STATUTORY INSTRUMENTS

1973 No. 2125 (S.156)

LEGAL AID AND ADVICE, SCOTLAND

The Legal Aid (Scotland) (General) Amendment Regulations 1973

Made - - -	13*th December* 1973
Laid before Parliament	20*th December* 1973
Coming into Operation	10*th January* 1974

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 1973 and shall come into operation on 10th January 1974.

(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.

(3) In these regulations a regulation referred to by number means a regulation so numbered in the Legal Aid (Scotland) (General) Regulations 1960(c), as amended (d).

2. In the Arrangement of Regulations at the beginning of the Legal Aid (Scotland) (General) Regulations 1960, as amended, after "**4A.** Applications for legal aid in connection with proceedings before the National Industrial Relations Court" there shall be inserted "**4B.** Applications for legal aid in connection with proceedings before the Restrictive Practices Court."

3. The following regulation shall be inserted after regulation 4A:—

"*Applications for legal aid in connection with proceedings before the Restrictive Practices Court*

4B.—(1) In this regulation the expression "the Restrictive Practices Court" means the Restrictive Practices Court established under section 2 of the Restrictive Trade Practices Act 1956(e) and the expression "the proper officer of the court" shall have the same meaning as in the Restrictive Practices Court Rules 1957(f).

(a) 1967 c. 43.
(b) 1889 c. 63.
(c) S.I. 1960/2195 (1960 II, p. 1817).
(d) The relevant amending instrument is S.I. 1971/1914 (1971 III, p. 5166).
(e) 1956 c. 68.
(f) S.I. 1957/603 (1957 II, p. 1955).

(2) Except in so far as otherwise provided by this regulation, these regulations shall apply to applications for legal aid in connection with proceedings in the Restrictive Practices Court under Part III of the Fair Trading Act 1973(a) and for any proceedings in that court in consequence of an order made, or undertaking given to the court, under that Part of that Act in like manner as they apply to applications for legal aid in connection with proceedings in any other court.

(3) (*a*) Where it appears to the appropriate committee that an application for legal aid relates to proceedings which are likely to be conducted in England and Wales or Northern Ireland they shall transmit the application forthwith to the Law Society in England and Wales or to the Incorporated Law Society of Northern Ireland as the case may be and shall notify the applicant and his solicitor that they have done so.

(*b*) Where it appears to the appropriate committee doubtful whether the proceedings to which an application for a certificate relates will be conducted in the Restrictive Practices Court when sitting in Scotland, or in England and Wales or Northern Ireland, they shall request the proper officer of the court to determine that question and that determination shall be binding upon the committee.

(4) Where a certificate has been issued and there is a change of circumstances regarding the conduct of proceedings in that, by direction of the court, they will be wholly or partly conducted in England and Wales or Northern Ireland—

(*a*) the certificate shall remain in force;

(*b*) for any proceedings in England and Wales, the assisted person may continue to be represented for the proceedings in England and Wales by the solicitor and counsel, if any, who represented him in Scotland; and any counsel subsequently appointed to represent him may be selected from the appropriate list of counsel wishing to act for assisted persons which is maintained by the Society;

(*c*) for any proceedings in Northern Ireland, the assisted person may continue to be represented for the proceedings in Northern Ireland by the solicitor who represented him in Scotland and that solicitor shall instruct as his agent a solicitor on the panel maintained by the Incorporated Law Society of Northern Ireland of solicitors willing to act for assisted persons before the Restrictive Practices Court."

4. For regulation 8(2) 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 9 of the Legal Aid (Scottish Land Court) Scheme 1971 or by paragraphs (5) or (6) of article 9 of the Legal Aid (Lands Tribunal for Scotland) Scheme 1971 or by paragraphs (5) or (6) of article 9 of the Legal Aid (Scotland) (National Industrial Relations Court) Scheme 1971 or paragraphs (5) or (6) of article 9 of the Legal Aid (Scotland) (Restrictive Practices Court) Scheme 1973 or under a direction given by a court under Rule 5 of the Act of Sederunt (Legal Aid

(a) 1973 c. 41.

Rules) 1958(a), as amended (b), 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 9 of the Legal Aid (Scottish Land Court) Scheme 1971 or paragraph (6) of article 9 of the Legal Aid (Lands Tribunal for Scotland) Scheme 1971 or paragraph (6) of article 9 of the Legal Aid (Scotland) (National Industrial Relations Court) Scheme 1971 or paragraph (6) of article 9 of the Legal Aid (Scotland) (Restrictive Practices Court) Scheme 1973 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".

5. For regulation 10(5) 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 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 9 of the Legal Aid (Scottish Land Court) Scheme 1971 or paragraph (6) or article 9 of the Legal Aid (Lands Tribunal for Scotland) Scheme 1971 or paragraph (6) of article 9 of the Legal Aid (Scotland) (National Industrial Relations Court) Scheme 1971 or paragraph (6) of article 9 of the Legal Aid (Scotland) (Restrictive Practices Court) Scheme 1973 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 subsection (6) of section 2 of the Legal Aid (Scotland) Act 1967 shall not apply to him".

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

St. Andrew's House,
Edinburgh.
12th December 1973.
We concur.

Hugh Rossi,
John Stradling Thomas,
Two of the Lords Commissioners of Her Majesty's Treasury.

13th December 1973.

(a) S.I. 1958/1872 (1958 I, p. 389).

(b) S.I. 1971/174 (1971 I, p. 530).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations apply the Legal Aid (Scotland) (General) Regulations 1960 to proceedings in the Restrictive Practices Court under Part III of the Fair Trading Act 1973, and related proceedings; and make provision for legal aid applications made in Scotland to be transferred to England and Wales or Northern Ireland if proceedings are to be conducted there, and for legal aid certificates granted in Scotland to remain in force in the event of proceedings being transferred to England and Wales or Northern Ireland.

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