STATUTORY INSTRUMENTS

1971 No. 62 (L.1)

LEGAL AID AND ADVICE, ENGLAND

The Legal Aid (General) Regulations 1971

Made - - - -	13*th January* 1971
Laid before Parliament	26*th January* 1971
Coming into Operation	1*st February* 1971

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

Title, commencement and interpretation

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

(2) The Interpretation Act 1889(**c**) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(3) In these regulations, unless the context otherwise requires—

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

" 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 which an application for a certificate has been made or transferred ;

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

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

(*a*) proceedings for or relating to an order made under

(i) the Affiliation Proceedings Act 1957(**d**), or

(ii) the Matrimonial Proceedings (Magistrates' Courts) Act 1960(**e**), or

(iii) the Guardianship of Infants Acts 1886(**f**) and 1925(**g**), or

(iv) the Small Tenements Recovery Act 1838(**h**), and

(*b*) proceedings for which legal aid is authorised by the schedule to the Legal Aid (Extension of Proceedings) Regulations 1969(**i**) ;

" certificate " means a civil aid certificate issued in accordance with these regulations entitling a person to legal aid and includes an amendment to a certificate issued under regulation 9(4)(*a*) and an emergency certificate issued under regulation 11 ;

" claim " means a claim which it is desired to assert or to 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 Commission " means the Supplementary Benefits Commission ;

" the fund " means the legal aid fund ;

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

(**a**) 1949 c. 51. (**b**) 1960 c. 28. (**c**) 1889 c. 63. (**d**) 1957 c. 55.
(**e**) 1960 c. 48. (**f**) 1886 c. 27. (**g**) 1925 c. 45. (**h**) 1838 c. 74.
(**i**) S.I. 1969/921 (1969 II, p. 2800).

" Legal Aid (Assessment of Resources) Regulations " means the Legal Aid (Assessment of Resources) Regulations 1960(**a**), as amended(**b**) ;

" legal executive " means a fellow of the Institute of Legal Executives ;

" local committee " means a local committee appointed by an area committee and includes a certifying committee set up under the provisions of a scheme ;

" matrimonial proceedings " means any proceedings for divorce, nullity of marriage, judicial separation, jactitation of marriage, and includes ancillary proceedings arising therefrom ;

" patient " means a person who, by reason of mental disorder within the meaning of the Mental Health Act 1959(**c**), is incapable of managing and administering his property and affairs ;

" 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 or Admiralty Division or in a county court, the registrar.

(5) Where an area committee or local committee are required or entitled to perform any function under these regulations, that function may be performed on behalf of the committee by the secretary:

Provided that he may not—

(i) approve or refuse an application for a certificate except under regulations 5(5) and (10), and 11(2) and (3) ;

(ii) determine an appeal under regulation 10 ; or

(iii) discharge or revoke a certificate except under regulation 12(2)(*a*), (*b*), (*c*)(i), (iii) and (iv) and (3)(*a*)(i).

(6) 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.

(7) In these Regulations a form referred to by number means the form so numbered in schedule 1 or a form substantially to the like effect, with such variations as the circumstances of the particular case may require.

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.

(**a**) S.I. 1960/1471 (1960 II, p. 1749).
(**b**) The amending instruments are S.I. 1961/555, 1962/147, 1964/1907, 1966/1348, 1969/922, 1970/1162 (1961 I, p. 1220; 1962 I, p. 115; 1964 III, p. 4239; 1966 III, p. 3676; 1969 II, p. 2802; 1970 II, p. 3931).
(**c**) 1959 c. 72.

(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 and for the purposes there set out.

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 the United Kingdom or in the Republic of Ireland, to any area committee ; and

(*b*) if resident elsewhere, to an area committee in 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 the United Kingdom or in the Republic of Ireland, to any local committee ; and

(*b*) if resident elsewhere, to a local committee in London :

Provided that where a certificate is already 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.

(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) An applicant for legal aid in connection with authorised 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.

(5) Every application shall state the name of the solicitor (being a member of the appropriate panel) selected by the applicant to act for him and shall also contain such other 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) whether it is reasonable that a certificate should be granted ; and

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

and the applicant, including a person to whom a certificate has been issued on a form of undertaking under paragraph (4) shall (for the purpose of providing additional information), if required by the appropriate committee or the Commission to do so, attend for an interview or supply such further information or documents as he or they may require.

(6) The appropriate committee shall, except as is provided by regulation 5(3) and regulation 6(10), unless they shall have previously refused the application, submit to the Commission so much of it as is relevant to the determination of the disposable income and disposable capital of the applicant.

(7) 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.

(8) In the case of a person resident outside the United Kingdom and not able to be present there 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 authorised by law in the place where he is to administer an oath for any 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 (5).

Applications on behalf of minors and patients

4.—(1) Save as is hereinafter provided an application for legal aid for a minor or patient 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 a minor or patient 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 the discharge or revocation of the certificate.

(3) Any certificate issued by virtue of this Regulation shall be in the name of the minor or patient, stating the name of the person who has applied on his behalf.

(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 who has applied on behalf of the minor or patient for a certificate shall be treated for all purposes (including the receipt of notices) as the agent of the minor or patient.

(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.

Duties of committees receiving applications for certificates

5.—(1) An application for a certificate in respect of authorised summary proceedings shall be considered by the secretary, who, after having regard to the determination made by the Commission 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 regulation 3(4), may (save in the circumstances mentioned in paragraph (11)) 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.

(2) An application for a certificate in respect of authorised summary proceedings which has been referred to an appropriate committee by the secretary shall be considered by that committee, and they may approve or refuse it after having regard to the determination by the Commission 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 regulation 3(4).

(3) An application for a certificate in respect of a claim shall be considered by the secretary and if, 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 does not arise or has not yet arisen, but if it did arise the proceedings would or might properly be such that legal aid may be given in connection therewith under section 1 of the Act,

he shall (subject to paragraph (5)) approve the application on behalf of the appropriate committee ; and in every other case he shall refer the application to the appropriate committee for their consideration and approval or refusal.

(4) The determination of disposable income, disposable capital and maximum contribution for the purposes of paragraph(3) shall be made in accordance with schedule 2 save that, where the disposable income and disposable capital have been determined by the Commission in accordance with section 4(6) of the Act (which provides for the determination of an assisted person's disposable income and disposable capital and the maximum amount of his contribution by the Commission) and the Legal Aid (Assessment of Resources) Regulations, that determination shall be adopted.

(5) Where the appropriate committee are satisfied in accordance with paragraph 6 of schedule 2 that an applicant is not eligible for or should be refused legal aid in respect of a claim, they shall refuse the application.

