STATUTORY INSTRUMENTS

1983 No. 1863

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Legal Aid in Criminal Proceedings (General) (Amendment) Regulations 1983

Made - - - -	12*th December* 1983
Laid before Parliament	16*th December* 1983
Coming into Operation	1*st March* 1984

The Lord Chancellor, in exercise of the powers conferred on him by section 11 of the Legal Aid Act 1974**(a)** and conferred by section 39 of the Legal Aid Act 1974 and now vested in him**(b)** and conferred on him by sections 5, 6, 7 and 11(2) of the Legal Aid Act 1982**(c)** and all other powers enabling him in that behalf and with the concurrence of the Treasury, hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Legal Aid in Criminal Proceedings (General) (Amendment) Regulations 1983 and shall come into operation on 1st March 1984.

(2) These Regulations shall not have effect in relation to any case in which an application for a legal aid order was refused or a legal aid order was made before 1st March 1984.

(3) Subject to paragraph (2), the Legal Aid in Criminal Proceedings (Assessment of Resources) Regulations 1978**(d)**, the Legal Aid in Criminal Proceedings (Assessment of Resources) (Amendment) Regulations 1979**(e)** and the Legal Aid in Criminal Proceedings (Assessment of Resources) (Amendment) Regulations 1980**(f)** are hereby revoked.

(4) In these Regulations a regulation or schedule referred to by number means a regulation or schedule so numbered in the Legal Aid in Criminal Proceedings (General) Regulations 1968**(g)**.

2. In regulation 1—

(*a*) in paragraph (1)(*a*), for the words "Form 1A", there shall be substituted the words "Form 1";

(*b*) in paragraph (3), for the words "in pursuance of regulation 4(4) of these Regulations" there shall be substituted the words "under section 29(4) and (5) of the 1974 Act";

(a) 1974 c. 4.
(b) S.I. 1980/705.
(c) 1982 c. 44.
(d) S.I. 1978/30.
(e) S.I. 1979/61.
(f) S.I. 1980/1652.
(g) S.I. 1968/1231, as amended by S.I. 1970/1980, 1976/790, 1980/661, 1651.

(*c*) for paragraph (6) there shall be substituted the following new paragraph:

"(6) The justices' clerk considering an application for a legal aid order:—

(*a*) shall make an order or refer the application to the court or a justice of the peace; or

(*b*) may, where review under regulation 6H would be available, refuse to make an order."; and

(*d*) paragraphs (7) and (8) shall be omitted.

3. In regulation 2—

(*a*) in paragraph (1)(*b*)(i), for the words "Form 2A", there shall be substituted the words "Form 2";

(*b*) in paragraph (3)(*a*), for the words "Form 2A", there shall be substituted the words "Form 2";

(*c*) in paragraph (4), for the words "in pursuance of regulation 4(4) of these Regulations" there shall be substituted the words "under section 29(4) and (5) of the 1974 Act"; and

(*d*) paragraphs (7)(*b*), (8) and (9) shall be omitted.

4. In regulation 3—

(*a*) in paragraph (1), for the words "Form 3A", there shall be substituted the words "Form 4";

(*b*) in paragraph (3)(*b*), after the words "legal aid" there shall be inserted the words "except where the applicant is not required under section 29(4) and (5) of the 1974 Act to furnish a statement of means";

(*c*) paragraphs (6)(*b*) and (7) shall be omitted;

(*d*) in paragraph (8), the words "or refuses unless the applicant first makes a payment as aforesaid," shall be omitted; and

(*e*) paragraph (9) shall be omitted.

5. In regulation 4—

(*a*) in paragraph (1), for the words "Form 4", there shall be substituted the words "Form 5";

(*b*) paragraph (2) shall be omitted; and

(*c*) in paragraphs (3) and (4), after the words "the same case" there shall be added in each paragraph the words "where no legal aid order has previously been made and revoked.".

(2) Where a new solicitor or counsel (where counsel only was assigned) is assigned by an order amending a legal aid order—

(*a*) counsel originally assigned shall send all papers and other things in his possession relating to the proceedings to the solicitor who instructed him or to counsel newly assigned (where counsel only was assigned); and

(*b*) the solicitor originally assigned shall send all papers and other things in his possession relating to the proceedings to the solicitor newly assigned or to counsel (where counsel only is assigned by the amended legal aid order).

Revocation of legal aid orders

6B.—(1) An order revoking a legal aid order shall be in Form 8 in the Schedule and a copy of it shall be sent to—

(*a*) the legally assisted person or, where the application was made by his parent or guardian, the parent or guardian;

(*b*) the solicitor assigned or to counsel (where counsel only is assigned; and

(*c*) where the legal aid order is revoked by the criminal legal aid committee, to the proper officer of the court to which the application for revocation or amendment was made.

(2) Where a legal aid order is revoked—

(*a*) the counsel assigned shall send all papers and other things in his possession relating to the proceedings to the solicitor assigned or (where no solicitor was assigned) to the legally assisted person; and

(*b*) the solicitor assigned shall send all papers and other things in his possession relating to the proceedings to the legally assisted person.".

9. After regulation 6B, there shall be inserted the following new regulations—

"*Notification of refusal of legal aid*

6C.—(1) Where an application for a legal aid order is refused, the court or the proper officer of the court shall notify the applicant or, where the application was made by his parent or guardian, the parent or guardian, stating that the application has been refused on one or both of the following grounds, that—

(*a*) it does not appear to the court or the proper officer of the court desirable to make an order in the interests of justice; or

(*b*) it does not appear to the court or the proper officer of the court that the applicant's disposable income and disposable capital are such that he requires assistance in meeting the costs he may incur,

and shall inform him of the provisions, if any, of these Regulations which relate to the circumstances in which he may apply to a criminal legal aid committee for the decision to be reviewed.

(2) Notification of refusal, and determination of contribution under regulation 6D, shall be in Form 14A in the Schedule.

(3) A copy of Form 14A and, where an application for review under regulation 6E may be made, of Form 1 shall be sent to the applicant or, where the application was made by his parent or guardian, the parent or guardian and to his solicitor, if any.

Determination of contribution where legal aid is refused

6D. Where a magistrates' court, justice of the peace or a justices' clerk has refused to make a legal aid order on the grounds specified in regulation 6C(1)(*a*) above, there shall nevertheless be determined, where an application for review under regulation 6E may be made, and in accordance with regulations 18, 19 and 22, the applicant's disposable income, disposable capital and the amount of any contribution that would have been payable and the manner in which it would be so payable by the applicant or an appropriate contributor had a legal aid order been made.

Application for review

6E.—(1) Where an application for a legal aid order has been refused after being considered for the first time by a magistrates' court, justice of the peace or a justices' clerk, the applicant may, subject to paragraph (2), apply for review to the appropriate criminal legal aid committee.

(2) An application for review shall only lie to a criminal legal aid committee where—

(*a*) the applicant is charged with an indictable offence or an offence triable either way; and

(*b*) the application for a legal aid order has been refused on the grounds specified in regulation 6C(1)(*a*); and

(*c*) the application for a legal aid order was made no later than 21 days before the date fixed for the trial of an information or the inquiry into an offence as examining justices, where such a date had been fixed at the time that the application was made.

Procedure for application for review

6F.—(1) An application for review shall be made by giving notice in Form 14B in the Schedule to the appropriate criminal legal aid committee within 14 days of the date of notification of refusal to make a legal aid order.

