STATUTORY INSTRUMENTS

1999 No. 2737

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Legal Aid in Criminal and Care Proceedings (General) (Amendment) (No. 5) Regulations 1999

Made - - - - -	*4th October 1999*
Coming into force - -	*5th October 1999*
Laid before Parliament	*6th October 1999*

The Lord Chancellor, in exercise of the powers conferred on him by sections 21, 23, 34 and 43 of the Legal Aid Act 1988() and section 26(3) of the Welsh Language Act 1993(), and with the consent of the Treasury, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Legal Aid in Criminal and Care Proceedings (General) (Amendment) (No. 5) Regulations 1999 and shall come into force on 5th October 1999.

Interpretation

2. In these Regulations a reference to any regulation or Schedule by number alone means the regulation or Schedule so numbered in the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989().

Transitional provisions

3.—(1) These Regulations shall apply to applications for legal aid made on or after 5th October 1999, and applications before that date shall be treated as if these Regulations had not come into force.

(2) Where a person at any time on or after 5th October 1999 receives family credit or disability working allowance under Part VII of the Social Security Contributions and Benefits Act 1992() in pursuance of a decision made before that date, his disposable income shall be assessed as if these Regulations had not come into force.

Amendments to the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989

4. In regulation 3(1)—

(a) for the definition of "disability working allowance" there shall be substituted:—

(1988 c. 34; sections 34(4) and 43 were amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraphs 60 and 63. Section 43 is an interpretation provision and is cited because of the meaning given to "regulations".
(**b**) 1993 c. 38. Section 26(3) provides that a power conferred by an Act to specify forms of document includes a power to specify separate forms in Welsh and English.
(**c**) S.I. 1989/344, amended where relevant by S.I. 1996/1258 and 1999/2123.
(**d**) 1992 c. 4.

" "disabled person's tax credit" means a disabled person's tax credit under the Social Security and Benefits Act 1992();";

(b) for the definition of "family credit" there shall be substituted:—

" "working families' tax credit" means a working families' tax credit under the Social Security and Benefits Act 1992;".

5.—(1) In regulation 37(1)(a), for "income-based jobseeker's allowance, income support, family credit or disability working allowance (in this regulation referred to as "income-related benefits")" there shall be substituted "any qualifying benefit".

(2) In regulation 37(1) and (3), for "receipt of income-related benefits" there shall be substituted "receipt of that qualifying benefit".

(3) After regulation 37(4) there shall be inserted:—

"(5) In this regulation "qualifying benefit" has the meaning given by regulation 26(3A).".

6.—(1) In Schedule 2, Form 1 shall be amended as follows:—

(a) in Section 5, for "family credit or disability working allowance" there shall be substituted "family credit, disability working allowance, working families' tax credit or disabled person's tax credit";

(b) at the end of Section 5, there shall be inserted the following:—

"**Note:** if you receive working families' tax credit or disabled person's tax credit, but the amount which has to be taken off the maximum is more than £70 a week, you should tick box (c) and not box (a), and give a statement of your means by completing Form 5. If you do not know which box to tick, please ask the Inland Revenue Tax Credit office to help you.";

(c) in Section 8, after "Disability Working Allowance" there shall be inserted ", working families' tax credit or disabled person's tax credit,".

(2) In Schedule 2, the Welsh language version of Form 1 shall be amended as follows:—

(a) in Section 5, for the words from "Lwfans Chwilio" to "seiliedig ar Incwm" there shall be substituted "Lwfans Ceisio Gwaith seiliedig ar Incwm, Cymhorthdal Incwm, Credyd Teulu, Lwfans Gweithio i'r Anabl, Credyd Treth i Bobl Anabl neu Credyd Treth i Deuluoedd sy'n Gweithio";

(b) at the end of Section 5, there shall be inserted the following:—

"**Nodyn:** os ydych chi'n derbyn Credyd Treth i Deuluoedd sy'n Gweithio neu Credyd Treth i Bobl Anabl, ond bod y swm sydd i'w dynnu o'r y mwyafswm yn fwy na £70 yr wythnos, dylech chi roi tic ym mlwch (c) ac nid ym mlwch (a), a rhoi datganiad o'ch modd drwy lenwi Ffurflen 5. Os nad ydych chi'n gwybod pa flwch i'w dicio, gofynnwch i Swyddfa Credyd Cyllid y Wlad am help.";

(c) in Section 8, for the words from "Lwfans Chwilio" to "seiliedig ar Incwm" there shall be substituted "Lwfans Ceisio Gwaith seiliedig ar Incwm, Cymhorthdal Incwm, Credyd Teulu, Lwfans Gweithio i'r Anabl, Credyd Treth i Bobl Anabl neu Credyd Treth i Deuluoedd sy'n Gweithio".

(3) In Schedule 2, Form 5 shall be amended as follows:—

(a) in the first paragraph, for "family credit or disability working allowance" there shall be substituted "family credit, disability working allowance, working families' tax credit or disabled person's tax credit";

(b) after the first sentence of the first paragraph, there shall be inserted:—
"You must also complete this form if you receive working families' tax credit or disabled person's tax credit, but the amount which has to be taken off the maximum is more than £70 a week.".

(4) In Schedule 2, the Welsh language version of Form 5 shall be amended as follows:—

(a) in the first paragraph, for the words from "Lwfans Chwilio" to "seiliedig ar Incwm" there shall be substituted "Lwfans Ceisio Gwaith seiliedig ar Incwm, Cymhorthdal Incwm, Credyd Teulu, Lwfans Gweithio i'r Anabl, Credyd Treth i Bobl Anabl neu Credyd Treth i Deuluoedd sy'n Gweithio";

(**a**) 1992 c. 4 as amended by the Tax Credits Act 1999 (c. 10).

(b) after the first sentence of the first paragraph, there shall be inserted:—
"Rhaid i chi lenwi'r ffurflen hon os ydych chi'n derbyn Credyd Treth i Deuluoedd sy'n Gweithio neu Credyd Treth i Bobl Anabl, ond bod y swm sy'n gorfod cael ei dynnu oddi ar y mwyafswm yn fwy na £70 yr wythnos.".

7. In Schedule 3, in paragraph 16(b)(ii), for "family credit or disability working allowance" there shall be substituted "family credit, disability working allowance, working families' tax credit or disabled person's tax credit".

Signed by authority of the Lord Chancellor

Keith Vaz
Parliamentary Secretary
Lord Chancellor's Department

30th September 1999

We consent

Jim Dowd
Bob Ainsworth
Two of the Lords Commissioners
of Her Majesty's Treasury

4th October 1999

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989 so as to revise the system of assessment of financial resources of applicants for criminal legal aid following the introduction of working families' tax credit and disabled person's tax credit by the Tax Credits Act 1999. They also correct errors in the Welsh language versions of prescribed Forms 1 and 5.

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£1·50

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under the authority and superintendence of Carol Tullo, Controller of
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WO 5542 10/99 454584 19585

ISBN 0-11-085352-0

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