
STATUTORY INSTRUMENTS

1989 No. 339

The Civil Legal Aid (General) Regulations 1989

PART III

EMERGENCY CERTIFICATES

Application for emergency certificate

19.—(1) Any person who desires legal aid as a matter of urgency may apply to an Area Director for an emergency certificate on a form approved by the Board or in such other manner as the Area Director may accept as sufficient in the circumstances of the case.

(2) Subject to paragraph (3), an application for an emergency certificate shall contain such information and be accompanied by such documents as may be necessary to enable the Area Director to determine the nature of the proceedings for which legal aid is sought and the circumstances in which it is required and whether—

- (a) the applicant is likely to fulfil the conditions under which legal aid may be granted under the Act and these Regulations; and
- (b) it is in the interests of justice that the applicant should, as a matter of urgency, be granted legal aid;

and the applicant shall furnish such additional information and documents (if any) as may be sufficient to constitute an application for a certificate under Part II of these Regulations.

(3) If it appears to the Area Director that the applicant cannot at the time of making the application reasonably furnish the information required under paragraph (2), or any part of it, that Area Director shall nevertheless have the power to issue an emergency certificate subject to such conditions as to the furnishing of additional information as he thinks fit.

Refusal of emergency certificate

20. An application for an emergency certificate may be refused—

- (a) on one of the grounds on which a substantive certificate may be refused under regulation 34; or
- (b) on the ground that the applicant is unlikely to fulfil the conditions under which legal aid may be granted; or
- (c) on the ground that it is not in the interests of justice that legal aid be granted as a matter of urgency.

Issue and effect of emergency certificate

21.—(1) An Area Director shall have power to approve an application made under regulation 19 and to issue an emergency certificate without reference to the assessment officer.

(2) An emergency certificate shall not be issued in respect of authorised summary proceedings.

(3) Where an Area Director issues an emergency certificate, he shall send the emergency certificate (together with a copy) to the solicitor selected by the applicant, and a copy of the certificate to the applicant.

(4) An emergency certificate shall have the same effect in all respects as a substantive certificate and any person holding an emergency certificate shall, while it is in force, be deemed for the purposes of the proceedings to which the emergency certificate relates to be an assisted person.

Duration of emergency certificate

22. An emergency certificate shall remain in force until—

- (a) it is discharged or revoked in accordance with Part X of these Regulations; or
- (b) it is merged in a substantive certificate under regulation 23; or
- (c) the expiry of any period (including any extension of that period granted under regulation 24(1)) allowed for the duration of the emergency certificate.

Merger in substantive certificate

23.—(1) Where a substantive certificate is issued, the emergency certificate shall merge in the substantive certificate and the substantive certificate shall take effect from the date upon which the emergency certificate was issued in respect of the proceedings specified in the emergency certificate.

(2) Where an emergency certificate is merged in a substantive certificate, the substantive certificate shall state—

- (a) the date of issue of the emergency certificate, and
- (b) that the emergency certificate has been continuously in force from that date until the date of the substantive certificate.

Extension and expiry of emergency certificate

24.—(1) The Area Director (whose decision shall be final) may extend the period allowed for the duration of an emergency certificate where—

- (a) the applicant is offered a substantive certificate in respect of the proceedings to which the emergency certificate relates and either fails to signify his acceptance or appeals against the terms of the offer; or
- (b) the application for a substantive certificate in respect of the proceedings to which the emergency certificate relates has been refused and either notice of appeal has been given to the appropriate area committee within the time limits laid down by regulation 36 or the time limit for doing so has not expired; or
- (c) there are exceptional circumstances.

(2) Where an emergency certificate is extended under paragraph (1)(a) or (b), no further work may be done or steps taken under the certificate.

Notification of extension of emergency certificate

25.—(1) Where an emergency certificate is extended, the Area Director shall

- (a) forthwith issue a notice to that effect;
- (b) send the notice (together with a copy) to the solicitor acting for the person to whom the emergency certificate was issued; and
- (c) send a copy of the notice to the person to whom the emergency certificate was issued.

(2) It shall be the duty of the solicitor to notify forthwith any counsel whom he may have instructed that the certificate has been extended.

(3) A solicitor who receives notice that an emergency certificate has been extended under regulation 24 shall, if proceedings have begun or otherwise upon their commencement,

(a) send a copy of the notice by post to the appropriate court office or registry, and

(b) serve notice of the fact upon any other persons who are parties to the proceedings, and, if any other person becomes a party to the proceedings, serve a similar notice upon that person.