(2) The applicant or, where the application was made by his parent or guardian, the parent or guardian shall also send to the appropriate criminal legal aid committee the following documents—

(*a*) a copy of the application for legal aid; and

(*b*) a copy of Form 14A (notification of refusal and determination of contribution).

(3) The time limit within which the application for review must be made may, for good reason, be waived or altered by the criminal legal aid committee.

Provision of information

6G. The justices' clerk and the applicant or, where the application was made by his parent or guardian, the parent or guardian, shall supply such further particulars, information and documents as the criminal legal aid committee may require.

Determination of review

6H.—(1) The criminal legal aid committee shall, on a review, reconsider the application for legal aid and

(*a*) refuse the application; or

(*b*) make a legal aid order.

(2) Where the criminal legal aid committee makes a legal aid order, it shall make a legal aid contribution order in accordance with any determination made under regulation 6D.

(3) Where the magistrates' court, justice of the peace or justices' clerk has made a determination under regulation 6D that any legal aid order granted be withheld until a contribution from disposable capital is paid, the criminal legal aid committee shall send the legal aid order to the appropriate justices' clerk.

(4) The criminal legal aid committee shall give notice of its decision and the reason for it to—

(*a*) the applicant or, where the application was made by his parent or guardian, to the parent or guardian;

(*b*) his solicitor, if any; and

(*c*) the justices' clerk of the magistrates' court to which the application for legal aid was made.".

10. After regulation 14 there shall be inserted the following new regulations—

"*Applications in respect of legal representation*

14A.—(1) An application by a legally assisted person or his solicitor for—

(*a*) representation by counsel in accordance with section 30(2) of the 1974 Act; or

(*b*) the amendment or revocation of a legal aid order under section 31 of the 1974 Act,

shall be made to the proper officer of the court.

(2) The proper officer of the court considering an application under paragraph (1) shall—

(*a*) grant it; or,

(*b*) where paragraph (3) applies, refer it to the appropriate criminal legal aid committee; or

(*c*) refer it to the court.

(3) Any application under paragraph (1) which is not granted shall be referred to a criminal legal aid committee unless—

(*a*) an application under the same sub-paragraph of paragraph (1) has previously been refused by a criminal legal aid committee in the same proceedings; or

(*b*) the application was made—

(i) in the case of proceedings in the Crown Court, more than 14 days after the committal for trial or sentence or the date of giving of notice of appeal; or

(ii) in the case of proceedings in the magistrates' court, less than 14 days before the date fixed for the trial of an information or the inquiry into an offence as examining justices, where such a date had been fixed at the time the application was made; or

(*c*) the application is an application in respect of proceedings in the Court of Appeal or the House of Lords.

Reference to criminal legal aid committee

14B—(1) The proper officer of the court, in referring an application to a criminal legal aid committee, shall send to the secretary the following documents—

(*a*) a copy of the legal aid order;

(*b*) any papers presented to the proper officer of the court by the legally assisted person or his solicitor in support of the application; and

(*c*) any other relevant documents or information.

(2) The proper officer of the court and the legally assisted person or his solicitor shall supply such further particulars, information and documents as the criminal legal aid committee may require.

14C.—(1) The criminal legal aid committee shall consider any application referred to it under regulation 14A and any further particulars, information or documents submitted to it under regulation 14B and any other relevant information and shall grant or refuse the application and, where necessary, amend or revoke the legal aid order accordingly.

(2) The criminal legal aid committee shall notify the proper officer of the court and the legally assisted person and his solicitor of its decision.

Power of criminal legal aid committee to authorise expenditure

14D.—(1) Where it appears to a legally assisted person's solicitor necessary for the proper conduct of proceedings in a magistrates' court or in the Crown Court to incur costs by taking any of the following steps—

(*a*) obtaining a report or opinion of one or more experts or tendering expert evidence;

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

(*c*) bespeaking transcripts of shorthand notes or tape recordings of any proceedings, including police questioning of suspects; or

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

he may apply to the appropriate criminal legal aid committee for authority to do so.

(2) If a criminal legal aid committee authorises the taking of any step specified in paragraph (1), it shall also authorise the maximum fee payable for any such report, opinion, expert evidence transcript or act.

Restriction on payment

14E. Where a legal aid order has been made, the legally assisted person's solicitor or counsel shall not receive or be a party to any payment for work done in connection with the proceedings in respect of which the legal aid order was made except such payments as are made—

(*a*) out of the legal aid fund or by the Lord Chancellor in accordance with section 37 of the 1974 Act; or

(*b*) in respect of any expenses or fees incurred in

(i) preparing, obtaining or considering any report, opinion or further evidence, whether provided by an expert witness or otherwise; or

(ii) bespeaking transcripts of shorthand notes or tape recordings of any proceedings, including police questioning of suspects;

provided that the assisted person's solicitor or counsel (where counsel only is assigned) has previously made an application under regulation 14D for authority to incur such expenses or fees which has been refused by the criminal legal aid committee.

Powers exercisable by secretaries

14F.—(1) Where a criminal legal aid committee is required or entitled to perform any function under these Regulations, that function may, subject to paragraph (2), be performed on behalf of the committee by the secretary.

(2) Paragraph (1) shall not empower a secretary to—

(*a*) refuse an application referred to the committee under regulation 14A; or

(*b*) refuse an application for review under regulation 6H(1).".

11. For regulations 18 to 25 inclusive there shall be substituted the following new regulations—

"*Determination of contributions*

18.—(1) The court or the proper officer of the court shall, in making a legal aid order or where regulation 25 applies, determine the amount of any contribution payable in respect of the costs of the legal aid by the applicant, the legally assisted person or the appropriate contributor in accordance with regulation 19.

(2) Where the applicant or the legally assisted person has paid or is liable to pay a contribution under section 4(2) of the 1974 Act in respect of legal advice and assistance in the same proceedings, any contribution he is liable to make, or an appropriate contributor is liable to make on his behalf, under section 7(1) of the 1982 Act shall be reduced by the total amount of any contribution already paid or liable to be paid under section 4(2) of the 1974 Act.

19.—(1) The court or the proper officer of the court shall consider the statement of means of the applicant, the legally assisted person or the appropriate contributor, and any other relevant information, and, subject to paragraph (2), determine his disposable income and disposable capital in accordance with the Second Schedule.

(2) The court or the proper officer of the court shall not determine—

(*a*) disposable income and disposable capital where the applicant, the legally assisted person or the appropriate contributor is in receipt of supplementary benefit; or

(*b*) disposable income where the applicant, the legally assisted person or the appropriate contributor is in receipt of family income supplement;

unless he is required to make a re-determination under regulation 25A below.

(3) The applicant, the legally assisted person or the appropriate contributor shall make a contribution—

(*a*) if his disposable income exceeds the average weekly sum of £42, of such an amount as shall be determined by the proper officer in accordance with the Third Schedule; and

(*b*) if his disposable capital exceeds £3,000, of such an amount as is equal to the excess.

Legal aid contribution orders

20.—(1) The court or the proper officer of the court shall make a legal aid contribution order in respect of any contribution determined under regulation 18 above.

(2) A legal aid contribution order shall be in Form 9 in the Schedule and a copy shall be sent to the person ordered to make the contribution, to the legally assisted person's solicitor and to the collecting court.

