of the National Assistance Act, 1948(a), is liable to maintain the infant, or who usually contributes substantially to the infant's maintenance, may be treated as the resources of the infant if, having regard to all the circumstances, including the age and resources of the infant, it appears just and equitable to do so.

5. If it appears to the appropriate committee that any person whose capital and income falls to be computed under the provisions of this Schedule has, with intent to reduce the disposable capital or disposable income or maximum contribution, directly or indirectly deprived himself of any resource or has converted any part of his resources into resources which are to be left out of account, the resources of which he has so deprived himself or which he has so converted shall be treated as part of his resources or as not so converted, as the case may be.

(a) 11 & 12 Geo. 6. c. 29.

6. Subject to the provisions of this Schedule, legal aid in respect of a claim shall be available to any person whose disposable capital does not exceed £125 and who either was in receipt of national assistance at the date of his application or whose disposable income does not exceed £325:

Provided that legal aid may nevertheless be refused to a person who was in receipt of national assistance at the date of his application if his disposable income exceeds £325 and it appears that the need for assistance was or is likely to be temporary.

7. In computing the capital and income of an applicant—

(*a*) there shall be left out of account the value of the subject-matter of the claim in respect of which he is seeking legal aid;

(*b*) the resources of any spouse of his shall be treated as his resources unless—

(i) the spouse has a contrary interest in the claim in respect of which he is seeking legal aid; or

(ii) the applicant and his spouse are living separate and apart; or

(iii) in all the circumstances of the case it would be inequitable or impracticable to do so.

8. In computing the capital of an applicant—

(*a*) the value of his dwelling house, household furniture and effects, articles of personal clothing and the tools and implements of his trade shall be left out of account;

(*b*) Where the applicant has living with him one or more of the following persons, namely, a spouse whose resources are required to be aggregated with his, a dependent child or a dependent relative wholly or substantially maintained by him, a deduction shall be made of £75 in respect of the first person, £50 in respect of the second person and £25 in respect of each further person;

(*c*) Where the disposable income of the applicant is less than £375, a deduction shall be made of a sum equal to the difference between the disposable income and £375.

9. In computing the income of an applicant—

(*a*) there shall be left out of account—

(i) any income tax paid or payable on income treated under the provisions of this Schedule as his income;

(ii) the amount estimated to be payable in the twelve months next ensuing from the date of the application under the National Insurance Acts, 1946 to 1960, the National Insurance (Industrial Injuries) Acts, 1946 to 1960, and the National Health Service Contributions Acts, 1957 and 1961, by any person whose income is, under the provisions of this Schedule, to be treated as the applicant's;

(*b*) there shall be allowed—

(i) £117 in respect of any spouse of his wholly or substantially maintained by him, or where the capital and income of the spouse are treated as his resources;

(ii) £70 in respect of any child wholly or substantially maintained by him, or by any spouse of his where the capital and income of the spouse are treated as his resources;

(iii) £117 in respect of any other person wholly or substantially maintained by him, or by any spouse of his where the capital and income of the spouse are treated as his resources;

(iv) £65 in respect of the cost of rent and any other matters for which the person concerned must or reasonably may provide, regardless of their actual cost.

10. Where the disposable income of the applicant is or exceeds £253, he shall be required to pay a contribution to the Fund in respect of sums payable thereout on his account of not more than £1 for each £3 in excess of £250.

11. Where it appears to the appropriate committee that there has been some error or mistake in the determination of the disposable income, disposable capital or maximum contribution of the applicant, they may redetermine the disposable income or disposable capital or maximum contribution or, as the case may be, amend the determination, and in the latter case the amended determination shall for all purposes be substituted for the original determination.

