
STATUTORY INSTRUMENTS

1998 No. 2401

**LEGAL AID AND ADVICE,
ENGLAND AND WALES**

**The Legal Aid in Criminal and Care Proceedings
(Costs) (Amendment) (No. 2) Regulations 1998**

<i>Made</i>	- - - -	<i>23rd September</i> <i>1998</i>
<i>Laid before Parliament</i>		<i>28th September 1998</i>
<i>Coming into force</i>	- -	<i>1st December 1998</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 34 and 43 of the Legal Aid Act 1988(1), having had regard to the matters specified in section 34(9) and having consulted the General Council of the Bar and the Law Society and with the consent of the Treasury, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Legal Aid in Criminal and Care Proceedings (Costs) (Amendment) (No. 2) Regulations 1998 and shall come into force on 1st December 1998.

Transitional provisions

2. These Regulations shall apply to work done under a legal aid order made on or after 1st December 1998, and costs payable in respect of work done under a legal aid order made before that date shall be determined as if these Regulations had not come into force.

Amendments to the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989

3. Paragraph 2 of Part III of Schedule 1 to the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989(2) shall be amended as follows:-

- (a) in sub-paragraph (2) the words from “(which” to “Crown Court)” shall be omitted, and for “the proceedings specified” there shall be substituted “those specified”;
- (b) after sub-paragraph (7) there shall be inserted the following:-

(1) 1988 c. 34; sections 34 and 43 were amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraphs 60, 62 and 63. Section 43 is cited because of the meaning given to “regulations”.

(2) S.I.1989/343, as amended by S.I. 1990/488, 1991/529, 838 and 2037, 1993/934 and 1994/1477, 1825 and 2218.

“(8) For the purposes of this Part of this Schedule, any proceedings specified in subparagraph (2) (“the specified proceedings”) shall be treated as including all ancillary proceedings in respect of which a legal aid order is in force, whether or not the order is the same as that in force in respect of the specified proceedings; accordingly, in any case where a standard fee is payable in respect of the specified proceedings—

- (a) no separate fee shall be payable in respect of the ancillary proceedings, but
- (b) all work done or costs incurred in the ancillary proceedings shall be treated as done or incurred in the specified proceedings.

(9) In subparagraph (8), “ancillary proceedings” means:—

- (a) proceedings preliminary or incidental to the specified proceedings whether before that or another court, including bail applications made either in a magistrates' court or in the Crown Court;
- (b) proceedings arising from bail applications within (a) above, including appeals against the grant or refusal of bail and proceedings for offences under the Bail Act 1976(3);
- (c) proceedings for contempt alleged to have been committed in the specified proceedings, other than proceedings in respect of which the assisted person has been granted representation under section 29 of the Act.”.

Signed by authority of the Lord Chancellor

Dated 10th September 1998

G.W. Hoon
Minister of State,
Lord Chancellor's Department

We consent

Dated 23rd September 1998

Bob Ainsworth
Jim Dowd
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989 so that a standard fee provided by Schedule 1 Part III covers all ancillary proceedings, including proceedings under the Bail Act 1976, provided that these are legally aided (whether under the same or a different order from the main proceedings).