Previous legal aid contribution orders

21. In making a legal aid order in respect of proceedings in the Crown Court, the criminal division of the Court of Appeal or the House of Lords, the court or the proper officer of the court shall not—

(*a*) determine disposable income or disposable capital; or

(*b*) make a legal aid contribution order;

where a legal aid contribution order has previously been made in connection with a legal aid order giving legal aid to the person in question in respect of proceedings in a lower court.

Payment of contributions

22.—(1) Any contribution payable out of disposable income shall be payable by weekly instalments (or, at the discretion of the court or the proper officer of the court, by two-weekly or monthly instalments) within a period not exceeding the contribution period, with the first such instalment falling due 7 days from the making of the legal aid order or of the legal aid contribution order, whichever is the later.

(2) Any contribution payable out of disposable capital shall be paid immediately if the sum is readily available or, if it is not, at such time as the court or the proper officer of the court considers to be reasonable in all the circumstances.

(3) Where a contribution out of disposable capital is payable immediately, the court or the proper officer of the court may withhold the legal aid order until such payment is made.

(4) Where a legal aid order is withheld under paragraph (3), the court or the proper officer of the court shall give notice of this fact in Form 10 in the Schedule to—

(*a*) the assisted person or, where the application was made by his parent or guardian, the parent or guardian; and

(*b*) the solicitor assigned or counsel (where counsel only is assigned).

23.—(1) Except where paragraph (2) applies, contributions shall be payable to the proper officer of the collecting court.

(2) Where the legal aid order is withheld until a contribution out of disposable capital is made, such payment shall be made to the proper officer of the court making the legal aid order, unless that court otherwise directs.

Change in financial circumstances

24. The legally assisted person or the appropriate contributor shall inform the court or the proper officer of the court of any change in his financial circumstances which has occurred since the submission of his statement of means which he has reason to believe—

(*a*) might make him liable to pay a contribution in respect of the costs of the legal aid, where such a contribution is not already payable; or

(*b*) might affect the terms of any legal aid contribution order made in connection with a legal aid order.

Determination where no contribution previously payable

25. The court or the proper officer of the court shall determine the amount of any contribution payable in respect of the costs of the legal aid by a legally assisted person or an appropriate contributor who is not already liable to make such a contribution where—

(*a*) further information has become available as to the amount of disposable income and disposable capital available at the time when the legal aid order was made; or

(*b*) the circumstances upon which the disposable income or disposable capital were determined at the time the legal aid order was made have altered within the contribution period;

and it appears likely that, were such a determination to be made, the legally assisted person or the appropriate contributor would be liable to make a contribution in respect of the costs of the legal aid.

Redetermination of contribution

25A. The court or the proper officer of the court shall redetermine the amount of any contribution payable by a legally assisted person or an appropriate contributor under a legal aid order where—

(*a*) further information has become available as to the amounts of disposable income and disposable capital available at the time when the legal aid contribution order was made; or

(*b*) the circumstances upon which the disposable income or disposable capital were determined at the time when the legal aid contribution order was made have altered within the contribution period so that—

(i) his disposable income may have increased by an amount greater than £400 or decreased by an amount greater than £200;

or

(ii) his disposable capital may have increased by an amount greater than £200;

unless it appears to be unlikely that any significant change in the liability to make a contribution would result from such a redetermination, and shall vary or revoke the legal aid contribution order accordingly

Effect of error or mistake

25B. Where it appears to the court or the proper officer of the court that there has been some error or mistake in the determination of the legally assisted person's or the appropriate contributor's disposable income, disposable capital or contribution and that it would be just and equitable to correct the error or mistake, the court or the proper officer of the court may vary or revoke the legal aid contribution order accordingly.

Variation and revocation of legal aid contribution orders

25C.—(1) Where the legal aid contribution order is revoked or varied to an amount less than that already paid the court or the proper officer of the court shall order the repayment of any sum paid or overpaid as the case may be.

(2) Where—

(*a*) the legal aid contribution order is varied to an amount greater than that previously payable; or

(*b*) a legal aid contribution order is made after a determination under regulation 25,

and any payment is to be made out of disposable income, the court or the proper officer of the court may, for the purposes of such payment, extend the period provided in regulation 22 within which such payment must be made.

(3) An order varying or revoking a legal aid contribution order shall be in Form 11 in the Schedule and a copy of it shall be sent to the person ordered to make the contribution, to the legally assisted person's solicitor and to the proper officer of the collecting court.

Refusal to pay contributions

25D.—(1) When any sums due under a legal aid contribution order before the conclusion of the proceedings have not been paid by the legally assisted person, the court or the proper officer of the court may—

(*a*) serve notice on the legally assisted person requiring him to comply with the legal aid contribution order and pay any sums due under it within 7 days of receiving such notice; and,

(*b*) if he does not do so, serve notice on him inviting him to make representations giving his reasons for not complying with the legal aid contribution order.

(2) A notice under paragraph (1)(*a*) shall be in Form 12 and a notice under paragraph (1)(*b*) in Form 13 in the Schedule and copies shall be sent to the legally assisted person and to his solicitor or counsel (where counsel only is assigned).

(3) The court shall consider any representations made under paragraph 1(*b*) above and, if satisfied that it would be just so to do, may revoke the legal aid order in accordance with section 9(3) of the 1982 Act..

Termination of contribution period

25E.—(1) Where the contribution period has not ended and—

(*a*) the court remits any sum due under a legal aid contribution order which falls to be paid after the conclusion of the relevant proceedings; or

(*b*) the legally assisted person is sentenced to an immediate term of imprisonment or a sentence of youth custody or detention in a detention centre,

the contribution period shall be deemed to have ended on the date of that remission or sentence.

(2) The court making any such remission or passing any such sentence shall inform the collecting court that the contribution period is to be deemed to have ended on the date of that remission or sentence.".

12. For paragraph (1) of regulation 26 there shall be substituted the following new paragraph—

"(1) Where a legally assisted person or an appropriate contributor to whom this regulation applies has been orderd to make a contribution, any amounts falling due under the legal aid contribution order after the

conclusion of the relevant proceedings shall, unless remitted or specifically appropriated by the person paying the money to payment of the contribution, when paid be applied in the first place in accordance with the provisions of section 139 of the Magistrates' Court Act 1980**(a)** and any sum paid in addition to the sums referred to in paragraph (2) below shall be paid to the Lord Chancellor in accordance with section 35(7) of the 1974 Act.".

13. After regulation 26 there shall be inserted the following new regulation—

"*Repayment of contributions*

26A. The collecting court or the proper officer of the collecting court, on receiving notification of the amount of the costs of the legal aid determined by the appropriate authority under the 1982 Regulations, shall, in accordance with section 7(6) of the 1982 Act, repay to the legally assisted person or the appropriate contributor, as the case may be, the amount, if any, by which any contribution paid exceeds those costs.".

14. Paragraph (2) of regulation 30 shall be omitted.

15. In paragraph (1) of regulation 31—

(*a*) after the definition of "the Act" insert the following definitions—

'"the 1974 Act" means the Legal Aid Act 1974;
"the 1982 Act" means the Legal Aid Act 1982;';

(b) for the definition of "appropriate authority" insert the following definition—

'"appropriate authority" means an officer or body authorised to determine costs under the 1982 Regulations;';

(*c*) after the definition of "appropriate contributor" insert the following definitions—

'"appropriate criminal legal aid committee" means the criminal legal aid committee in whose area is situated the court to which an application for or concerning a legal aid order has been made;

"collecting court" has the meaning assigned to it by section 32(5) of the 1974 Act;';

(*d*) for the definition of "contribution" insert the following definition—

'"contribution" means a payment in respect of the costs of the legal aid;';

(*e*) the definition of "contribution order" shall be omitted;

(*f*) after the definition of "contribution" insert the following definition—

'"contribution period" means the period of 6 months commencing with the date of the making of the legal aid order;';

(a) 1980 c. 43.

