STATUTORY INSTRUMENTS

1971 No. 194 (S.23)

LEGAL AID AND ADVICE, SCOTLAND

The Legal Aid (Scotland) (General) Amendment Regulations 1971

Made - - - -	*8th February* 1971
Laid before Parliament	*16th February* 1971
Coming into Operation	*1st March* 1971

In exercise of the powers conferred on me by section 15 of the Legal Aid (Scotland) Act 1967(**a**), and of all other powers enabling me in that behalf, and with the concurrence of the Treasury, I hereby make the following regulations:

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

(2) The Interpretation Act 1889(**b**) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

2.—(1) For regulation 8(2) of the Legal Aid (Scotland) (General) Regulations 1960(**c**) there shall be substituted the following:—

"(2) Where a legal aid certificate is suspended or discharged by a Committee acting under the powers given to them by these regulations or by paragraphs (5) or (6) of article 16 of the Legal Aid (Scotland) Scheme 1958, or by paragraphs (5) or (6) of article 8 of the Legal Aid (Scotland) (House of Lords) Scheme 1960, or by paragraphs (5) or (6) of article 8 of the Legal Aid (Scottish Land Court) Scheme 1971 or by paragraphs (5) or (6) of article 8 of the Legal Aid (Lands Tribunal for Scotland) Scheme 1971 or under a direction given by a court under rule 5 of the Act of Sederunt (Legal Aid Rules) 1958(**d**), or otherwise, the assisted person shall remain liable to pay to the Society so much of his contribution as is required to defray the expenses incurred up to the date of suspension or discharge:

Provided that where a certificate is discharged under paragraph 6 of article 16 of the Legal Aid (Scotland) Scheme 1958 or paragraph 6 of article 8 of the Legal Aid (Scotland) (House of Lords) Scheme 1960 or paragraph 6 of article 8 of the Legal Aid (Scottish Land Court) Scheme 1971 or paragraph 6 of article 8 of the Legal Aid (Lands Tribunal for Scotland) Scheme 1971 or the direction of a court requiring discharge of a certificate is given under sub-paragraph (*c*) of paragraph (1) of the said rule 5 or where, in any other case, a court so directs, the Society shall have the right to recover from the person by whom the certificate was held any sum over and above the amount of his contribution which may be required to meet the sums paid or payable by the Society on his account in respect of the proceedings to which the discharged certificate related."

(2) For regulation 10(5) of the Legal Aid (Scotland) (General) Regulations 1960 there shall be substituted the following:—

"(5) Where, at any stage in proceedings, a party who is an assisted person ceases to receive legal aid, he shall be deemed to be an assisted person for the

(**a**) 1967 c. 43.
(**b**) 1889 c. 63.
(**c**) S.I. 1960/2195 (1960 II, p. 1817).
(**d**) S.I. 1958/1872 (1958 I, p. 389).

purpose of any award of expenses made against him only to the extent that those expenses were incurred before he ceased to receive legal aid:

Provided that where an assisted person's legal aid certificate is discharged under paragraph (6) of article 16 of the Legal Aid (Scotland) Scheme 1958 or paragraph (6) of article 8 of the Legal Aid (Scotland) (House of Lords) Scheme 1960 or paragraph (6) of article 8 of the Legal Aid (Scottish Land Court) Scheme 1971 or paragraph (6) of article 8 of the Legal Aid (Lands Tribunal for Scotland) Scheme 1971, or the direction of a court requiring discharge of his certificate is given under sub-paragraph (*c*) of paragraph (1) of rule 5 of the Act of Sederunt (Legal Aid Rules) 1958, the provisions of paragraph (*e*) of sub-section (6) of section 2 of the Legal Aid (Scotland) Act 1967 shall not apply to him".

3.—There shall be substituted for the proviso to paragraph (2) of regulation 11 of the Legal Aid (Scotland) (General) Regulations 1960 the following:—

"Provided that the Committee shall not take into account any change of circumstances unless it appears that such change has increased the assisted person's disposable income by an amount greater than £52 or decreased the assisted person's disposable income by an amount greater than £26 or that his disposable capital has increased by an amount greater than £75."

4.—At the end of regulation 3 of the Legal Aid (Scotland) (General) Regulations 1960 there shall be added:—

"(*e*) an order for the payment of a capital sum or a periodical allowance or both under section 26 of the Succession (Scotland) Act 1964(a)".

Gordon Campbell,
One of Her Majesty's Principal Secretaries of State.

St Andrew's House,
Edinburgh.
4th February 1971.

We concur.

Bernard Weatherill,
Walter Clegg,
Two of the Lord's Commissioners of Her Majesty's Treasury.

8th February 1971.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations make minor amendments in the Legal Aid (Scotland) (General) Regulations 1960 required by the extension of legal aid to proceedings in the Scottish Land Court and the Lands Tribunal for Scotland. They enable a Committee concerned with applications for legal aid to vary the amount of an assisted person's contribution or to discharge his legal aid certificate on account of a change in income where it appears that the change has increased his disposable income by more than £52, instead of by more than £26 as at present. They also exclude from the provisions of section 3(4) of the Legal Aid (Scotland) Act 1967 any moneys payable under an order for the payment of a capital sum or a periodical allowance or both under section 26 of the Succession (Scotland) Act 1964.

(a) 1964 c. 41.