SECOND SCHEDULE Regulation 24

REMUNERATION OF SOLICITORS AND COUNSEL GIVING LEGAL AID IN PROCEEDINGS IN MAGISTRATES' COURTS AND COURTS OF QUARTER SESSIONS

1.—(1) There shall be allowed to the solicitor acting under a certificate on behalf of an assisted person—

(*a*) where the hearing takes place in a magistrates' court, a fee of not less than £6 6s. 0d. and not exceeding £36 15s. 0d. and, in addition, a further fee not exceeding £12 12s. 0d. in respect of every day on which an adjourned hearing takes place; or

(*b*) where the hearing takes place in a court of quarter sessions, a fee of not less than £8 8s. 0d. and not exceeding £36 15s. 0d. and, in addition, a further fee not exceeding £12 12s. 0d. in respect of every day on which an adjourned hearing takes place or, if the court of quarter sessions is one in which a party may appear by a solicitor and counsel has not been instructed, a fee not exceeding £18 7s. 6d.

(2) In addition to any fee payable under sub-paragraph (1) of this paragraph, the solicitor shall be allowed:—

(*a*) expenses actually and reasonably incurred by him or his clerk in travelling to and from the court in which the hearing takes place and to and from any place visited for the purpose of preparing or conducting the case; and

(*b*) any other out-of-pocket expenses actually and reasonably incurred.

2.—(1) There shall be allowed to counsel acting under a certificate on behalf of an assisted person a fee of not less than £6 11s. 0d. (except where the hearing takes places in a court of quarter sessions, where the fee shall not be less than £8 13s. 0d.) and not exceeding £37 15s. 0d.

(2) Where a hearing has not been concluded at the end of the first relevant period thereof, there shall be allowed to counsel in respect of each relevant period, or, in the case of an incomplete period, part thereof, after the first, a refresher fee.

(3) In this paragraph—

(*a*) "relevant period" means either, as The Law Society may determine generally, or as the appropriate Area Committee may determine in relation to any particular hearing, any day during any part of which the hearing continues or any period of five hours, whether continuous or not, during which the hearing continues;

(*b*) "refresher fee" means such fee in addition to the fee allowed under the foregoing paragraph, not exceeding half the fee allowed as aforesaid, as appears to be proper in all the circumstances of the case.

(4) There shall be allowed to counsel in addition to any fees allowed under the foregoing paragraphs—

(*a*) in respect of any conference or consultation in chambers or elsewhere lasting not more than half-an-hour, a fee of £2 7s. 0d.;

(*b*) in respect of any conference or consultation in chambers or elsewhere lasting more than half-an-hour, such fee as appears to be proper in all the circumstances of the case;

(*c*) in respect of any application to the court for a case, which is in a list of cases to be heard on any particular day, not to be heard on that day, such fee as appears to be proper in all the circumstances of the case;

(*d*) for advice in writing, if in the opinion of the appropriate Area Committee it was reasonably necessary to obtain counsel's advice in writing, a fee not exceeding £11 0s. 0d.

3.—(1) Subject to the provisions of this Schedule, the appropriate Area Committee in assessing the sums payable to a solicitor or counsel shall take into account all the relevant circumstances, including the nature, importance, complexity or difficulty of the work, and the time involved, including time spent at the court on any day waiting for the case to be heard, if the case was in that day's list, and shall allow such amounts as appear to them to represent fair remuneration for the work actually and reasonably done.

(2) In assessing as aforesaid, the appropriate Area Committee shall not allow any sum in respect of any conference, consultation, attendance or visit unless it is satisfied that such conference, consultation, attendance or visit was reasonably necessary.

4. If it appears to the appropriate Area Committee in assessing the sums payable to a solicitor or counsel that for any reason, including the exceptional length, difficulty or complexity of the case in respect of which the certificate was granted, the sums payable by virtue of this Schedule would not provide fair remuneration according to the work actually and reasonably done, it shall certify accordingly, and where it so certifies, any limitation contained in this Schedule on the amount of any fee payable shall not apply, and the appropriate Area Committee shall, after taking into account all the relevant circumstances of the case and having regard to the considerations mentioned in the preceding paragraph, allow such fees in respect of the work to which the certificate relates as appear to it to represent fair remuneration according to the work actually and reasonably done.

5. Where a solicitor acting on behalf of an assisted person under a certificate reasonably undertakes work in giving notice of appeal or in applying for a case to be stated and in matters preliminary thereto, being work done within the ordinary time for giving notice or making an application, there shall, in addition to the fees which may be paid to him under the foregoing provisions of this Schedule and his disbursements on the said work, be allowed to him a fee not exceeding £10 10s. 0d. in respect of the said work and, in any case where counsel's opinion is required, a fee not exceeding £11 0s. 0d. shall be allowed to counsel for his opinion.