(*g*) after the definition of "Court of Appeal" insert the following definitions—

' "criminal legal aid committee" means a criminal legal aid committee appointed by the Council of the Law Society under the provisions of a scheme made under section 15 of the 1974 Act;

"disposable capital" means capital calculated in accordance with the Second Schedule which is available for the making of a contribution;

"disposable income" means income calculated in accordance with the Second Schedule which is available for the making of a contribution;

"family income supplement" means any supplement under the Family Income Supplements Act 1970**(a)**;';

(*h*) for the definition of "guardian" insert the following definition—

' "guardian" has the same meaning as in section 87 of the Child Care Act 1980**(b)**;';

(*i*) in the definition of "judge of the court", for "or a recorder" substitute, "a recorder or an assistant recorder";

(*j*) after the definition of "judge of the court" insert the following definitions—

' "justices' clerk" includes a person duly authorised by the justices' clerk to act on the justices' clerk's behalf to the extent that he is so authorised;

"legal aid contribution order" means an order made under section 7(1) of the 1982 Act;';

(*k*) after the definition of "legally assisted person" insert the following definition—

' "person concerned" means the person whose disposable income and disposable capital are to be determined or the person whose resources are to be treated as the resources of any other person under these Regulations;';

(*l*) after the definition of "Registrar" insert the following definitions—

' "the 1982 Regulations" means the Legal Aid in Criminal Proceedings (Costs) Regulations 1982**(c)**;

"secretary" means the secretary of the appropriate criminal legal aid committee and includes any person duly authorised to act on the secretary's behalf to the extent that he is so authorised;';

(*m*) after the definition of "statement of means" insert the following definition—

' "supplementary benefit" means supplementary benefit under the Supplementary Benefits Act 1976**(d)**.'.

(a) 1970 c. 55.
(b) 1980 c. 5.
(c) S.I. 1982/1197, as amended by S.I. 1983/235, 1049.
(d) 1976 c. 71.

16. For the Schedule there shall be substituted the following new Schedules—

THE SCHEDULE Regulation 33

FORM 1

Application for legal aid (magistrates' court)
(General Reg. 1(1))

PLEASE USE BLOCK CAPITALS AND CROSS OUT ANYTHING WHICH DOES NOT APPLY

1. Name .....
   Address .....
   ..... Date of birth .....
2. I apply for legal aid for the purpose of proceedings before the .....
   (magistrates') (juvenile) Court. My case is due to be heard on .....
   at ..... am/pm
3. The following other person(s) is/are charged in this case
   .....
   .....
4. The solicitor I wish to act for me is (state name and address)
   .....
   .....
   (If you have been charged together with another person or persons, the court may assign a solicitor other than the solicitor of your choice).
5. Describe shortly what it is you are accused of doing, e.g. "stealing £50 from my employer", "kicking a door causing £50 damage"
   .....
   .....
   .....

I understand that the court may order me to make a contribution to the costs of legal aid or to pay the whole costs if it considers that my means enable me to do so and if I am under 16, may make a similar order with respect to my parents.

Signed .....

REASONS FOR WANTING LEGAL AID

When deciding whether to grant you legal aid, the court will need to know the reasons why it is in the interests of justice for you to be represented. You are therefore requested to complete the remainder of this form to avoid the possibility of legal aid being refused because the court does not have sufficient information about the case. If you need help in completing this form, and especially if you have previous convictions you should see a solicitor. He may be able to advise you free of charge or at a reduced fee.

6. I am in real danger of a custodial sentence for the following reasons (give brief reasons: you should consider seeing a solicitor before answering this question)
.....
.....

7. I am subject to a
suspended or partially suspended
sentence of imprisonment .....
conditional discharge .....
probation order .....
supervision order .....
deferred sentence .....
community service order .....
care order .....
(Give brief details so far as you are able, including the nature of the offence and when the order was made, and delete whichever does not apply to you. You should consider seeing a solicitor before answering this question) .....
.....
.....
.....

8. I am in real danger of losing my livelihood or suffering serious damage to my reputation because (give brief reasons)
.....
.....
.....

9. I have been advised by a solicitor that a substantial question of law is involved. (Give brief details. You will need the help of a solicitor to answer this question)
.....
.....

10. I shall be unable to follow the proceedings because
(a) my knowledge of English is inadequate YES/NO
(b) I suffer from a disability, namely .....

11. Witnesses have to be traced and interviewed on my behalf (state circumstances)
.....
.....

12. The case involves expert cross-examination of a prosecution witness (give brief details) .....
.....
.....
.....

13. The case is a very complex one, for example, mistaken identity (explain briefly: to answer this question you may need the help of a solicitor)
.....
.....
.....

14. Any other reason (give full particulars).....
.....
.....
.....
.....

NOTE: If you plead NOT GUILTY neither the information in this form nor in Form 5 will be made known to the magistrates who try your case unless they convict you. If you are acquitted, only the financial information you have given in Form 4 will be given to them.

FORM 2

Application for legal aid (Crown Court)
(General Reg. 1(1))

Please answer these questions in BLOCK CAPITALS

1. Surname (state if Mr./Mrs./Miss, etc) .....
   Forenames ..... Date of Birth .....
   Permanent address .....
   .....
   Present address (if different from above) .....
   .....

2. I apply for legal aid for the following purpose (Delete alternatives as required)

   (*a*) I was committed for trial on ..... and need legal aid for my defence.
   (*b*) I was convicted by the .....
   court on ..... and committed to the Crown Court for sentence and I need legal aid.
   (*c*) I need legal aid for an appeal to the Crown Court against my conviction and/or sentence on ..... by the .....
   ..... Court.
   (*d*) I need legal aid for .....
   .....
   .....

3. Special circumstances (set out here any special circumstances which you feel qualify you for legal aid) .....
   .....
   .....

4. (Delete alternatives as required).

   (*a*) I attach a statement of my means (Unless you have already furnished a statement of means and there has been no change in your financial position, you must attach a statement of your means).
   (*b*) I have already furnished a statement of my means to the Clerk to the Justices
   ..... (state the name of the court)
   and there has been no change in my financial position.

5. (*a*) I attach a statement of my parents' means (if you are under 16 either attach a statement of your parents' means or give their name and address).
   (*b*) My parents' name and address is .....
   .....
   .....

6. The solicitor I wish to act for me is (If you do not give the name of a solicitor, the court will select the solicitor assigned to you) .....
   .....
   of .....
   .....
   .....

I understand that the court may order me to make a contribution to the costs of legal aid or to pay the whole costs if it considers that my means enable me to do so and, if I am under 16, may make a similar order with respect to my parents.

Signed .....
Date .....

FORM 3

Notice of application for legal aid in Court of Appeal
(General Reg. 3)

To the Registrar,
Criminal Appeal Office,
Royal Courts of Justice,
Strand,
London, W.C.2.

PART 1

Particulars of appellant:

	Forenames	Surname	Age on conviction
Full names:			
(Block letters)			
Address:			
(If detained give address where detained and, if detained in prison, give prison number).			

