STATUTORY INSTRUMENTS

1978 No. 622 (S. 57)

LEGAL AID AND ADVICE, SCOTLAND

The Legal Aid (Scotland) (General) Amendment Regulations 1978

Made - - - -	18*th April* 1978
Laid before Parliament	2*nd May* 1978
Coming into Operation	24*th May* 1978

In exercise of the powers conferred upon me by sections 3(4) and 15 of the Legal Aid (Scotland) Act 1967(**a**) and 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 1978 and shall come into operation on 24th May 1978.

(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 a number means a regulation so numbered in the Legal Aid (Scotland) (General) Regulations 1960(**c**) as amended(**d**).

2. For regulation 3, there shall be substituted the following regulation:—

"*Contributions from Assisted Persons and payments out of property recovered*

3.—(1) Section 3(4) of the Act (which provides that certain sums should be paid, in priority to any other debt, out of any property which is recovered or preserved for a person in any proceedings) shall not apply to any such property which consists of moneys payable to that person

(*a*) under a decree for payment of aliment, as defined in paragraph (2) of this regulation;

(*b*) under an order made by the Employment Appeal Tribunal established under section 87 of the Employment Protection Act 1975(**e**);

(*c*) by way of supplementary benefit under the Supplementary Benefits Act 1976(**f**) or family income supplement under the Family Income Supplements Act 1970(**g**) in pursuance of any proceedings resulting from the application of section 13 of the Tribunals and Inquiries Act 1971(**h**) to proceedings brought before the Appeal Tribunals constituted in accordance with Schedule 4 to the Supplementary Benefits Act 1976; or

(**a**) 1967 c. 43. (**b**) 1889 c. 63. (**c**) S.I. 1960/2195.
(**d**) The relevant amending instruments are S.I. 1971/194 and S.I. 1976/333.
(**e**) 1975 c. 71. (**f**) 1976 c. 71. (**g**) 1970 c. 55.
(**h**) 1971 c. 62 (Section 13 was applied in relation to these proceedings by S.I. 1977/1735).

(*d*) under any settlement arrived at to prevent or bring to an end proceedings in which such a decree or order as is mentioned in sub-paragraph (*a*) or (*b*) above may be granted; or

any property transferred to that person in satisfaction of such amounts of moneys payable.

(2) In paragraph (1)(*a*) above, the expression "decree for payment of aliment" includes

(*a*) an order for the payment of a periodical allowance or a capital sum under section 5 of the Divorce (Scotland) Act 1976(**a**);

(*b*) an order for the payment of aliment under section 7 of the Divorce (Scotland) Act 1976;

(*c*) an order for the payment of weekly or other periodical sums under section 3(2) or 5(4) of the Guardianship of Infants Act 1925(**b**);

(*d*) an order for the payment of sums in respect of aliment under section 1(3) of the Illegitimate Children (Scotland) Act 1930(**c**);

(*e*) any order for the payment of sums for the maintenance of any person which is, by virtue of the Maintenance Orders Act 1950(**d**), enforceable in Scotland as if it were a decree for payment of aliment; and

(*f*) any order to which the Maintenance Orders (Reciprocal Enforcement) Act 1972(**e**) applies."

3. In regulation 4(2), after the words "in English", there shall be inserted the words "or in French".

4. In regulation 11(2), for the amounts "£52", "£26" and "£75", there shall be substituted the amounts "£156", "£78" and "£120" respectively.

Bruce Millan,
One of Her Majesty's Principal Secretaries of State.

New St Andrew's House,
Edinburgh.
17th April 1978.

We concur
18th April 1978.

T. E. Graham,
Peter Snape,
Two of the Lord Commissioners of Her Majesty's Treasury.

(**a**) 1976 c. 39. (**b**) 1925 c. 45. (**c**) 1930 c. 33. (**d**) 1950 c. 37. (**e**) 1972 c. 18.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Legal Aid (Scotland) (General) Regulations 1960, as amended ("the Principal Regulations").

They substitute a new Regulation for Regulation 3 of the Principal Regulations, specifying the property which should be exempt from the charge imposed by Section 3(4) of the Legal Aid (Scotland) Act 1967. The new Regulation adds to the previous exemption of any moneys payable under certain decrees or extra judicial settlements any property transferred in satisfaction of such amounts of moneys payable and any moneys payable by way of supplementary benefit or family income supplement. The new Regulation also amends the previous definition of "decree for the payment of aliment" so as to include orders for the payment of certain sums under the Divorce (Scotland) Act 1976 and any Order to which the Maintenance Orders (Reciprocal Enforcement) Act 1972 applies.

These Regulations also amend the amounts specified in the proviso to Regulation 11(2) of the Principal Regulations (which specifies the changes of circumstances which the Legal Aid Committee may take into account in determining whether to vary the amount of an assisted person's contribution or to discharge his legal aid certificate) by

(*a*) increasing from £52 to £156 the amount by which an assisted person's income must increase;

(*b*) increasing from £26 to £78 the amount by which his income must decrease; and

(*c*) increasing from £75 to £120 the amount by which his capital must increase,

in order to constitute such a change of circumstances.

These Regulations also amend Regulation 4(2) of the Principal Regulations to allow an application for legal aid to be in French.

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