THIRD SCHEDULE Regulation 25

FORMS

CIVIL AID CERTIFICATE (CLAIM)

Legal Aid (General) Regulations, 1962

THE LAW SOCIETY

LEGAL AID AND ADVICE ACTS, 1949 AND 1960

CIVIL AID CERTIFICATE
(CLAIM)

THIS IS TO CERTIFY that

of

(hereinafter called "the assisted person") is entitled, in accordance with the above-mentioned Acts and the Regulations and Schemes made thereunder, to legal aid to

Unless amended by the appropriate Area Committee, this Certificate shall NOT—

(*a*) entitle the assisted person to instruct Counsel or to take, defend or be a party to proceedings;

(*b*) cover the expenditure of more than £ by way of costs and disbursements; and

the amount payable by way of such costs and disbursements is limited to such sum, not exceeding the amount specified, as shall be assessed by the Area Committee in accordance with the Regulations.

IT IS FURTHER CERTIFIED that—

1. The assisted person's Solicitor is

of

2. The disposable income, disposable capital, and maximum contribution have been determined, the actual contribution assessed, and the method of payment fixed as shown below.

	Actual contribution £	payable by
Disposable income	£	
Disposable capital	£	
Maximum contribution	£	

The said instalments are payable on the day of each month commencing in , 19 .

Issued this day of , 19

(Signed).....

Secretary to the *Area/Local Committee [in Legal Aid Area No.].*

EMERGENCY CERTIFICATE

Legal Aid (General) Regulations, 1962

THE LAW SOCIETY

LEGAL AID AND ADVICE ACTS, 1949 AND 1960

EMERGENCY CERTIFICATE

THIS IS TO CERTIFY that

of

(hereinafter called "the assisted person") is entitled, in accordance with the above-mentioned Acts and the Regulations and Schemes made thereunder, to legal aid as (*a*) in connection with the following proceedings

(*a*) Insert "plaintiff", "defendant", "petitioner", "intervener", or as the case may require.

THIS IS FURTHER TO CERTIFY that—

1. The assisted person's solicitor is (*b*)

of

(*b*) The name and address of the solicitor should be filled in if possible when the emergency certificate is issued, but may be filled in after the emergency certificate has been filed.

2. This certificate, being an emergency certificate, remains in force for a period of six weeks from the date hereof, or such other period not exceeding three months as the Area/Local Committee may allow, unless it is previously revoked or is replaced by a civil aid certificate.

(*c*) Insert any special conditions.

3. (*c*)

Issued this day of ; 19 .

(Signed).....

Secretary to the *Area/Local Committee* [*in Legal Aid Area No.*].

CIVIL AID CERTIFICATE (PROCEEDINGS)

Legal Aid (General) Regulations, 1962

THE LAW SOCIETY

LEGAL AID AND ADVICE ACTS, 1949 AND 1960

CIVIL AID CERTIFICATE

(PROCEEDINGS)

THIS IS TO CERTIFY that

of

(hereinafter called "the assisted person") is entitled, in accordance with the above-mentioned Acts and the Regulations and Schemes made thereunder, to legal aid to

IT IS FURTHER CERTIFIED that:—

1. The assisted person's Solicitor is

of

2. The disposable income, disposable capital, and maximum contribution have been determined, the actual contribution assessed, and the method of payment fixed as shown below:—

	Actual contribution £	payable by
Disposable income	£	
Disposable capital	£	
Maximum contribution	£	

The said instalments are payable on the day of each month commencing in , 19 .

Issued this day of , 19 .

(Signed).....

Secretary to the *Area/Local Committee* [*in Legal Aid Area No.*].

Legal Aid (General) Regulations, 1962

THE LAW SOCIETY

CIVIL AID CERTIFICATE
FOR PROCEEDINGS IN MAGISTRATES' COURTS

THIS IS TO CERTIFY that

of

(hereinafter called "the assisted person") is entitled, in accordance with the Legal Aid and Advice Acts, 1949 and 1960, and the Regulations and Schemes made thereunder, to legal aid as in connection with the following proceedings:—

THIS IS FURTHER TO CERTIFY that—

The assisted person's solicitor is

of

Dated this day of , 19 .