(6) 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 paragraph (3), he may with the consent of the applicant so approve it.

(7) 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 paragraphs (9), (12) and (13) may approve the application.

(8) 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, subject to paragraph (5), if satisfied in accordance with paragraph (3) may approve the application.

(9) Subject to paragraphs (1) and (6), and regulations 6(5) and (10) and 11, an application for a certificate in respect of proceedings shall not be approved, except after determination by the Commission of the disposable income, disposable capital and maximum contribution of the applicant:

Provided that 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 purpose of determining whether legal aid is available or the amount of any contribution to be made to the fund, the Commission shall disregard the personal resources of the applicant.

(10) Where the Commission determine that an applicant having a disposable capital which renders him entitled to legal aid under the Act has, however, disposable income of an amount which makes him ineligible for legal aid, the appropriate committee shall refuse the application.

(11) Where the Commission 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, the appropriate committee shall refuse the application if it appears to them that the probable costs of the applicant, without legal aid in the proceedings in respect of which the application was made would not exceed the maximum contribution payable by the applicant under the Act.

(12) Without prejudice to the generality of section 1(6) and section 5(3) 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 proceedings, or in the case of a claim, unless he has reasonable grounds for taking steps to assert or dispute it, 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 except after consideration by the appropriate committee of all questions of fact or law arising out of the claim or the action, cause or matter to which the application relates and the circumstances in which it was made, including whether it is reasonable and proper for persons concerned jointly with or having the same interest 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) Without prejudice to paragraph 12, an application may be refused:—

(*a*) 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 ; or

(*b*) where it is made in a representative, fiduciary or official capacity and the appropriate committee, having taken into account the value of the property or estate or the amount of the fund out of which the applicant is entitled to be indemnified and the resources of the persons, if any, who might benefit from the outcome of the proceedings, have concluded that such refusal will not cause hardship ; or

(*c*) where it is made by, or on behalf of, a person in connection with an action 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 action cause or matter on behalf of or for the benefit of all persons so interested and in the opinion of the appropriate committee the right of the applicant would not be seriously prejudiced by such refusal ; or

(*d*) where it appears to the 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, and has failed, in the opinion of the committee, to take all reasonable steps to enforce or obtain such rights, facilities or help including permitting 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 purposes of this paragraph, be deemed a failure to take reasonable steps, 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) Unless a certificate otherwise provides it shall not without the authority of the appropriate committee given under regulation 15(1) extend to—

(*a*) the addition of any further parties except in matrimonial proceedings, or

(*b*) any steps having the same effect as a cross action or a reply thereto or to a cross-appeal ; or

(*c*) lodging an interlocutory appeal.

(3) A certificate shall not relate to more than one action, cause or matter except in the case of—

(*a*) authorised summary proceedings ; or

(*b*) matrimonial proceedings ; or

(*c*) an application for a grant of representation which is necessary to enable the action, which is the subject matter or purpose of the certificate, to be brought ; or

(*d*) proceedings which may be taken under section 1 of the Act (which deals with the scope and general conditions of legal aid for proceedings) to enforce or to give effect to any agreement made in asserting 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.

(4) A certificate issued in respect of a claim—

(*a*) shall authorise the assisted person to incur expenditure of a sum not exceeding a specified amount ; and

(*b*) shall not relate to more than one claim except in the case of claims arising in connection with the same circumstances which can in the opinion of the appropriate committee conveniently be joined together in the same action, cause or matter, if proceeding were taken on them.

(5) Where an application is approved relating to—

(*a*) authorised summary proceedings where either an undertaking has been lodged in accordance with regulation 3(4) or where no contribution will be payable ; or

(*b*) a claim or proceedings, other than authorised summary proceedings, where no contribution will be payable,

the appropriate committee shall forthwith issue a certificate in Form 1 and shall send the certificate and one copy thereof to the solicitor selected by the applicant, and a copy of the certificate to the applicant and, where a certificate has been issued under paragraph (*b*) in respect of proceedings, draw the attention of the applicant 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).

(6) The appropriate committee or the secretary when considering applications under regulation 5(1), (3) and (6) shall assess the amount of the contribution, if any, which is payable in respect of a certificate and, in so doing, the committee or the secretary 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 Commission. Where the probable cost of taking the steps or of the proceedings exceeds the maximum amount of contribution determined, the committee or the secretary shall, save as aforesaid, assess the maximum amount as the amount of contribution payable in respect of the claim or proceedings.

(7) Where an application has been approved and the appropriate committee consider that it is reasonable that persons concerned jointly with or having the same interest as the applicant should contribute to the cost of the proceedings

they shall add the amount which should be payable by such persons to the contribution (if any) payable by the applicant and shall so notify him under paragraph (8)(*b*) provided that the appropriate committee may subsequently re-assess the amount of the contribution payable under this paragraph where they are satisfied that the applicant has, without success, taken all reasonable steps (including permitting the appropriate committee to take these steps on his behalf) to obtain such payment.

(8) Where an application is approved for any claim or proceedings other than those referred to in paragraph (5) the appropriate committee shall—

(*a*) require—

(i) 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

(ii) 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 it 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 ; and

(*b*) notify the applicant—

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

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

(iii) except in the case of authorised summary proceedings or a claim, of the provisions of section 2(2)(*e*) of the Act.

(9) An applicant who desires that a certificate should be issued to him on the terms notified to him by an appropriate committee shall, within 28 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 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.

(10) Where the appropriate committee approve an application 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 a court before whom the applicant was an assisted person,

they shall not require the Commission to redetermine the applicant's disposable income and disposable capital but if the maximum contribution has not been required in respect of the previous proceedings may increase the contribution to the maximum amount of contribution determined by the Commission in relation to such proceedings:

Provided that, if, since the last determination by the Commission 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 Commission to redetermine his disposable income and disposable capital and shall take into account any increase greater than £52 or any decrease greater than £26 in the amount of his disposable income and any increase greater than £75 in the amount of his disposable capital.

(11) Where the appropriate committee approve an application 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.

(12) When an applicant has complied with as much of paragraph (9) as is relevant to his case the appropriate committee shall issue a civil aid certificate in Form 1 and send it to the solicitor selected by the applicant.

(13) Where the appropriate committee or the secretary have assessed the amount of contribution payable at a sum less than the maximum amount determined or redetermined by them or the Commission and it appears that the costs incurred or likely to be incurred under the certificate are likely to exceed the contribution so assessed, the appropriate area committee shall increase the amount of contribution up to the amount or likely amount of those costs or to the maximum contribution determined or redetermined, where that amount is less.

