STATUTORY INSTRUMENTS

# 1999 No. 346

# LEGAL AID AND ADVICE, ENGLAND AND WALES

## The Legal Aid in Criminal and Care Proceedings (General) (Amendment) Regulations 1999

| | |
|---|---|
| *Made - - - -* | *10th February 1999* |
| *Laid before Parliament* | *15th February 1999* |
| *Coming into force* | *1st April 1999* |

The Lord Chancellor, in exercise of the powers conferred on him by sections 34 and 43 of the Legal Aid Act 1988**(a)**, having had regard to the matters specified in section 34(9) and consulted the General Council of the Bar and the Law Society 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) Regulations 1999 and shall come into force on 1st April 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**(b)**.

**Transitional provisions**

**3.** These Regulations apply to all proceedings in the Crown Court initiated by committal or otherwise on or after 1st April 1999, and the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989 shall apply to all other proceedings as if these Regulations had not come into force.

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

**4.** In the Arrangement of Regulations, the following shall be inserted after the entry relating to regulation 54A:–

"54B. Power to certify for attendance".

**5.** The following shall be inserted after regulation 54A:–

"**Power to certify for attendance**

**54B.**—(1) A judge of the Crown Court shall have power to certify that attendance on the authorised advocate instructed in those proceedings is required for the whole or part of any

**(a)** 1988 c. 34; sections 34 and 43 were amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraphs 60, 62 and 63. Section 43 is cited because of the meaning given to "regulations".
**(b)** S.I. 1989/344, as amended by S.I. 1997/1485.

hearing specified in regulation 6(5A) of the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989**(a)**.

(2) In deciding whether attendance is required for the whole or any part of a hearing, the judge shall have regard to the following factors, in addition to any other factors which he considers to be relevant:–

(a) on which days if any the attendance of a significant number of defence witnesses is likely to be required;

(b) where the hearing is a trial, the amount of documentary evidence likely to be adduced on behalf of the defence;

(c) the likelihood of the legally assisted person disrupting the proceedings if the authorised advocate were to appear alone;

(d) whether the authorised advocate represents more than one legally assisted person;

(e) on which days if any the authorised advocate is likely to require notes of the proceedings to be taken for the proper conduct of the defence.

(3) An application for a certificate under paragraph (1) may be made at or at any time after the pleas and directions hearing or, if there is to be no pleas and directions hearing, at or at any time after the listing of the first hearing of the case; and in either case the application may be made orally or in writing.".

Signed by authority of the Lord Chancellor

*G.W. Hoon*
Minister of State,
Lord Chancellor's Department

Dated 4th February 1999

We consent

*Bob Ainsworth*
*Jane Kennedy*
Two of the Lords Commissioners
of Her Majesty's Treasury

Dated 10th February 1999

**(a)** S.I. 1989/343; relevant amendments are S.I. 1990/488, 1991/529 and 2037, 1992/592, 1993/934, 1994/1477, 1995/952, 1996/644 and 2655, 1997/1010, 1998/1191 and 1999/345.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989 by allowing a Crown Court judge to certify that a case requires attendance on the advocate for all or part of the hearing. This is in addition to the mandatory circumstances listed in regulation 6(5)(a) to (e) of the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989 as inserted by the Legal Aid in Criminal and Care Proceedings (Costs) (Amendment) Regulations 1999, which come into effect at the same time as these Regulations.

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