Court where tried and/or sentenced:

Dates of appearances at the Court including dates of conviction (if convicted at the Court) and sentence.	Name of Court
	Name of Judge

Particulars of offences of which convicted: whether convicted on indictment or by a magistrates' court: particulars of sentences and orders:

Offences	Convicted on indictment or by magistrates' court	Sentences and orders
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

Offences taken into consideration when sentenced.
Total sentence.

PART 2
Particulars of application

I wish to apply for legal aid.

Signed .....
Date .....

FORM 4

Notice of application for legal aid in the House of Lords
(General Reg. 3)

To the Registrar,
Criminal Appeal Office,
Royal Courts of Justice,
Strand,
London, W.C.2.

Full names of the applicant .....

Criminal appeal reference number .....

Date of decision of the Criminal Division of the Court of Appeal
.....

Name and address of place at which applicant detained or, if not detained, applicant's address.
.....
.....
.....

I apply for legal aid for the purpose of—
* (a) appealing to the House of Lords against the above decision;
* (b) opposing the appeal by the prosecutor.

* Delete as necessary.

Signed .....
Date .....

FORM 5
Statement of Means by Applicant or Appropriate Contributor for Legal Aid Purposes

(General Reg. 4(1))

To apply for criminal legal aid you must complete this form. If you are not yet sixteen, then your mother or father may also be asked to complete one. If you have applied for legal aid for your child, and your child is sixteen years old or over, then *you* do not need to fill in this form. *Your child* should complete it, giving details of his or her *own income.*

This information is needed before legal aid can be granted, so to avoid any delay in your application being considered, please complete this form as fully and as carefully as possible.

SECTION 1—PERSONAL DETAILS

1. Full name (*block letters please*) .....
2. Date of birth .....
3. Home address .....
   .....
4. Marital status (*please tick one box*)

   ☐ single ☐ divorced

   ☐ married ☐ widow(er)

   ☐ married but separated

5. Occupation (*state 'unemployed' if appropriate*)
   List here *all* your jobs, including any part-time work and your employer's name and address. (If you have more than one job, give the name and address of each employer; if self-employed state 'self').
   .....
   .....
   .....
   .....
   .....
   .....

SECTION 2—PERSONAL DETAILS (DEPENDANT CHILD)

If legal aid is being sought for a dependent child, and he or she is not yet sixteen, please answer the following questions about him or her.

1. Full name (*block letters please*) .....
2. Date of birth .....
3. Home address (*If different from yours*) .....
   .....
4. Your relationship to him or her (*e.g. father*) .....

SECTION 3—FINANCIAL DETAILS

Part A—Income

Please give below details of your net income (*i.e. after the deduction of tax and national insurance*) from all sources for the three months immediately before this form is completed If you are married and living with your wife or husband, then you have to provide details of his or her income as well. The court may ask you to provide proof of the information you give in this form.

Your contribution, if any, will be assessed and collected on a *weekly* basis, so if you are paid monthly, please give *weekly* figures.

1. Do you receive Supplementary Benefit?

   ☐ Yes—*You do not need to complete the rest of this form, simply turn to the declaration on page seven and sign it.*

   ☐ No—*Please go on to question two.*

2. Do you receive Family Income Supplement?

   ☐ Yes—*There is no need to complete any more of Part A, so please turn to Part B—Capital and Savings.*

   ☐ No—*Please go on to question three.*

SECTION 1—PERSONAL DETAILS

1. Full name (*block letters please*) .....
2. Date of birth .....
3. Home address .....
   .....
4. Marital status (*please tick one box*)

   ☐ single ☐ divorced

   ☐ married ☐ widow(er)

   ☐ married but separated

5. Occupation (*state 'unemployed' if appropriate*)
   List here *all* your jobs, including any part-time work and your employer's name and address. (If you have more than one job, give the name and address of each employer; if self-employed state 'self').
   .....
   .....
   .....
   .....
   .....
   .....

SECTION 2—PERSONAL DETAILS (DEPENDANT CHILD)

If legal aid is being sought for a dependent child, and he or she is not yet sixteen, please answer the following questions about him or her.

1. Full name (*block letters please*) .....
2. Date of birth .....
3. Home address (*If different from yours*) .....
   .....
4. Your relationship to him or her (*e.g. father*) .....

SECTION 3—FINANCIAL DETAILS

Part A—Income

Please give below details of your net income (*i.e. after the deduction of tax and national insurance*) from all sources for the three months immediately before this form is completed If you are married and living with your wife or husband, then you have to provide details of his or her income as well. The court may ask you to provide proof of the information you give in this form.

Your contribution, if any, will be assessed and collected on a *weekly* basis, so if you are paid monthly, please give *weekly* figures.

1. Do you receive Supplementary Benefit?

   ☐ Yes—*You do not need to complete the rest of this form, simply turn to the declaration on page seven and sign it.*

   ☐ No—*Please go on to question two.*

2. Do you receive Family Income Supplement?

   ☐ Yes—*There is no need to complete any more of Part A, so please turn to Part B—Capital and Savings.*

   ☐ No—*Please go on to question three.*

3. Please give details of your INCOME in the table below.

Description of INCOME	Amount		Remarks
	Your income	Income of husband/wife	
(*a*) Weekly earnings or salary, including overtime, commission or bonuses. (Please give net figures). Please attach with this form your last six wage slips. If you do not have that many, please attach as many as you can.			
(*b*) If your earnings change from week to week, give the amounts for the last 13 weeks. (If you do not have this information, please give the amounts for as many weeks as you can, and at least the last 6 weeks. You should if possible attach wage slips).			
(*c*) Income from any part-time job not included at (*a*) above. (Please give gross and net figures).			
(*d*) Income from state benefits—e.g. family allowance (*please specify below here*).			
(*e*) Gross income from sub-letting house, rooms, etc.			
(*f*) Any other income (*please give details below here*).			
(*g*) If in a business of your own, please attach the most recent accounts available.			

IMPORTANT: If the information you have given in the table above is going to change soon, please give details of the changes in section 5 of this form.

Part B—Capital and Savings

Please give details of *all* your cxapital and savings. If you are married and living with your husband or wife, also give details of his or her capital and savings. You should give particulars of savings with the National Savings Bank or with other banks, National Savings Certificates, cash stocks and shares or any other investments. Please also give details of any property you own, such as houses or flats apart from the house or flat in which you live.

1. Please give details of your *CAPITAL and SAVINGS* in the table below.

Description of CAPITAL and SAVINGS	Amount		Remarks
	You	Husband/Wife	
(*a*) Do you own house property (apart from your main or only dwelling)? (*Answer YES or NO*)	YES/NO	YES/NO	
(*b*) If YES state: (i) The value (*i.e. the approximate selling price*) (ii) The amount of any outstanding mortgage.			
(*c*) Give details of your savings. (*State saving Institution below here*)			
Give details of any articles of value that you own (*e.g. jewellery, furs, paintings*) with their approximate value.			

SECTION 4—ALLOWANCES AND DEDUCTIONS

In assessing your means for legal aid purposes, the court will make allowances for the cost of supporting your husband or wife, children and any other dependant relatives, and also for your accommodation costs and travelling expenses. If there are any other expenses which you think the court should make allowance for, please give details at question 4 below.

1. Please give the NUMBER of dependants who are *LIVING WITH YOU.*

Husband or wife	Children 18 and over	Children 16 and 17	Children 11 to 15	Children under 11	Other (*specify below*)

2. If you pay maintenance to a dependant who does not live with you, please give details of the amounts you pay to support them.

