STATUTORY INSTRUMENTS

1999 No. 3098

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Legal Aid in Civil Proceedings (Remuneration) (Amendment) Regulations 1999

Made - - -	*17th November 1999*
Laid before Parliament	*2nd December 1999*
Coming into force	*31st December 1999*

The Lord Chancellor, in exercise of the powers conferred on him by sections 15, 34 and 43 of the Legal Aid Act 1988**(a)**, having had regard to the matters specified in section 34(9) and having consulted the General Council of the Bar and the Law Society, and with the consent of the Treasury, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Legal Aid in Civil Proceedings (Remuneration) (Amendment) Regulations 1999 and shall come into force on 31st December 1999.

Interpretation

2. In these Regulations "the Regulations" means the Legal Aid in Civil Proceedings (Remuneration) Regulations 1994**(b)**, and a reference to a regulation by number alone means the regulation so numbered in the Regulations.

3.—(1) In regulation 2(1):

(a) for the definition of "CCR Order 38" there shall be substituted:

> ""CPR" means the Civil Procedure Rules 1998**(c)**, and a reference to a rule or a Part, prefixed by "CPR", means the rule or (as the case may be) Part so numbered in the CPR;";

(b) the definition of "RSC Order 62" shall be deleted.

(2) In regulation 2(2), for "RSC Order 62, CCR Order 38" there shall be substituted "CPR Parts 43 to 48".

4.—(1) In regulation 4(1)(b), for "paragraph (2) of RSC Order 62, rule 17" there shall be substituted "CPR rule 44.4(6)".

(2) In regulation 4(1)(c), for the words from "paragraph 1(1)" to "whichever is applicable" there shall be substituted "CPR rules 44.3 to 44.5".

(3) In regulation 4(3), for the words from "RSC Order 62" to "applicable" there shall be substituted "CPR Parts 43 to 48".

(4) In regulation 4(4), for "Part XII of the General Regulations, RSC Order 62 and CCR Order 38" there shall be substituted "Part XII of the General Regulations and CPR Parts 43 to 48".

5.—(1) In regulation 4(1), for "The amounts" there shall be substituted "Subject to paragraphs (3A) to (3D), the amounts".

(2) In regulation 4(3), for "The relevant authority" there shall be substituted "Subject to paragraphs (3A) to (3D), the relevant authority".

(a) 1988 c. 34; sections 15, 34 and 43 were amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 17, paragraph 19 and Schedule 18, paragraphs 60, 61 and 63; and by the Family Law Act 1996 (c. 27), sections 26 and 29 and Schedule 8, paragraph 44. Section 43 is an interpretation provision and is cited because of the meaning given to "regulations".

(b) S.I. 1994/228; amended by S.I. 1996/645.

(c) S.I. 1998/3132; amended by S.I. 1999/1008.

(3) After regulation 4(3), there shall be inserted:

"(3A) Paragraphs (3B) to (3D) apply where proceedings are allocated to the fast track, and in those paragraphs "advocate's costs" means the costs of an advocate for preparing for the trial and, if the claim proceeds to trial, for appearing at the trial, and "fixed fast track trial costs" means the amount of fast track trial costs which could be awarded under CPR rule 46.2(1) in respect of a claim.

(3B) Where, but for this paragraph, the amount to be allowed in respect of advocate's costs would have exceeded the fixed fast track trial costs, the amount to be allowed in respect of advocate's costs shall be equal to the fixed fast track trial costs.

(3C) Where, but for this paragraph, the amount to be allowed in respect of the costs of a legal representative's attendance at the trial to assist the advocate would have exceeded the amount prescribed by CPR rule 46.3(2), the amount to be allowed in respect of those costs shall be equal to the amount prescribed by CPR rule 46.3(2).

(3D) Paragraphs (3B) and (3C) shall have effect regardless of the awards actually made by the court under CPR Part 46.".

Transitional provisions

6. In respect of costs which fall to be determined under Order 62 of the Rules of the Supreme Court 1965 or Order 38 of the County Court Rules 1981, the Regulations shall have effect as if regulations 3 and 4 of these Regulations had not been made.

Signed by authority of the Lord Chancellor

David Lock
Parliamentary Secretary,
Lord Chancellor's Department

Dated 15th November 1999

We consent

Greg Pope
Bob Ainsworth
Two of the Lords Commissioners of Her Majesty's Treasury

Dated 17th November 1999

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make changes to the references, in the Legal Aid in Civil Proceedings (Remuneration) Regulations 1994, to the Rules of the Supreme Court and the County Court Rules, resulting from the revocation of those Rules, and their replacement, by the Civil Procedure Rules 1998. They also limit the amount which, under the Legal Aid in Civil Proceedings (Remuneration) Regulations 1994, can be allowed in a fast track claim in respect of advocate's cost and the costs of a legal representative's attendance at trial, to the fixed amounts prescribed by the Civil Procedure Rules.

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The Legal Aid in Civil Proceedings (Remuneration) (Amendment) Regulations 1999

£1.50

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WO 5768 12/99 ON (MFK)