(14) Whenever the circumstances upon which the Commission 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 £52 or his disposable capital has increased by an amount greater than £75, he shall, if his certificate relates to proceedings, inform the appropriate area committee of that alteration in his circumstances and shall if required by the secretary, the appropriate area committee or the Commission attend for an interview or supply such further information or documents as may be required of him.

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 Commission have determined that the applicant's disposable income exceeds the amount which makes legal aid available ; or

(*b*) that the Commission 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 and it appears to the committee that, if the application were refused, the probable costs to the applicant, without legal aid, of the proceedings in respect of which the application was made, would not exceed the maximum contribution payable by the applicant under the Act ; or

(*c*) that the application relates to a claim and, having regard to paragraph 6 of schedule 2, the applicant is not eligible for legal aid in respect of a claim ; 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 three 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 paragraph (1) 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 inquiries 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 future 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 where in their opinion—

(*a*) there has been some mistake in the certificate ; or

(*b*) it has become desirable 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 steps or proceedings, 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 asserting or disputing the claim, or, as the case may be, in the proceedings, in respect of which it was issued ; or

(*c*) it has become desirable for the certificate not to extend to certain of the steps or certain of the proceedings in respect of which it was issued ; or

(*d*) a change of solicitor should be authorised ; or

(*e*) it is reasonable in all the circumstances that the amount of expenditure which is authorised by a certificate in respect of a claim should be increased ; or

(*f*) under regulation 15(1) a solicitor should be authorised to take any of the steps referred to in regulation 6(2)(*a*) or (*b*).

(2) Without prejudice to paragraph (1) the appropriate area committee may amend a certificate—

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

(i) his disposable income has increased by an amount greater than £52 or decreased by an amount greater than £26, or

(ii) his disposable capital has increased by an amount greater than £75 ; or

(*b*) where, under these Regulations, they alter the amount of an assisted person's contribution.

(3) Regulations 3, 4, 5 and 6 shall apply so far as appropriate, 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.

(4) Where an area committee—

(*a*) amend a certificate, they shall issue an amendment to the certificate in Form 2, and shall send it to the assisted person's solicitor and a copy thereof to the assisted person ;

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

(5) The decision of an area committee on any question relating to the amendment of a certificate shall be final.

Appeals against decisions of local committees

10.—(1) Where a local committee refuse an application for a certificate in respect of proceedings other than authorised summary proceedings or an applicant is dissatisfied with 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 Commission ; or

(*b*) any decision by a local committee as to the amount of any contribution or the method by which it shall be paid, unless such contribution has been assessed under regulation 6(7).

(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 committee 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, solicitor or legal executive 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 offer 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 appellant and to any solicitor acting for him.

Emergency certificates

11.—(1) 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 appropriate committee to whom the application is made may accept.

(2) The appropriate committee shall have power in accordance with the provisions of this Regulation to approve such application and—

(*a*) issue an emergency certificate without reference to the Commission ; and

(*b*) amend such a certificate in the circumstances set out in regulation 9(1)(*a*), (*b*)(iv) and (v), (*c*), (*d*) or (*f*).

(3) Where a certificate is already in force in respect of a claim and an application is made in accordance with the proviso to regulation 3(2) the appropriate area committee may issue an emergency certificate and may direct that no further steps be taken under the certificate relating to the claim and shall amend the certificate in respect of the claim accordingly.

(4) Subject to paragraph (3) 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.

(5) An application for an emergency certificate shall contain such information and shall be accompanied by such documents as may be requisite to enable the appropriate committee to determine the nature of the proceedings for which legal aid is sought and the circumstances in which it is required and, whether—

(*a*) the applicant is likely to fulfil the conditions under which legal aid may be granted under the Act and the 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 regulation 3 :

Provided that, if it appears to the appropriate committee that the applicant cannot at the time of the application reasonably furnish that information, or any part of it, that committee shall nevertheless have power to issue an emergency certificate subject to such conditions as to the furnishing of additional information as they think reasonable.

(6) An emergency certificate shall be in Form 3 and 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 and disposable capital of an amount which makes legal aid available for him.

(7) 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.

(8) Subject to paragraph (9) and regulation 12, an emergency certificate, including an emergency certificate which has been extended under paragraph (9), shall remain in force for such period as the appropriate committee may allow and on the expiration of such period shall be discharged or revoked :

Provided that where a certificate has been issued under paragraph (11) the emergency certificate may not be discharged or revoked.

(9) The secretary, whose decision shall be final, may extend the period referred to in paragraph (8), where—

(*a*) the applicant is offered a certificate in respect of the proceedings to which the emergency certificate relates and either fails to signify his acceptance or appeals against the terms of such offer ; or

(*b*) the appropriate committee refuse an application for a certificate in respect of proceedings to which an emergency certificate relates and either notice of appeal has been given to the appropriate area committee within the time limits laid down by regulation 10(3) or the time limit for doing so has expired ; or

(*c*) there are exceptional circumstances ;

and thereafter, unless the certificate is further extended, it shall be discharged or revoked:

Provided that where the period is extended under sub-paragraph (*a*) or (*b*) no further work may be done or steps taken under the certificate.

(10) Upon an emergency certificate being extended, amended, discharged or 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 extended, amended, discharged or revoked.

(11) A certificate issued 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.

(12) An emergency certificate shall not be issued in respect of authorised summary proceedings.

Discharge and revocation of certificates

12.—(1) A certificate may be either discharged or revoked in the circumstances specified in this Regulation or in regulation 11(8) or (9).

(2) The appropriate area committee may at any time discharge a certificate from such date as they consider appropriate—

(*a*) at the request of the assisted person ; 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*) 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

(iii) that the claim or proceedings to which the certificate relates have been disposed of ; or

(iv) that the work authorised by the certificate has been completed ; or

(*d*) when the appropriate 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 from such date as they consider appropriate if—

(*a*) as a result of a determination by the Commission 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, and it appears to them that the probable cost to the assisted person without legal aid of continuing the proceedings, would not exceed the maximum contribution payable under the determination; or

(*b*) as a result of information which has come to their knowledge or where the assisted person's solicitor or counsel has given up the case, they consider that—

(i) 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

(ii) 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

(iii) it is unreasonable in the particular circumstances that the assisted person should continue to receive legal aid:

Provided that a certificate shall not be discharged under this sub-paragraph until notice has been served on the assisted person that the appropriate 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) The court may make an order revoking a certificate or discharging it from such date as may be appropriate at any time during the hearing of any proceedings to which an assisted person is a party upon application by or on behalf of any other party to the proceedings or by The Law Society where it considers that the assisted person has—

(*a*) in relation to any application for a certificate, made an untrue statement as to his resources or has failed to disclose any material fact concerning them whether the statement was made or the failure occurred before or after the issue of the certificate and notwithstanding that it was made or occurred in relation to an application to another area or local committee in connection with the same proceedings; or

(*b*) wilfully failed to comply with these Regulations by not furnishing to the appropriate committee any material information concerning anything other than his resources; or

(*c*) knowingly made an untrue statement in furnishing such information:

Provided that no order shall be made under this paragraph—

(i) 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, and

(ii) by reason of any mis-statement or failure such as is referred to in sub-paragraph (*a*), if the assisted person satisfies the court that he used due care or diligence to avoid such mis-statement or failure.

