STATUTORY INSTRUMENTS

1976 No. 333 (S. 24)

LEGAL AID AND ADVICE, SCOTLAND

The Legal Aid (Scotland) (General) Amendment Regulations 1976

Made - - -	*2nd March* 1976
Laid before Parliament	*10th March* 1976
Coming into Operation	30*th March* 1976

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 1976 and shall come into operation on 30th March 1976.

(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, in place of "4A. Applications for legal aid in connection with proceedings before the National Industrial Relations Court" there shall be substituted "4A. Applications for legal aid in connection with proceedings before the Employment Appeal Tribunal."

3. The following regulation shall be substituted for regulation 3 (2):—

"(2) For the purpose of subsection (4) of section 3 of the Act the expression 'property' shall be taken not to include any moneys payable under an order made by the Employment Appeal Tribunal established under section 87 of the Employment Protection Act 1975 (**e**)."

4. The following regulation shall be substituted for regulation **4A**:—

"*Applications for legal aid in connection with proceedings before the Employment Appeal Tribunal.*

(**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. 1973/2125 (1973 III, p. 7313).
(**e**) 1975 c. 71.

4A.—(1) In this regulation the expression 'the Employment Appeal Tribunal' means the Employment Appeal Tribunal established under section 87 of the Employment Protection Act 1975 and the expression 'the Registrar of the tribunal' means the person appointed to be Registrar of the Employment Appeal Tribunal and includes any officer of the Employment Appeal Tribunal authorised to act on behalf of the Registrar.

(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 Employment Appeal Tribunal 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 they shall transmit the application forthwith to the Law Society in England and Wales 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 Scotland or in England and Wales, they shall request the Registrar of the tribunal 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 Employment Appeal Tribunal, they will be wholly or partly conducted in England and Wales, the assisted person's certificate shall remain in force and he 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 willing to act for assisted persons which is maintained by the Society.

(5) Where on the coming into force of these regulations a certificate has been granted in respect of an appeal to the Court of Session from a decision of an industrial tribunal and that appeal has been transferred to the Employment Appeal Tribunal in pursuance of any order made by virtue of paragraph 9 of Schedule 17 of the Employment Protection Act 1975, the certificate shall be deemed to have been granted in respect of an appeal to the Employment Appeal Tribunal."

5. 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 paragraphs (5) or (6) of article 9 of the Legal Aid (Scotland) (Restrictive Practices Court) Scheme 1973 or paragraphs (5) or (6) of article 9 of the Legal Aid (Scotland) (Employment Appeal Tribunal) Scheme 1976 or under a direction given by a court under Rule 5 of the Act of Sederunt (Legal Aid Rules) 1958 (**a**), as amended (**b**), or

(**a**) S.I. 1958/1872 (1958 I, p. 389). (**b**) S.I. 1971/174 (1971 I, p. 530).

otherwise, the assisted person shall remain liable to pay to the Society s much of his contribution as is required to defray the expenses incurred up t the date of suspension or discharge: Provided that where a certificate i discharged under paragraph (6) of article 16 of the Legal Aid (Scotland) Schem 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 Lan Court) Scheme 1971 or paragraph (6) of article 9 of the Legal Aid (Land Tribunal for Scotland) Scheme 1971 or paragraph (6) of article 9 of the Lega Aid (Scotland) (Restrictive Practices Court) Scheme 1973 or paragraph (6) c article 9 of the Legal Aid (Scotland) (Employment Appeal Tribunal) Schem 1976 or the direction of a court requiring discharge of a certificate is give under sub-paragraph (c) of paragraph (1) of the said rule 5 or where, in any othe case, a court so directs, the Society shall have the right to recover from th person by whom the certificate was held any sum over and above the amour of his contribution which may be required to meet the sums paid or payabl by the Society on his account in respect of the proceedings to which th discharged certificate related".

6. For regulation **10**(5) there shall be substituted the following:—

"(5) Where, at any stage in proceedings, a party who is an assisted perso ceases to receive legal aid, he shall be deemed to be an assisted person for th purpose of any award of expenses made against him only to the extent tha those expenses were incurred before he ceased to receive legal aid: Provide that where an assisted person's legal aid certificate is discharged under para graph (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 c paragraph (6) of article 9 of the Legal Aid (Scottish Land Court) Scheme 197 or paragraph (6) of article 9 of the Legal Aid (Lands Tribunal for Scotlanc Scheme 1971 or paragraph (6) of article 9 of the Legal Aid (Scotland) (Restri tive Practices Court) Scheme 1973 or paragraph (6) of article 9 of the Leg Aid (Scotland) (Employment Appeal Tribunal) Scheme 1976 or the directio of a court requiring discharge of his certificate is given under sub-paragraph (of pargaraph (1) of rule 5 of the Act of Sederunt (Legal Aid Rules) 195 the provisions of paragraph (e) of subsection (6) of section 2 of the Legal Ai (Scotland) Act 1967 shall not apply to him".

William Ross,

One of Her Majesty's Princip Secretaries of State.

New St. Andrew's House,
Edinburgh.
2nd March 1976.

We concur.

J. Dormand,

M. Cocks,

Two of the Lords Commissione of Her Majesty's Treasury.

2nd March 1976.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations apply the Legal Aid (Scotland) (General) Regulations 1960 to proceedings in the Employment Appeal Tribunal; and make provision for legal aid applications made in Scotland to be transferred to England and Wales if proceedings are to be conducted there, for legal aid certificates granted in Scotland to remain in force in the event of proceedings being transferred to England and Wales, and for transitional matters.

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