(Signed)

Secretary to the Local Committee in Legal Aid Area No.

NOTICE OF ISSUE OF CERTIFICATE

Legal Aid (General) Regulations, 1962

THE LAW SOCIETY

LEGAL AID AND ADVICE ACTS, 1949 AND 1960

NOTICE OF ISSUE OF CERTIFICATE

No.

In the

[Division]

Between [Plaintiff] [Petitioner]

and

[Defendant] [Respondent]

TAKE notice that [an Emergency] [a Civil Aid] Certificate dated the day of , 19 , has been issued to in connection with the following proceedings:—

TAKE further notice that, in consequence thereof, the in these proceedings is and has been from that date an assisted person.

Dated this day of , 19 .

(Signed).....

of

Solicitor for

To

NOTICE UNDER REGULATION 16 (4)

Legal Aid (General) Regulations, 1962

THE LAW SOCIETY

LEGAL AID AND ADVICE ACTS, 1949 AND 1960

NOTICE UNDER REGULATION 16 (4)

In the [Division]

Between [Plaintiff] [Petitioner]

and

[Defendant] [Respondent]

TAKE notice that [a Civil Aid] [an Emergency] Certificate [dated the day of , 19 , has been issued in respect of the proceedings hitherto covered by an Emergency Certificate] [dated the day of , 19 , issued to the above-named*] has, on the day of , 19 , been [amended] [discharged] [revoked]. [The amendment provides: that the Certificate shall [not] extend to the following proceedings:—

* Insert Plaintiff, Petitioner, Defendant, Respondent, etc., as the case may require.

]

Dated this day of , 19 .

(Signed).....

of

Solicitor for

To

EXPLANATORY NOTE

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

These Regulations consolidate with amendments the Legal Aid (General) Regulations, 1960, the Legal Aid (General) (Amendment) Regulations, 1960, the Legal Aid (General) (Amendment No. 2) Regulations, 1960, the Legal Aid (General) (Amendment No. 3) Regulations, 1960, the Legal Aid (General) (Amendment No. 4) Regulations, 1960, and the Legal Aid (General) (Amendment) Regulations, 1961.

The principal amendments are as follows:—

Regulation 1 (5) has been amended to allow Area Secretaries, if so directed by The Law Society, to authorize assisted persons' solicitors to lodge interlocutory appeals. Regulation 5 (11) has been amended so as to make it clear that the power of the appropriate committee to have regard to the value of the estate or other property out of which the applicant is entitled to be indemnified is a discretionary one.

Regulation 6 (10) has been altered so that an applicant for a certificate under which no contribution is payable need not go through the formality of accepting it.

Regulation 12 (5) (*c*) has been amended to allow the Area Committee to revoke a certificate if the applicant fails to comply with Regulation 3 (4) (which requires him to furnish information and attend for an interview for that purpose), whether the breach occurs before or after the issue of a certificate.

Regulation 17 (8) has been inserted to require the appropriate Area Committee to estimate how much of the money standing in court will be needed in due course to satisfy The Law Society's charge under section 3 (4) of the Legal Aid and Advice Act, 1949. The balance will be released from the charge for investment. The Act has been modified under the power in section 12 (3) by the addition of Regulation 18 (6), which gives persons acting in a fiduciary capacity the limitation on liability for costs that is conferred on legally aided litigants generally by section 2 (2) (*e*) of the Legal Aid and Advice Act, 1949.

Regulation 19 (1) (*c*) (i) has been amended so as to allow a solicitor to apply to the Area Committee for the payment of costs where he is of opinion that the total amount which he and counsel would receive after taxation would not exceed £40 (instead of £26 6s.).

Regulation 24 (2) has been inserted so as to give solicitors and counsel the right, with the leave of the Area Committee, to appeal to the Council of The Law Society against the assessment by the Area Committee of their fees for proceedings in a magistrates' court or court of quarter sessions.