
STATUTORY INSTRUMENTS

1989 No. 344

**The Legal Aid in Criminal and Care
Proceedings (General) Regulations 1989**

PART IV

LEGAL AID ORDERS

Legal aid orders

40.—(1) A magistrates' court inquiring into an offence as examining justices may make a legal aid order which applies, or amend an order so that it applies, both to proceedings before the court and, in the event of the defendant being committed for trial, to his trial before the Crown Court and, where such an order is made,—

- (a) Form 11 shall be used; and
- (b) copies of the order shall be sent in accordance with paragraph (2) below or with regulation 50(3), as the case may be.

(2) A legal aid order for the purposes of proceedings in a magistrates' court, the Crown Court or the Court of Appeal shall be in Form 11, 12 or 13 as the case may be and, subject to regulations 17(3) and 29(3), the court or the proper officer shall send—

- (a) one copy to the legally assisted person; and
- (b) one copy to the solicitor assigned or to counsel (where counsel only is assigned); and,

where the legal aid order is made for the purposes of proceedings before a magistrates' court, a further copy (endorsed "Board copy") shall be sent under sub-paragraph (b) above.

(3) Where a legal aid order is made by an area committee for the purposes of proceedings in a magistrates' court, one copy shall be sent to the proper officer of the court to which the application for legal aid was made.

(4) Where a legal aid order is amended under regulation 50, copies of the amended order shall be sent in accordance with paragraph (3) of that regulation.

(5) Where the solicitor assigned instructs counsel, the instructions which are delivered to counsel shall include a copy of the legal aid order and the solicitor shall inform counsel of any amendments made to the legal aid order.

Withdrawal and revocation of legal aid orders

41.—(1) A legal aid order may be withdrawn—

- (a) where the legally assisted person declines to accept the terms on which a grant of representation may be made;
- (b) at the request of the legally assisted person;
- (c) in accordance with the provisions of regulation 50.

(2) Where two legal aid orders are made in respect of the same proceedings, the second order so made shall be deemed to be of no effect and shall be withdrawn as if the legally assisted person had made a request under paragraph (1)(b) above.

(3) An order withdrawing a legal aid order shall be in Form 14 and a copy of it shall be sent to—

- (a) the legally assisted person, or
- (b) the solicitor assigned or to counsel (where counsel only is assigned); and
- (c) where the legal aid order is withdrawn by the area committee, to the proper officer of the court to which the application for withdrawal was made.

(4) Where a legal aid order is withdrawn—

- (a) the counsel assigned shall send all papers and other items in his possession relating to the proceedings to the solicitor assigned or (where no solicitor was assigned) to the legally assisted person; and
- (b) the solicitor assigned shall send all papers and other items in his possession relating to the proceedings to the legally assisted person.

(5) Where a legal aid order is revoked under regulation 36(3), the foregoing paragraphs of this regulation shall apply, with any necessary modifications, as if the order had been withdrawn.

Notes of evidence and depositions

42. Where a legal aid order is made in respect of an appeal to the Crown Court, the justices' clerk shall supply, on the application of the solicitor assigned to the appellant or respondent on whose application such an order was made, copies of any notes of evidence or depositions taken in the proceedings in the magistrates' court.

Transfer of documents

43. Where a person is committed by a lower court to a higher court or appeals or applies for leave to appeal from a lower court to a higher court, the proper officer of the lower court shall send to the proper officer of the higher court the following documents—

- (a) a copy of any legal aid order previously made in respect of the same proceedings;
- (b) a copy of any contribution order made;
- (c) a copy of any legal aid application which has been refused;
- (d) any statement of means already submitted.