Age of dependant	Your relationship to him or her	Amount you pay per week

3. You may claim for the HOUSING EXPENSES of you and your wife or husband. Please give the amounts you pay each week. If you own more than one house, only give details connected with the house in which you live. If you are paying the housing expenses of (a) dependant(s) who do(es) not live with you, please give both amounts.

Description of payment	Amount per week	Amount per week for dependant(s)
Rent		
Mortgage repayment		
Ground rent		
Service charge		
Rates		
Board and lodging		
Bed and breakfast		

4. The TRAVELLING EXPENSES of you and your husband or wife may be taken into account. You may claim for the actual amounts that you and your husband or wife spend per week travelling to and from your place(s) of employment.

	You	Your husband or wife
Amount spent		

5. Please give details of any OTHER EXPENSES which you think the court should know about.

Description of expenditure	Amount spent per week

6. Allowance for contributions in respect of LEGAL ADVICE AND ASSISTANCE under the "green form" scheme.
You may already have been given some advice and assistance by a solicitor under the "green form" scheme, and you may have paid, or been asked to pay, a contribution towards that advice. If this is the case, then the amount of your legal aid contribution will be reduced by the amount of "green form" contribution you have paid.

Name and address of the solicitor who gave the advice and assistance	Amount of contribution paid (or to be paid)

SECTION 5—FURTHER INFORMATION

This part of the form is set aside for you to give any financial information that you think the court should have when deciding upon your application for legal aid. You may also use this part of the form to tell the court of any future changes in circumstance that might alter your financial position.

SECTION 6—DECLARATION

Anyone who has knowingly or recklessly made a statement which is false in any way, or has knowingly withheld information is liable to be prosecuted and, if convicted, to either imprisonment for a term not exceeding four months, or to a fine or both. After your application has been considered by the court, you may be asked to give further information or to clarify information that you have already given. In particular you may be required to provide documentary proof of the information you have given (e.g. wage slips, rent books, etc.)

I declare that to the best of my knowledge and belief, I have given a complete and correct statement of my income, savings and capital (and that of my husband or wife)* (and that of my child)**.

Date ..... Signed .....

* Delete if you are not living with your husband or wife, or if you are single.
** Delete if legal aid is not sought for your child.

FORM 6A

Legal aid order (magistrates' court and crown court)
(General Reg. 6)

In accordance with the provisions of section 28 and 29 of the Legal Aid Act 1974 the ..... Court hereby grants legal aid to..... ..... for the following purpose.

Delete (1) to (8) as necessary.

(1) Proceedings before a magistrates' court in connection with .....
.....

(2) Appealing to the Crown Court against a decision of the .....
..... Magistrates' Court on.....
.....

(3) Resisting an appeal to the Crown Court against a decision of the.....
..... Magistrates' Court

(4) Proceedings before the Crown Court in connection with.....
.....
.....
including, in the event of his being convicted or sentenced in those proceedings, advice and assistance in regard to the making of an appeal to the criminal division of the Court of Appeal as provided in section 30(7) of the Legal Aid Act 1974

(5) An appeal to the Court of Appeal and any proceedings preliminary or incidental thereto.

(6) Advice by counsel or solicitor assigned by the Court of Appeal on the question whether there appear to be reasonable grounds of appeal and assistance by that counsel or solicitor in the preparation of an application for leave to appeal or the giving of a notice of appeal.

(7) An appeal to the House of Lords and any proceedings preliminary or incidental thereto.

(8) A retrial by the Crown Court ordered by the Court of Appeal or the House of Lords.

Delete as necessary.

Except as otherwise provided above, the legal aid granted shall consist of representation by a solicitor/solicitor and a counsel/solicitor and two counsel/counsel only including advice on the preparation of the case for the proceedings.

The solicitor assigned is .....
of .....
The legally assisted person has been committed to .....
..... prison/released on bail and may be communicated with at .....

Dated this..... day of ..... 19....
(Signed) .....

FORM 6B

Legal aid order (Criminal legal aid committee)
(General Reg. 6)

The criminal legal aid committee hereby grants legal aid to .....
for proceedings before a magistrates' court in connection with .....

The legal aid granted shall consist of representation by a solicitor [and Counsel].
.....
.....
The solicitor assigned is
.....
.....
of .....
.....
.....

Signed: .....
Secretary to the criminal legal aid committee
Date .....

FORM 7

Order amending legal aid order
(General Reg. 6A)

To .....
of .....
.....

The order granting legal aid to .....
of .....
is hereby amended, by substituting for the solicitor named in the order another solicitor, namely .....
of .....
.....

and by authorising the instruction of counsel (in place of counsel already instructed) (*a*)

Signed .....
(Secretary to the criminal legal aid committee) (*a*)
Date .....

(*a*) Delete as necessary

FORM 8

Order revoking legal aid order
(General Reg. 6B)

The ..... Court/criminal legal aid committee hereby revokes, as from this date, the order granting legal aid to .....
.....
of .....
For the purpose of .....
because:

(i) he/she has applied for legal aid to be revoked;

(ii) his/her legal representative(s) has/have withdrawn and it is not in the interests of justice to assign new representatives

(iii) he/she has failed to pay sums due under legal aid contribution order.

Signed .....

Date: .....

NOTE TO LEGALLY ASSISTED PERSON:

You are no longer entitled to legal aid. Your solicitor and Counsel (if any) will cease to act further for you unless you yourself re-employ them, and if you do so, you will be responsible for their costs from the above date.

FORM 9
Legal aid contribution order
(General Reg. 18)

To .....
.....
.....

In accordance with the provisions of section 7 of the Legal Aid Act 1982 the ..... Court/criminal legal aid committee (*a*) hereby orders you to pay in respect of the legal aid to be provided for you under a legal aid order a contribution of £..... towards the cost of your representation:

* payable in one lump sum on or before .....
* payable at the rate of £..... per week/per month the first instalment to be paid on or before ..... and subsequent instalments to be paid weekly/monthly. The final instalment is due on .....

* Delete as necessary

This money should be paid to the Clerk to the Justices, Magistrates' Court.

Signed .....
(Secretary to the criminal legal aid committee) (*a*)
Date .....

(*a*) Delete as necessary

NOTES

The figures overleaf show how the contribution was calculated. If you are not satisfied with the calculations used, you may apply to this court for your means to be redetermined. If your means change, you must inform the court which is hearing your case IMMEDIATELY so that your contribution can be re-assessed and changed if necessary. If you do not wish to take up the offer of legal aid on these terms, you MUST inform the court IMMEDIATELY by tearing off and returning the slip overleaf. If you do not do this promptly, you may still have to pay something towards the costs.

If you would prefer to pay monthly, you should inform the Clerk to the Justices who will decide whether you should pay weekly or monthly.

Legal aid contribution order—calculations used

Part One—Figures used

(1) Average weekly net INCOME	£.....(A)
(2) Allowances against income—dependants	£.....
—housing	£.....
—travel	£.....
green form contribution	£.....
—others	£.....
Total allowances	£.....(B)
	£.....(C)

(3) Total CAPITAL

Part Two—Calculation of contribution from INCOME

(1) Disposable income is (A)—(B) = £..... (D)

(2) Contribution is (D)—£42, divided by 4 = £..... (E)

Part Three—Summary

Your contribution from INCOME is £.....

Your contribution from CAPITAL is £.....

Please turn to the front sheet for details of how and when to pay.

