

1972 No. 1748

LEGAL AID AND ADVICE, ENGLAND

**The Legal Aid (Assessment of Resources) (Amendment)
Regulations 1972**
Made - - - 16th November 1972*Laid before Parliament* 24th November 1972*Coming into Operation* 18th December 1972

The Lord Chancellor, in exercise of the powers conferred on him by sections 4 and 12 of the Legal Aid and Advice Act 1949(a), and with the concurrence of the Treasury, hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Legal Aid (Assessment of Resources) (Amendment) Regulations 1972 and shall come into operation on 18th December 1972.

(2) The Interpretation Act 1889(b) shall apply to the interpretation of these Regulations as it applies to 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 (Assessment of Resources) Regulations 1960(c), as amended(d), and a rule referred to by number means a rule so numbered in the Schedules to those Regulations.

2.—(1) In regulation 1 (which relates, among other things, to the interpretation of expressions used in the Regulations), in the definition of “income” for the words “does not include” there shall be substituted the words “includes any sum payable for the purpose of the maintenance of an infant including” and for the words “for the purpose of the maintenance of an infant” there shall be substituted the words “for that purpose”.

(2) In regulation 4 (which relates to the resources of a spouse) paragraph (2)(iii) shall be omitted.

(3) The following paragraph shall be substituted for paragraph (1) of regulation 5 (which relates to resources of an infant applicant):—

“(1) Where an application for a certificate is made by or on behalf of an infant who is under the upper limit of compulsory school age, there shall, save in exceptional circumstances, in addition to the resources of the infant, be taken into account the resources of any person liable to maintain the infant under section 22 of the Ministry of Social Security Act 1966(e) and any person having care and control of the infant, not being a person having such care and control by reason of any contract or for some temporary purpose.”

3. In rule 8 of Schedule 1 (which relates to deductions for rent) after the word “rent” in the first place where it occurs there shall be inserted the words “of the main or only dwelling”; after the word “circumstances” there shall be

(a) 1949 c. 51. (b) 1889 c. 63. (c) S. I. 1960/1471 (1960 II, p. 1749).

(d) The relevant amending instruments are S.I. 1966/1348, 1970/1162 (1966 III, p. 3676 1970 II, p. 3931). (e) 1966 c. 20.

added the words "and the Commission shall decide which is the main dwelling where the person concerned resides in more than one dwelling in which he has an interest"; and after paragraph (3) there shall be added the following paragraph:—

"(4) Where any amount of the rent or rates is met by a rebate or allowance under Part II of the Housing Finance Act 1972(a), or by any rate rebate, the amount so met shall be deducted from the rent to be considered under paragraph (1) of this rule."

4. The following amendments shall be made to Schedule 2:—

(1) In rule 9 (which relates to the value of a dwelling), in paragraph (1) after the words "any interest in the" there shall be inserted the words "main or only" and after the words "security thereof" there shall be added the words "and the Commission shall decide which is the main dwelling where the person concerned resides in more than one dwelling in which he has an interest"; in paragraph (2) after the words "value of the", in both places where they occur, there shall be inserted the words "main or only" and for the expression "£5,000" there shall be substituted the expression "£6,000"; and after paragraph (2) there shall be inserted the following paragraph:—

"(3) Where the person concerned resides in more than one dwelling in which he has an interest, there shall be taken into account in respect of the value to him of any interest in a dwelling which is not the main dwelling any sum which might be obtained by borrowing money on the security thereof."

(2) In rule 11 (which relates to the value of life assurance) the proviso shall be omitted.

(3) The following rule shall be substituted for rule 13:—

"13. An allowance may be made in respect of any debt owing by the person concerned (other than a debt secured on the dwelling or dwellings in which he resides) to the extent to which the Commission consider reasonable, provided that the person concerned produces evidence to the satisfaction of the Commission that the debt will be discharged within the twelve months immediately following the date of application for a certificate."

(4) In rule 14 (which relates to dependants' allowances) for the expressions "£75", "£50" and "£25" there shall be substituted respectively the expressions "£125", "£80" and "£40".

(5) In rule 15 (which relates to an allowance where there is low income) for the expression "£375" there shall be substituted the expression "£600".

Dated 13th November 1972.

Hailsham of St. Marylebone, C.

We concur,

Dated 16th November 1972.

V. H. Goodhew,
Hugh Rossi,
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 (Assessment of Resources) Regulations. The principal changes are as follows:—

- (a) sums payable to the person concerned for maintaining an infant shall be included as part of that person's income;
- (b) save in exceptional circumstances, where an infant is an applicant for legal aid the resources of his parents or other persons liable to maintain him shall be included with his resources;
- (c) £6,000 (formerly £5,000) of the value of a main dwelling shall be left out of account; where the person concerned resides and has an interest in more than one dwelling the Commission shall decide which dwelling qualifies for the disregard; in respect of a dwelling which is not the main dwelling the Commission will take into account any sum which could be borrowed on the security of the dwelling;
- (d) the capital allowances for dependants shall be £125 for the first, £80 for the second and £40 for any further dependant instead of £75, £50 and £25 respectively;
- (e) the maximum capital allowance on account of low income shall be £600 instead of £375.

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