(6) Where an application is made under paragraph (5) the decision of the court shall be final and where the application is made by The Law Society, the court may order The Law Society to be made a party to the proceedings for the purpose of the application.

(7) The appropriate committee may at any time revoke a certificate upon the grounds set out in and subject to the provisos of paragraph (5).

(8) The appropriate area committee may, after giving the assisted person an opportunity to show cause why the certificate should not be revoked, revoke a certificate if they are satisfied that the assisted person has failed to attend for an interview or provide information or documents when so required under these Regulations.

(9) Where an area committee discharge or revoke an assisted person's certificate they shall, unless the costs have already either been taxed under schedule 3 to the Act (which relates to the remuneration to be paid to counsel and solicitors giving legal aid under Part I of the Act) or assessed under regulation 21 or 22, forthwith issue a notice of discharge or a notice of revocation, as the case may be, and shall send the notice and one copy thereof to his solicitor, and shall send a further copy of the notice to the assisted person.

(10) 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 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 a notice of 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 under the certificate shall forthwith determine:

Provided that, if an area committee revoke or discharge a certificate, or if a certificate has been revoked or discharged under regulation 11(8) or (9), and proceedings have commenced, whether ex parte or inter partes, the retainer of the solicitor shall not determine until he has sent to the appropriate court office or registry and, if the proceedings are inter partes, has served any notice required by regulation 17.

(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, section 3(4) of the Act (which provides 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 regulation 12(2)(*c*)(i) and (ii) 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 paragraph (3)(*b*) 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 as determined or redetermined by the Commission up to the amount paid or payable by The Law Society under paragraph 3(*b*) 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, section 2(2)(*e*) of the Act 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 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 a 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 moneys 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 out 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.

Duties of solicitors

15.—(1) Where it appears to the assisted person's solicitor necessary for the proper conduct of the proceedings to take any of the steps referred to in regulation 6(2) he shall, unless authority has been given in the certificate, apply to the appropriate area committee for such authority.

(2) 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 and every set of papers delivered to him shall include a copy of the certificate, be endorsed in the manner set out in schedule 3 with such variations as circumstances may require, and no fees shall be marked thereon.

(3) Where it appears to an assisted person's solicitor necessary for the proper conduct of the proceedings to instruct more than one counsel he shall, unless authority has been given in the certificate, apply to the appropriate area committee for such authority.

(4) Where it appears to an assisted person's solicitor necessary for the proper conduct of the proceedings to instruct counsel in authorised summary proceedings, he may, unless authority has been given in the certificate, apply to the appropriate area committee for such authority.

(5) The Law Society may give general authority to solicitors acting for assisted persons in any particular class of case—

(*a*) to obtain a report or opinion of one or more experts or to tender expert evidence ;

(*b*) to employ a person to provide a report or opinion (other than as an expert) ;

(*c*) to bespeak transcripts of shorthand notes or tape recordings of any proceedings ;

and if they do so they shall authorise the maximum fee payable for any such report, opinion, expert evidence or transcript.

(6) 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 an expert or to tender expert evidence in a case of a class not included in any general authority under paragraph (5) ; or

(*b*) to pay a person, not being an expert witness, a fee to prepare a report and give evidence if required in a case of a class not included in any general authority under paragraph (5) ; or

(*c*) in a case of a class included in any general authority under paragraph (5), to pay a higher fee than that authorised by The Law Society or to obtain more reports or opinions or to tender more evidence (expert or otherwise) than has been authorised ; or

(*d*) to perform an act which is either unusual in its nature or involves unusually large expenditure ; or

(*e*) to bespeak any transcripts of shorthand notes or tape recordings of any proceedings not included in any general authority under the foregoing paragraph ;

he may, unless authority has been given in the certificate, apply to the appropriate area committee for such authority ; and if that committee give authority for any purposes mentioned in sub-paragraphs (*a*), (*b*), (*c*) and (*d*) they shall, if appropriate, state the number of reports or opinions that may be obtained or the number of persons who may be authorised to give expert evidence and the total fee to be paid.

(7) Where prior authority has been given under the provisions of paragraph (1) or (3) no question as to the propriety of any step or act shall be raised on a taxation in accordance with schedule 3 to the Act or on an assessment by an area committee in accordance with regulation 21 or 22 but where no such prior authority has been obtained, except in respect of an interlocutory appeal, no payment for the step or act shall be allowed on the taxation unless it is also allowed on a party and party taxation.

(8) Where prior authority or approval has been given under paragraph (4), (5) or (6) no question as to the propriety of the act shall be raised on a taxation in accordance with schedule 3 to the Act or on an assessment by an area committee in accordance with regulation 21 or 22 ; but where no such prior authority or approval has been obtained, or where an interlocutory appeal has been lodged without prior authority, payment for the act may still be allowed on taxation or assessment.

(9) Where a certificate has been issued in connection with any proceedings, the assisted person's solicitor or counsel shall not take any payment for work done in those proceedings during the currency of that certificate (whether within the scope of the certificate or otherwise) except such payments as may be made out of the fund.

Conduct of proceedings on behalf of assisted persons

16.—(1) Without prejudice to the right of a solicitor 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—

(*a*) 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 ; or

(*b*) 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.

(2) Where any solicitor or counsel exercises the right to give up an assisted person's case under paragraph (1) the solicitor shall make a report to the appropriate area committee of the circumstances in which that right was exercised.

(3) Where an area committee to whom such report is made do not discharge the assisted person's certificate under regulation 12, they shall require the assisted person to select another solicitor from the appropriate panel to act for him.

(4) No solicitor or counsel acting for an assisted person shall—

(*a*) receive or be party to any payment made in contravention of regulation 15(9) ; or

(*b*) 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.