Tear off along here

I, ... of (address) .....
.....
.....
have been granted legal aid by the ..... Court at .....
but refuse the offer on the terms outlined.

Return this form IMMEDIATELY to:

Signed.....
Date .....

FORM 10

Notice of withholding of legal aid order
(General Reg. 22(3))

To .....
.....
.....

The ..... Court has made an order granting you legal aid in respect of the proceedings before it/the ..... Court. It has also made an order, a copy of which is attached, requiring you to make a contribution out of capital towards the cost of your case.

In accordance with Regulation 22(3) of the Legal Aid in Criminal Proceedings (General) Regulations 1968, (as amended) the court hereby requires you to make immediate payment of that capital contribution to the Clerk to the Justices, ...
.....

You will *not* receive the legal aid order until you have made this payment and your solicitor/and/counsel will not be covered by the order until it has been received.

A copy of this notice has been sent to your solicitor/counsel.

Signed .....
Date.....

FORM 11
Variation or revocation of contribution order
(General Reg. 25C)

To .....
of .....
.....

In accordance with the provisions of section 8 of the Legal Aid Act 1982, your means have been re-assessed and the Court hereby varies as follows the contribution order made on ..... The total amount that you are now required to pay is £..... You have already paid £.....

(*a*) Therefore you are no longer required to pay any more instalments of your contribution. Should your means change again, you MUST inform this Court, which will then determine whether you should start to pay instalments again.

(*a*) the Court hereby revokes the contribution order made on .....

(*a*) The sum of £..... overpaid by you will be returned to you by the Clerk to the Justices at .....

(*a*) The balance remaining is now £..... This sum should be paid to the Clerk to the Justices at

[on or before .....]
[at the rate of £..... per week/month. The first instalment to be paid on or before the ..... and subsequent instalments to be paid weekly/monthly.

NOTE: If your instalments have now increased, and you do not want legal aid on these terms, you must inform the Court IMMEDIATELY.

(*a*) Delete as appropriate

Signed .....
Date .....

FORM 12
Notification of arrears of payment of contribution order
(General Reg. 25D(1)(*a*))

To .....
.....
.....

You have fallen into arrears in the payment of instalments in respect of your legal aid contribution order. You have missed .....instalments of £..... and are now £..... in arrears
You must pay this sum to the Clerk to the Justices at ..... WITHIN SEVEN DAYS OF RECEIPT OF THIS NOTICE. If you fail to do so, this court will consider revoking your legal aid.
A copy of this form has been sent to your solicitor(s)/counsel.

Signed .....
Date .....

FORM 13
Warning of revocation of legal aid order for non-payment of contribution.
(General Reg. 25D(1)(*b*))

To .....
.....
.....

You were recently sent a warning of arrears in respect of your legal aid contribution order. The arrears now stand at £..... The ..... court at ..... is now revoking your legal aid. You are entitled to explain to the court why you have fallen into arrears, and to invite the court not to revoke your legal aid.

If you wish to do so, YOU MUST RETURN THIS FORM TO THIS COURT WITHIN SEVEN DAYS OF RECEIPT otherwise your legal aid might be revoked.

A copy of this form has been sent to your solicitors.

Signed .....
Date .....

I have fallen into arrears because:—

Signed .....
Date .....

FORM 14A

Notification of refusal to grant legal aid and determination of contribution
(General regs. 6C and 6D)

To .....
.....
.....

Your application for legal aid has been refused on the following grounds:

* (*a*) it does not appear to the court or proper officer of the court desirable to make an order in the interests of justice; and

* (*b*) it does not appear to the court or the proper officer of the court that your means are such that you require assistance in meeting the costs you may incur.

If legal aid had been granted you would have been ordered to pay a contribution of £.... from income and £.... from capital towards the costs of your case/legal aid would have been conditional on payment of £....

* You are entitled to:—

(i) make a further application to the court if any new circumstances arise and to the court of trial in any event.

(ii) Apply for legal aid to a legal aid committee. If you wish to do so you should complete Form 14B on the other side of this notification. You must apply within 14 days.

Signed .....
Date .....

* Delete as necessary.

FORM 14B

Court Code	
Offence Code	
Solicitor's acc. no.	

Application for review of refusal to grant legal aid
(General Reg. 6E)

To the Secretary,
criminal legal aid committee

I,.....[of .....]
....., apply for a review by the criminal legal aid committee of the refusal by the court on the .....
to grant me legal aid for .....

My case is due to be heard on* .....
* (Delete if date has yet to be fixed.)

NOTE: This application must be made within 14 days of the date of the notice of the refusal to make a legal aid order.
You should send the enclosed copy of your original application, and any other information you think is relevant.

THE SECOND SCHEDULE Regulation 19(1)

Part I: General

1.—(1) In computing the disposable income and disposable capital of the person concerned the resources of any spouse of his shall be treated as his resources unless—

(*a*) the person concerned and the spouse are living separate and apart; or

(*b*) the spouse has a contrary interest in the proceedings in respect of which an application for legal aid has been made; or

(*c*) in all the circumstances of the case it would be inequitable to do so.

(2) If the spouse fails to provide information as to his resources at the request of the proper officer, the proper officer may make an estimate, on the basis of any information then available, of the likely resources of the spouse.

2. If it appears to the proper officer that the person concerned has with intent to reduce the amount of his disposable income or disposable capital—

(*a*) directly or indirectly deprived himself of any resources; or

(*b*) converted any part of his resources into resources which under these Regulations are to be wholly or partly disregarded, or in respect of which nothing is to be included in determining the resources of that person;

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.

Part II: Disposable Income

1.—(1) The income of the person concerned shall be that which he receives during the contribution period.

(2) The income received during the contribution period may be estimated on the basis of the income received by the person concerned during the three months prior to the commencement of the contribution period.

2.—(1) Income from any trade, business or gainful occupation other than employment at a wage or salary shall be the profit therefrom which accrues during the contribution period.

(2) The income received during the contribution period may be estimated on the basis of the profits made in the last accounting period for which accounts have been made up.

3. In computing disposable income there shall be disregarded—

(*a*) attendance allowance paid under the Social Security Acts 1975–1980**(a)**;

(*b*) mobility allowance paid under the Social Security Acts 1975–1980;

(*c*) any rebate or allowance paid under Part II of the Social Security and Housing Benefits Act 1982**(b)** and any rate rebate; and

(*d*) constant attendance allowance paid as an increase to a disablement pension under section 61 of the Social Security Act 1975**(c)**.

(a) 1980 c. 30.

(b) 1982 c. 24.

(c) 1975 c. 14; Schedule 4 was amended by S.I. 1981/1195.

4. In computing disposable income there shall be deducted—

(*a*) the total amount of any tax payable on that income;

(*b*) the total amount of any contributions payable under the Social Security Acts 1975–1980;

(*c*) reasonable expenses of travelling to and from the place of employment;

(*d*) the amount of any contribution paid, whether under a legal obligation or not, to an occupational pension scheme within the meaning of the Social Security Pensions Act 1975**(a)**; and

(*e*) reasonable expenses in respect of the making of reasonable provision for the care of any dependent child living with the person concerned because of that person's absence from home by reason of employment.

5.—(1) In computing disposable income there shall be a deduction in respect of the main or only dwelling in the case of a householder of the amount of the net rent payable, or such part thereof as is reasonable in the circumstances.

