
STATUTORY INSTRUMENTS

1989 No. 339

The Civil Legal Aid (General) Regulations 1989

PART VII

AMENDMENT OF CERTIFICATE AND ADJUSTMENT OF CONTRIBUTION

Power to amend certificates

- 51.** The Area Director may amend a certificate where in his opinion—
- (a) there is some mistake in the certificate; or
 - (b) it has become desirable for the certificate to extend to
 - (i) proceedings; or
 - (ii) other steps; or
 - (iii) subject to regulation 46(3), other proceedings; or
 - (iv) proceedings which under the Act may be taken to enforce or give effect to any order or agreement made in the proceedings in respect of which the certificate was issued; or
 - (v) the bringing of an interlocutory appeal; or
 - (vi) proceedings in the Court of Justice of the European Communities on a reference to that Court for a preliminary ruling; or
 - (vii) representation by an EEC lawyer; or
 - (c) it has become desirable to add or substitute parties to the proceedings in respect of which the certificate was issued; or
 - (d) it has become desirable for the certificate to extend to any steps having the same effect as a cross-action or as a reply thereto, or a cross-appeal; or
 - (e) it has become desirable for the certificate not to extend to certain of the proceedings in respect of which it was issued; or
 - (f) a change of solicitor should be authorised.

Power to alter contribution and amend certificate

52.—(1) Without prejudice to the provisions of the Civil Legal Aid (Assessment of Resources) Regulations 1989⁽¹⁾, where the assisted person's disposable income and disposable capital have been assessed, the Area Director may, if he considers it to be desirable, request the assessment officer to re-assess the assisted person's financial resources and maximum contribution.

(2) Where the Area Director has determined the assisted person's contribution at a sum which is less than the maximum contribution and it appears likely that the costs incurred or likely to be incurred under the certificate may exceed the contribution which has been determined, he shall

(1) S.I.1989/338.

increase the amount payable on account of the assisted person's contribution to the amount or likely amount of the costs or to the amount of the maximum contribution, whichever is the lesser of the two.

(3) Without prejudice to regulation 51, the Area Director shall amend the certificate where he re-determines the amount payable on account of the assisted person's contribution whether as a result of a re-assessment pursuant to paragraph (1) or of an increase in contribution under paragraph (2) or otherwise.

Making and determination of applications for amendment

53. Parts II and V of these Regulations shall apply, with any necessary modifications, to applications for the amendment of certificates as they apply to applications for certificates.

Procedure on issue of amendment

54.—(1) Where an Area Director amends a certificate, he shall send two copies of the amendment to the assisted person's solicitor and one copy to the assisted person.

- (2) A solicitor who receives an amendment sent to him under paragraph (1) shall forthwith—
- (a) if proceedings have begun or otherwise upon their commencement, send a copy of the amendment by post to the appropriate court office or registry, and
 - (b) except in the case of an amendment made under regulation 52, serve notice of the fact upon all other parties to the proceedings, and, if any other person becomes a party to the proceedings, serve similar notice upon that person.

(3) The copy of the amendment sent to the appropriate court office or registry shall form part of the papers for the court in the proceedings.

(4) Paragraphs (2) and (3) shall not apply to authorised summary proceedings, and, where an assisted person is a party to such proceedings, his solicitor shall, before or at the first hearing that takes place after the amendment has been issued, file the amendment with the clerk to the justices.

Right to show cause on application to remove limitation

55. An Area Director shall not refuse an application to amend a certificate (other than an emergency certificate) by removing a limitation imposed upon it until—

- (a) notice has been served on the assisted person that the application may be refused and his certificate discharged and that he may show cause why the application should be granted; and
- (b) the assisted person has been given an opportunity to show cause why his application should be granted.

Procedure on refusal of amendment

56. Where an Area Director refuses an application for the amendment of a certificate, he shall notify the assisted person's solicitor in writing, stating his reasons for so doing.

Right of appeal against refusal of amendment

57.—(1) Where an Area Director refuses an application for the amendment of a certificate, the assisted person may appeal to the appropriate area committee.

(2) An appeal shall be brought by giving notice on a form approved by the Board within 14 days of the Area Director's decision to refuse the application.

Determination of appeal against refusal of amendment

58.—(1) Subject to paragraph (3), the area committee shall, on an appeal under regulation 57, reconsider the application and determine the appeal in such manner as seems to it to be just and, without prejudice to the generality of the foregoing, may—

- (a) dismiss the appeal; or
- (b) direct the Area Director to amend the certificate in such manner as the area committee thinks fit.

(2) Any decision of an area committee with regard to an appeal shall be final, and it shall give notice of its decision, and the reasons for it, to the assisted person and to his solicitor in a form approved by the Board.

(3) Nothing in this regulation or regulation 53 shall require the area committee to allow the assisted person to conduct an appeal under this regulation himself or to be represented on any such appeal if the area committee considers that such steps are unnecessary.