(5) 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 shall on being satisfied that—

(*a*) the assisted person has died ; or

(*b*) has had a receiving order made against him,

report the facts to the appropriate area committee.

(6) 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 regulation 12(3)(*b*), and for the purpose of providing information under that paragraph any party may disclose to an area committee communications in relation to the proceedings sent to or by the assisted person's solicitor whether or not marked " without prejudice ".

(7) A solicitor shall, if required to do so, inform the appropriate area committee of his reasons for refusing to act or for giving up a case after being selected from the appropriate panel.

(8) Counsel, where he has been selected to act or is acting for an assisted person shall, if required to do so, inform the appropriate area committee of his reasons for refusing to accept instructions or for giving up the case or entrusting it to another.

(9) A solicitor shall report forthwith to the appropriate area committee either upon the completion of the case if he has completed the work authorised by the certificate or if for any reason he has been unable to do so.

Service of notices

17.—(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 authorised 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—

(*a*) serve all other parties with notice of the issue of a certificate in Form 4 ;

(*b*) 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—

(*a*) commences any proceedings for the assisted person in the county court ; or

(*b*) commences proceedings in accordance with Order 112, rule 3 or 4, of the Rules of the Supreme Court (**a**) or Rules 101 or 103 of the Matrimonial Causes Rules 1968(**b**) ;

and at the same time files a copy of the notice to be served in accordance with paragraph (2), the registrar shall annex a copy of the notice to the originating process for service.

(4) A solicitor who receives from an appropriate committee a certificate relating to proceedings shall, if proceedings have begun or otherwise upon their commencement, or thereafter, send it by prepaid post to the appropriate court office or registry.

(5) A solicitor who receives from an appropriate committee under the provisions of these regulations—

(*a*) a notice of revocation of certificate or a notice of discharge of certificate ;

(*b*) a certificate in respect of proceedings to which an emergency certificate related ; or

(*c*) an amendment to a certificate issued under regulation 9(1)(*a*)(*b*)(*c*)(*d*) or (*f*) or (2) ;

shall forthwith—

(i) send such notice, certificate or amendment to certificate by prepaid post to the appropriate court office or registry, and

(ii) except in the case of an amendment to a certificate issued under regulation 9(2), serve notice of the fact in Form 5 upon any other persons who are parties to the proceedings, and, if any other person becomes a party to the proceedings, serve similar notice upon such person.

(6) A solicitor who receives notice that an emergency certificate has been extended under regulation 11(9) hereof shall send a copy of such notice by prepaid post to the appropriate court office or registry.

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

(8) 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 section 2(2)(*e*) of the Act.

(9) Any person filing an affidavit under paragraph (8) 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 certificate but save as aforesaid, no document and no extract from a document sent to the court office or registry under paragraph (4), (5) or (6) or filed or exhibited under paragraph (8) shall be disclosed save by leave of the court.

(10) Any document sent to the court office or registry or filed or exhibited under the provisions of this regulation shall be bespoken or made available for the use of the court at the hearing or at any other stage of the proceedings.

(**a**) 1965/1776 (1965 III, p. 4995). (**b**) 1968/219 (1968 I, p. 665).

(11) 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.

(12) Paragraphs (2) to (10) shall not apply to authorised 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 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

18.—(1) For the purpose of this Regulation the expression "assisted person" includes a person in respect of whom a certificate has been, but is no longer, in force.

(2) Subject to paragraph (10) all moneys payable to an assisted person—

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

(*b*) being moneys payable in respect of the claim or the action, cause or matter to which his certificate relates upon the distribution of property of a person who had been adjudicated bankrupt or has entered into a deed of arrangement, or of a company in liquidation; or

(*c*) being moneys which were paid into court by him or on his behalf in any proceedings to which his certificate relates and which have been ordered to be repaid to him; or

(*d*) being moneys standing in 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, to 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 moneys so payable:

Provided that—

(i) the payment of any sum under an order for costs in favour of an assisted person in authorised 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;

(ii) where moneys become payable to the solicitor of the assisted person or The Law Society out of property of a person who has been adjudicated bankrupt, or has entered into a deed of arrangement, or of a company in liquidation, as aforesaid, the solicitor or The Law Society as the case may be shall send to the trustee in bankruptcy, the trustee or assignee of the deed of arrangement, or the liquidator of the company in liquidation, a notice in accordance with Form 4 which shall thereupon operate as a request by the assisted person for payment of such moneys to the solicitor or The Law Society as the case may be and shall be a sufficient authority for that purpose; and

(iii) where any moneys recovered or preserved for an assisted person in any proceedings have been paid into or remain in court and invested for the benefit of the assisted person, such part of those moneys as are not subject to the charge created by section 3(4) of the Act in accordance with paragraph (9) may be paid to the assisted person.

(3) An assisted person's solicitor shall—

(*a*) inform the appropriate area committee of any property recovered or preserved for the assisted person ; and

(*b*) pay all moneys received by him by virtue of an order or agreement made in the assisted person's favour to The Law Society :

Provided that where the appropriate area committee consider that the rights of the fund will thereby be safeguarded and so direct, he shall—

(i) pay only such sum which, in the opinion of the appropriate 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

(ii) pay any other moneys to the assisted person.

(4) 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 Law Society may take such proceedings in its own name as may be necessary to enforce or give effect to such an order or agreeement.

(5) An assisted person may take proceedings being proceedings which may be taken under section 1 of the Act to give effect to an order or agreement referred to in paragraph 2(*a*) with the consent of the appropriate committee.

(6) Where The Law Society takes proceedings it may authorise any person to swear an affidavit, file a proof, receive a dividend or take any other step in the proceedings in its name and the costs incurred by The Law Society in any such proceedings shall be a first charge on any sum so recovered.

(7) Upon receipt of moneys paid to them under this Regulation The Law Society shall retain—

(*a*) subject to regulation 14(3) any sum paid under an order or agreement for costs made in the assisted person's favour in respect of the period covered by his certificate ;

(*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 ; and

(*c*) any costs of proceedings taken by The Law Society under paragraph (4) ;

and shall pay the balance to the assisted person.

(8) 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.

(9) Where any moneys 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 parts of those moneys 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.