(2) In this rule "rent" means—

(*a*) the annual rent payable; and

(*b*) a sum in respect of yearly outgoings borne by the householder including, in particular, rates, a reasonable allowance towards any necessary expenditure on repairs and insurance and any annual instalment (whether of interest or of capital) payable in respect of a mortgage debt or heritable security charged on the house in which the householder resides or has an interest therein.

(3) Where any amount of the rent or rates is met by a rebate or allowance under Part II of the Social Security and Housing Benefits Act 1982, or by any rate rebate, the amount so met shall be deducted from the rent to be considered under paragraph (1) of this rule.

6. If the person concerned is not a householder, there shall be a deduction in respect of the costs of his living accommodation of such an amount as is reasonable in the circumstances.

7.—(1) In computing disposable income, there shall be a deduction in respect of the maintenance of the spouse of the person concerned, if the spouses are living together, in respect of the maintenance of any dependent child and in respect of the maintenance of any dependent relative of the person concerned being (in either of such cases) a member of his household at the following rates—

(*a*) in the case of a spouse at the rate equivalent to 50% above the amount specified for the time being in column (3) of paragraph 6 of Part IV of Schedule 4 to the Social Security Act 1975 (increase for adult dependant of Category A retirement pension)**(b)**; and

(*b*) in the case of a dependent child or a dependent relative, at the rate equivalent to 50% above the amount specified for the time being in paragraph 3 of Schedule 1 to the Supplementary Benefit (Requirements) Regulations 1980**(c)** appropriate to the age of the child or relative;

provided that the proper officer may reduce such rate by taking into account the income and other resources of the dependent child or other dependant to such extent as appears to the officer to be just and equitable.

(a) 1975 c. 60.
(b) 1975 c. 14; Schedule 4 was amended by S.I. 1981/1195.
(c) S.I. 1980/1299.

(2) In ascertaining whether a child is a dependent child and whether a person is a dependent relative regard shall be had to their income and other resources.

8. If the person concerned is making and, throughout such period as the proper officer may consider adequate, has regularly made bona fide payments for the maintenance of a spouse who is living apart, of a former spouse, of a child or of a relative who is not (in any of such cases) a member of the household of the person concerned there shall be a deduction at the rate of such payments or at such rate, not exceeding the rate of such payments, as in all the circumstances is reasonable.

9. In computing disposable income, there shall be a deduction in respect of any sum or sums payable by the person concerned under an order made by or arising from any conviction before the High Court, county court, Crown Court or a magistrates' court in proceedings otherwise than those in respect of which the legal aid order was granted.

10. Where the person concerned must or may reasonably provide for any other matter the proper officer may make an allowance of such amount as he considers to be reasonable in the circumstances of the case.

11. In computing the income from any source there shall be disregarded such amount, if any, as the proper officer considers to be reasonable having regard to the nature of the income or to any other circumstances of the case.

Part III: Disposable Capital

1.—(1) In computing the capital of the person concerned there shall be included the amount or value of every resource of a capital nature belonging to him on the date of the assessment.

(2) So far as any such resource does not consist of money, the amount or value thereof shall be taken to be the amount which that resource would realise if sold in the open market, or if there is only a restricted market for the resource, the amount which it would realise in that market, after deduction of any expenses incurred in the sale, or if such amount cannot be ascertained, an amount which appears to the proper officer to be reasonable.

2. In computing such capital there shall be disregarded—

(*a*) a death grant payable to a person under section 32 of the Social Security Act 1975;

(*b*) any maternity grant payable under section 21 of the Social Security Act 1975;

(*c*) any savings of mobility allowance paid under the Social Security Act 1975 which the person concerned intends to use in connection with mobility; and

(*d*) for a period not exceeding 12 months from the date of receipt, any arrears of—

(i) attendance or mobility allowance paid under the Social Security Act 1975; and

(ii) supplementary benefit.

3. Save where it is reasonable in the circumstances, nothing shall be included in the amount of capital of the person concerned in respect of the value of the assets of any business owned in whole or in part by him.

4. Save in exceptional circumstances, nothing shall be included in the amount of capital of the person concerned in respect of—

(*a*) the household furniture and effects of the main or only residence occupied by him;

(*b*) articles of personal clothing; and

(*c*) the personal tools and equipment of his trade.

5. In computing the amount of capital of the person concerned, the value of any interest in the main or only residence in which he resides shall be wholly disregarded.

6. In computing such capital there shall be disregarded such an amount of capital, if any, as the proper officer considers to be reasonable having regard to the nature of the capital or to any other circumstances of the case.

THE THIRD SCHEDULE Regulation 19(3)

CONTRIBUTIONS FROM DISPOSABLE INCOME

The weekly instalment of contribution payable by the applicant or the appropriate contributor under section 7(1) of the 1982 Act, where his disposable income falls within a range specified in the first column of the following table, is the amount specified in relation to that range in the second column.

Average Weekly Disposable Income	*Weekly Contribution*
Exceeding £42 but not exceeding £48	£1
„ £48 „ „ „ £52	£2
„ £52 „ „ „ £56	£3
„ £56 „ „ „ £60	£4
„ £60 „ „ „ £64	£5

The weekly instalment of contribution shall be increased by £1 for each £4 or part of £4 by which average weekly disposable income exceeds £64.".

Hailsham of St. Marylebone, C.

Dated 9th December 1983

We concur,

T. Garel-Jones,
Donald Thompson,
Two of the Lords Commissioners of Her Majesty's Treasury.

Dated 12th December 1983

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Legal Aid in Criminal Proceedings (General) Regulations 1968 and include amendments to take account of the commencement of sections 5 to 11 of the Legal Aid Act 1982.

The main changes are:

(i) those charged with indictable offences or offences triable either way who are refused legal aid by a magistrates' court for the first time may make a further application for legal aid to a criminal legal aid committee of The Law Society;

(ii) powers previously exercisable solely by the court under sections 30(1) and (2) and 31 of the Legal Aid Act 1974 (representation by counsel in the magistrates' court and amendment and revocation of legal aid orders) may be exercised by a criminal legal aid committee of The Law Society on a reference from a court;

(iii) a new procedure for the advance approval of unusual expenditure by a criminal legal aid committee of The Law Society is introduced;

(iv) payment for work done in connection with legally-aided proceedings otherwise than out of the legal aid fund or in respect of fees incurred in obtaining reports, opinions and further evidence and in bespeaking transcripts is prohibited;

(v) new arrangements and procedures for the determination of contributions payable by assisted persons in respect of the costs of legal aid are introduced, with the following features:

—the figures for the assessment of a defendant's resources are prescribed as is the method of calculating a contribution;

—contributions are assessed at the time legal aid is applied for and are collected in instalments from the date legal aid is granted;

—the Legal Aid in Criminal Proceedings (Assessment of Resources) Regulations 1978, the Legal Aid in Criminal Proceedings (Assessment of Resources) (Amendment) Regulations 1979 and the Legal Aid in Criminal Proceedings (Assessment of Resources) (Amendment) Regulations 1980 are revoked: new rules for the assessment of resources are contained in new Schedules to the 1968 Regulations;

—provision is made for re-assessment where an assisted person's resources change, and for consequent variation of the legal aid contribution order;

—provision is made for the exercise of the court's power to revoke a legal aid order for wilful refusal to comply with the terms of a legal aid contribution order;

—provision is made for the exercise of the court's power to remit contributions both paid and those that have not yet fallen due; and

(vi) new forms are prescribed.

Other minor, consequential and drafting amendments are also made.

SI 1983/1863
ISBN 0-11-037863-6