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

(*a*) any payment of money in accordance with an order made or deemed to have been made 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

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

(iv) sections 15, 16, 19, 20(1), 21, 22, 26, 27, 31 and 34 of the Matrimonial Causes Act 1965(**b**), or

(v) sections 1, 2, 3, 6 and 9 of the Matrimonial Proceedings and Property Act 1970(**c**) ;

(*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 ;

(*c*) any property affected by an order made or deemed to have been made under section 32 of the Matrimonial Causes Act 1965 or made under sections 4(*a*) and (*b*) and 16 of the Matrimonial Proceedings and Property Act 1970 ;

(*d*) moneys paid in lieu of or with respect to arrears of any payments referred to in sub-paragraphs (*a*) or (*b*) ;

(*e*) moneys 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) ;

(*f*) moneys payable under an affiliation agreement in writing or proceedings to enforce such an agreement ;

(*g*) any interim payment of damages in accordance with an order made under Order 29, rule 12, of the Rules of the Supreme Court ;

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

(*i*) moneys paid as a result of proceedings taken in a court in England or Wales to enforce the order made by a court outside its jurisdiction in proceedings for relief comparable to that which may be given by a court in England and Wales under the provisions mentioned in this paragraph ;

and moneys 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.

Charges upon property recovered or preserved

19.—(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.

(a) 1938 c. 45. (b) 1965 c. 72. (c) 1970 c. 45.

(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 in the case of unregistered land be a land charge of Class B within the meaning of section 10 of the Land Charges Act 1925(a) and in the case of registered land shall be a registrable substantive charge.

(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.

Costs awarded against an assisted person

20.—(1) Where proceedings have been concluded in which an assisted person (including, for the purpose of this Regulation, a person who was an assisted person in respect of those proceedings) is liable or would have been liable for costs if he had not been an assisted person, no costs attributable to the period during which his certificate was in force shall be recoverable from him until the court has determined the amount of his liability in accordance with section 2(2)(*e*) of the Act:

Provided that where the assisted person's certificate does not relate to or has been amended so that it no longer relates to the whole of the proceedings, the court shall nevertheless make a determination in respect of that part of the proceedings to which the certificate relates.

(2) The court may, if 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 unless otherwise directed 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 or elsewhere, any question of fact relevant to the determination, requiring him to report his finding on that question to the court.

(3) 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 Commission in determining his disposable income and disposable capital ; and

(*b*) any document which may have been sent to the court office or registry or filed or exhibited under regulation 17 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 regulation 17(8) 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.

(a) 1925 c. 22.

(4) The court may direct—

(*a*) that payment under the order for costs shall be limited to such amount, payable in instalments or otherwise, including an amount to be determined on taxation, as the court thinks reasonable having regard to all the circumstances ; or

(*b*) where the court thinks it reasonable either for payment under subparagraph (*a*) 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*.

(5) 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 ground that—

(*a*) material additional information as to the assisted person's means, being information which could not have been obtained by that party with reasonable diligence at the time the order was made, is available ; or

(*b*) 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.

(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.

(7) Where a minor is an assisted person, his means for the purpose of determining his liability for costs under section 2(2)(*e*) of the Act 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 Commission in computing the minor's rate of income and amount of capital.

(8) Where an order for costs is made against a next friend or guardian *ad litem* of an assisted person who is a minor or patient, 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 minor as defined in paragraph (7) or, as the case may be, of the patient.

Remuneration of counsel and solicitors in magistrates' courts

21.—(1) The sums allowed to counsel and solicitors in connection with authorised summary proceedings or proceedings in a court of quarter sessions shall be assessed by the appropriate area committee in accordance with the provisions of schedule 4.

(2) Any solicitor or counsel may, if he is dissatisfied with any decision on an assessment in accordance with the provisions of schedule 4, make written representations to the Council of The Law Society and the 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.

(3) Regulations 22 to 25 inclusive shall not apply in respect of authorised summary proceedings or proceedings in a court of quarter sessions.

Miscellaneous provisions as to costs

22.—(1) Where—

(*a*) the work done by an assisted person's solicitor relates to a claim and the certificate has not been amended under regulation 9(1)(*b*)(iii) to include proceedings ; or

(*b*) the retainer of an assisted person's solicitor or counsel is determined before proceedings are actually begun and there has been no subsequent change of solicitor or counsel under the certificate,

the amount of the costs and counsel's fees (if any) shall be assessed by the appropriate area committee.

(2) Where proceedings have begun and—

(*a*) the solicitor is of opinion that the total amount which he and counsel (if any) would receive after a taxation in accordance with schedule 3 to the Act would not be more than £75 ; or

(*b*) the case of an assisted person (who is not such a person as is referred to in Order 62 rule 30 of the Rules of the Supreme Court) 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

(*c*) 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

(*d*) after a direction or order that the assisted person's costs shall be taxed in accordance with schedule 3 to the Act, the solicitor incurs the costs for the purpose of recovering moneys payable to the fund,

the solicitor may apply to the appropriate area committee for an assessment of the amount of the costs and counsel's fees (if any) in respect of the work done.

(3) On any assessment under paragraphs (1) or (2) the appropriate area committee shall authorise 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 (2)(*b*), or where proceedings were conducted 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 schedule 3 to the Act.

(4) Any solicitor or counsel if he is dissatisfied with any decision on an assessment in accordance with paragraphs (1) or (2) may make written representations to the Council of The Law Society and the 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 or, as the case may be, is the amount which would have been allowed to the solicitor or counsel had the costs been taxed under schedule 3 to the Act.

(5) 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 schedule 3 to the Act ;

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

(*c*) the plaintiff accepts money paid into court and judgment is signed for his taxed costs in accordance with Order 62, rule 10(2) of the Rules of the Supreme Court, the judgment shall contain a direction that the costs of any assisted person shall be taxed in accordance with schedule 3 to the Act.

(6) Where in any proceedings to which an assisted person or a former assisted person is a party and—

(*a*) the proceedings are, or have been, brought to an end without a direction having been given, whether under the foregoing paragraph or otherwise, as to the assisted person's costs being taxed in accordance with schedule 3 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

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

the costs of that person shall be taxed in accordance with schedule 3 to the Act on production of a copy of the notice of discharge or revocation of the certificate at the appropriate taxing office.

(7) Where in any proceedings to which an assisted person, or a former assisted person, is a party and which have been brought to an end by judgment, decree or final order, there has been an agreement in respect of the costs to be paid by any other party to the assisted person, or former assisted person, which that person's solicitor and counsel (if any) is willing to accept in full satisfaction of the work done, the amount of the costs shall be submitted to the appropriate taxing officer who will, in accordance with schedule 3 to the Act, fix the amount of costs by assessment made without a taxation and for this purpose the solicitor for the assisted person, or former assisted person, shall supply the taxing officer with such documents and details as he may require.

(8) Where, in any proceedings to which a former assisted person was a party, an order or agreement has been made for the payment to him of costs and he has failed to ask for costs to be taxed or his certificate is discharged before taxation, The Law Society may authorise the making of the application for taxation on his behalf and the costs of the application and of taxation shall be deemed to be costs in the proceedings to which the certificate related.

(9) Costs incurred by reason of any application made under regulation 15 and of any report made by an assisted person's solicitor under regulation 12 or 16 shall be taxed in accordance with schedule 3 to the Act and costs incurred by reason of regulation 17 shall be costs in the cause.

(10) The sums allowed to counsel in connection with proceedings in the House of Lords or the Supreme Court, shall be ninety per cent of the amount allowed on taxation of the costs.

(11) The sums allowed to a solicitor in connection with proceedings in the House of Lords or the Supreme Court shall 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.

Taxation of costs

23.—(1) Without prejudice to Order 62, rule 8 of the Rules of the Supreme Court and Order 47, rule 50 of the County Court Rules on any taxation of an assisted person's costs in connection with proceedings, except authorised summary proceedings and proceedings in a court of quarter sessions, any costs wasted by failure to conduct the proceedings with reasonable competence and expedition shall be disallowed or reduced:

Provided that no costs shall be disallowed or reduced under this Regulation until notice has been served by the taxing officer on the solicitor whose name appears on the assisted person's certificate and, in a case where those costs relate to counsel's fees, on the assisted person's counsel, requiring the solicitor or, as the case may be, counsel, to show cause orally or in writing why those costs should not be disallowed or reduced.

(2) 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.

(3) Any certificate or notice of revocation or discharge or a copy of any such certificate or notice shall be bespoken or made available upon taxation.

(4) 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 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.

(5) (*a*) Any proceedings under the succeeding provisions of this Regulation or under regulation 25 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 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 any proceedings arising under paragraphs (6) to (11) or regulation 25 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.

(6) 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 schedule 3 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.

(7) 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.

(8) Where any party to a taxation is an assisted person, the certificate or allocatur shall not, save by consent, be signed within 21 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.

(9) Where counsel acting for an assisted person is dissatisfied with any decision on a taxation in accordance with schedule 3 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 (5), (6) and (7) and regulation 25(1) shall apply as if the solicitor were the person dissatisfied.

(10) 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.

(11) The assisted person's solicitor shall forthwith inform counsel of any reduction of his fees on taxation.

Appointment of solicitor to intervene

24.—(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 regulation 23(6), the assisted person's solicitor shall inform The Law Society of the 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

25.—(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 regulation 23(7) or (9) 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 regulation 23, 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) Where an assisted person's solicitor applies for authority under paragraph (1) he shall do so before the expiration of the time allowed by rules of court for appeal from the decision of the judge and thereupon the time so allowed shall be extended by one month.

(3) The solicitor appointed by the Lord Chancellor under regulation 24(1) may appeal from the decision of the judge on a review of taxation under regulation 23(7) and (9) and regulation 24(2) to (5) shall apply to an appeal as it applies to a review.

The Lands Tribunal

26.—(1) In this regulation the expression "the tribunal" means the Lands Tribunal as established by section 1(1)(*b*) of the Lands Tribunal Act 1949(**a**) and the expression "the registrar" means the registrar of the tribunal.

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

(3) Where any power to do any act or exercise any jurisdiction or discretion is conferred by these Regulations on a court it shall be exercised by the tribunal and may, unless it is exercisable only during the hearing of the proceedings, be exercised by the registrar.

(4) The provisions of schedule 3 to the Act shall apply to proceedings in the tribunal as they apply to proceedings in a county court.

(5) Notwithstanding anything in regulation 22, the following provisions shall have effect in relation to proceedings in the tribunal to which an assisted person is a party—

(*a*) where a final decision is given in writing by the tribunal, it shall, in addition to any direction as to costs, contain a direction that the costs of any assisted person shall be taxed in accordance with the provisions of schedule 3 to the Act and the costs shall be so taxed by the registrar;

(*b*) where the proceedings are brought to an end without a direction having been given under the foregoing sub-paragraph of this regulation the costs of any assisted person shall be taxed by the registrar in accordance with schedule 3 to the Act;

(*c*) in taxing the costs of any assisted person the registrar shall have power to determine the appropriate scale for the taxation, being a scale of costs prescribed by the Rules of the Supreme Court or by the County Court Rules.

Revocations

27. The regulations specified in schedule 5 are hereby revoked.

Dated 12th January 1971.

Hailsham of St. Marylebone, C.

We, the undersigned, two of the Lords Commissioners of Her Majesty's Treasury, do hereby concur in regulation 5 of and schedule 2 to the above Regulations.

Dated 13th January 1971.

V. H. Goodhew,
H. S. P. Monro.

(a) 1949 c. 42.

SCHEDULE 1

FORM 1

THE LAW SOCIETY

Legal Aid Acts 1949 to 1964

Civil Aid Certificate

Regulation 6(5)(12)

A

Reference No.	Sols A/C No.	Case Code	MR MRS. MISS

Forenames

Surname

B

Address

Postal Code (if any)

This is to certify that the above named

has been granted legal aid as specified in paragraph 1 below subject to the above mentioned Acts and the Regulations and Schemes for the time being in force and made thereunder and subject also to the conditions and limitations (if any) specified below and the requirement as to contribution.

1. Description of Legal Aid
2. Conditions and Limitations (if any)
3. The Solicitor authorised to act in the case is of
4. Contribution to be paid. The Supplementary Benefits Commission have made the following determinations

Disposable Income £ Disposable Capital £ Maximum Contribution £

The actual contribution towards the cost of the case has been assessed at £

payable by monthly instalments as follows of £

then of £

Signed

Secretary to the Local Committee in Legal Aid Area No.

Issued this day of 19

FORM 2

Regulation 9(4)

THE LAW SOCIETY

Legal Aid Acts 1949 to 1964

Amendment to Civil Aid Certificate

Reference No.

This is to certify that the Civil Aid Certificate issued

to

of

under the above reference has been amended as follows

Date

Area Secretary.

FORM 3 Regulation 11(6)

THE LAW SOCIETY

Legal Aid Acts 1949 to 1964

Emergency Certificate

For official use only

E/Cte Reference No.

Case Code

Forenames

Surname

Address

.....

.....

.....

This is to certify that the above named has been granted legal aid as specified in paragraph 1 below subject to the above mentioned Acts and the Regulations and Schemes for the time being in force and made thereunder and subject also to the conditions and limitations (if any) specified below.

1. Description of Legal Aid

2. Conditions and Limitations (if any)

Solrs. A/C No.

3. The solicitor is

of

4. This certificate, being an emergency certificate remains in force for a period of weeks from the date hereof unless extended for such further period as the appropriate committee may allow or unless it is previously discharged revoked or replaced by a civil aid certificate.

Signed

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

Issued this day of 19

Day Mth. Year

Regulations 17(2) 18(2)

FORM 4

THE LAW SOCIETY

LEGAL AID ACTS 1949 TO 1964

NOTICE OF ISSUE OF CERTIFICATE

No.

In the

[Division]

Between [Plaintiff] [Petitioner]

and

[Defendant] [Respondent]

TAKE notice that [an Emergency] [a Civil Aid] Certificate No.
dated the day of 19 has been issued in Area No.
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

Regulation 17(5)

FORM 5

THE LAW SOCIETY

LEGAL AID AND ADVICE ACTS 1949 AND 1960

NOTICE UNDER REGULATION 17(4)

In the

[Division]

Between [Plaintiff] [Petitioner]

and

[Defendant] [Respondent]

TAKE notice that [a Civil Aid] [an Emergency] Certificate [dated the day of 19 , 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:—

]

Dated this day of 19 .

(Signed).....

of

Solicitor for

To

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

SCHEDULE 2

Regulation 5(4)

ASSESSMENT OF RESOURCES OF APPLICANT FOR CERTIFICATE RELATING TO A CLAIM

1. In this schedule, unless the context otherwise requires—

"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;

"supplementary pension or allowance" means any supplementary pension or allowance payable under Part II of the Ministry of Social Security Act 1966(a) (including that part as modified for certain cases by paragraph 4 of schedule 7 to that Act).

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 a minor, the capital and income of the minor 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 22 of the Ministry of Social Security Act 1966, is liable to maintain the minor or who usually contributes substantially to the minor's maintenance, may be treated as the resources of the minor, if, having regard to all the circumstances, including the age and resources of the minor, 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.

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 a supplementary pension or allowance 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 a supplementary pension or allowance at the date of his application if his disposable income exceeds £325 and it appears that the need for supplementary pension or allowance 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

(a) 1966 c. 20.

(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 National Health Service Contributions Act 1965(**a**) the National Insurance Act 1965(**b**) the National Insurance (Industrial Injuries) Act 1965(**c**) or any scheme made under either of the two last mentioned Acts by any person whose income is, under the provisions of this schedule, to be treated as the applicant's;

(*b*) in respect of any one of the following, or for each of them if more than one, there shall be a deduction equivalent to the weekly amount by which that specified in paragraph 9(*a*) (requirements of husband and wife) of schedule 2 to the Ministry of Social Security Act 1966 exceeds that specified in paragraph 9(*b*) (normal requirements of single person) of that schedule—

(i) the spouse of the applicant, if wholly or substantially maintained by him or if that spouse's capital and income are treated as resources of the applicant, and

(ii) any person aged not less than 16 years being maintained by the applicant or, where the capital and income of the applicant's spouse are treated as resources of the applicant, being maintained by such spouse;

(*c*) in respect of any of the following, or for each of them if more than one, there shall be a deduction equivalent to the weekly amount specified in paragraph 9(*b*) of the said schedule 2, viz., any child under the age of 16 years wholly or substantially maintained by the applicant or, where the capital and income of the applicant's spouse are treated as resources of the applicant, by the applicant's spouse;

(*d*) regardless of their actual amount or cost, there shall be a deduction of £182 in respect of rent and on account of any other matters for which the person concerned must or reasonably may provide.

10. Where the disposable income of the applicant is or exceeds £303, 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 £300.

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.

(a) 1965 c. 54. (b) 1965 c. 51. (c) 1965 c. 52.

SCHEDULE 3

Regulation 15(2)

ENDORSEMENT OF PAPERS SENT TO COUNSEL

Every set of papers delivered to counsel shall be endorsed:—
" Legal Aid

Reference Number ....."
and in the case of authorised summary proceedings they shall where appropriate also be endorsed

" Authority for counsel to be instructed has been given by the certificate/the .....area committee."

SCHEDULE 4

Regulation 21

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

1. Subject to paragraph 6—

(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. Subject to paragraph 6—

(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 place 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, and 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—

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

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

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.

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

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

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

Regulation 27

SCHEDULE 5

Regulations Revoked

Title	*Refence*
The Legal Aid (General) Regulations 1962	S.I. 1962/148 (1962 I, p.117)
The Legal Aid (General) (Amendment) Regulations 1962	S.I. 1962/1714 (1962 II, p.2122)
The Legal Aid (General) (Amendment) Regulations 1964	S.I. 1964/1893 (1964 III, p.4218)
The Legal Aid (General) (Amendment) Regulations 1965	S.I. 1965/865 (1965 I, p.2340)
The Legal Aid (General) (Amendment) Regulations 1969	S.I. 1969/923 (1969 II, p.2804)
The Legal Aid (General) (Amendment No. 2) Regulations 1969	S.I. 1969/1346 (1969 III, p.4018)
The Legal Aid (General) (Amendment) Regulations 1970	S.I. 1970/690 (1970 II, p.2205)
The Legal Aid (General) (Amendment No. 2) Regulations 1970	S.I. 1970/787 (1970 II, p.2497)

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations consolidate with amendments the Legal Aid (General) Regulations 1962, the Legal Aid (General) (Amendment) Regulations 1962, the Legal Aid (General) (Amendment) Regulations 1964, the Legal Aid (General) (Amendment) Regulations 1965, the Legal Aid (General) (Amendment) Regulations 1969, the Legal Aid (General) (Amendment) Regulations 1970 and the Legal Aid (General) (Amendment No. 2) Regulations 1970.

The principal changes are as follows:—

(1) wider powers are given to committees to delegate certain of their functions (regulation 1(5));

(2) an assisted person's contribution will be reassessed if his disposable income has increased by more than £52 (instead of £26) (regulation 6(10));

(3) solicitors and counsel acting for assisted persons are prohibited from accepting payment for work done in the proceedings from any source other than the legal aid fund (regulation 15(9));

(4) further categories of property recovered in assisted proceedings are exempted from the charge in favour of the legal aid fund (regulation 18(10));

(5) costs may be disallowed on taxation where a solicitor or counsel incurs costs without reasonable cause or fails to conduct them with reasonable competence or expedition (regulation 23(1));

(6) other amendments include provisions as to the service of notices (regulation 17), enforcement of orders, etc., on behalf of assisted persons (regulation 18(4)) and costs (regulations 20(1) and 22(7)).

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