
STATUTORY INSTRUMENTS

1992 No. 753 (S. 77)

LEGAL AID AND ADVICE, SCOTLAND

The Civil Legal Aid (Scotland) Amendment Regulations 1992

Made - - - - *8th March 1992*
Laid before Parliament *13th March 1992*
Coming into force - - *3rd April 1992*

The Secretary of State, in exercise of the powers conferred on him by sections 36(1) and (2)(a) and (f) and 37(1) of the Legal Aid (Scotland) Act 1986(1) and all other powers enabling him in that behalf, hereby makes the following Regulations:

1.—(1) These Regulations may be cited as the Civil Legal Aid (Scotland) Amendment Regulations 1992 and shall come into force on 3rd April 1992.

(2) In these Regulations “the principal Regulations” means the Civil Legal Aid (Scotland) Regulations 1987(2).

2. In regulation 10A(1) of the principal Regulations there shall be substituted for the figures “£7,000” and “£8,000” the figures “£7,500” and “£8,560” respectively.

3. In regulation 18(4) of the principal Regulations for sub-paragraphs (b) and (c) there shall be substituted:—

“and

(b) require the applicant as soon as practicable to satisfy it that the requirements of section 14(1) of the Act are fulfilled, that the applicant’s disposable income is such that the applicant is eligible for legal aid, and that the applicant should not be refused legal aid by virtue of section 15(2) of the Act.”.

4.—(1) In the cross-heading for regulation 21 of the principal Regulations there shall be inserted at the end of the heading the words “and prior approval of the Board in cases of unusually large expenditure”.

(2) In regulation 21(1) of the principal Regulations, after sub-paragraph (c) the word “and” shall be deleted, and after the word “witness” in sub-paragraph (d) there shall be inserted:—

“; and

(1) 1986 c. 47.

(2) S.I.1987/381, amended by S.I. 1987/431, 1988/490, 1171 and 1891, 1989/505, 1990/631 and 1991/745 and 1904.

(e) for work of an unusual nature or likely to involve unusually large expenditure”.

5. For regulations 30 and 31 of the principal Regulations there shall be substituted the following:

“Cessation of legal aid other than on a change of circumstances

30. The Board may cease to make legal aid available to an assisted person if it appears to it that the assisted person—

- (a) has required the proceedings to be conducted unreasonably so as to incur an unjustifiable expense to the fund;
- (b) has failed to comply with any condition imposed under section 14(2) of the Act;
- (c) has failed without reasonable excuse to attend for an interview or to provide information or documents when so required under these Regulations;
- (d) having been required in terms of regulation 17A(3) above to make a contribution or instalment thereof, is more than one month in arrears in making any payment in respect of that contribution or instalment.

Termination and recovery of legal aid in cases of false information etc.

31.—(1) This regulation applies where after giving a person an opportunity of submitting representations, the Board is satisfied that that person has—

- (a) in relation to any application for legal aid, made an untrue statement as to his resources or has failed to disclose any material fact concerning them, whether the statement was made or the failure occurred before or after legal aid was made available to him;
- (b) wilfully failed to comply with these Regulations by not furnishing to the Board any material information concerning anything other than his resources; or
- (c) knowingly made an untrue statement in furnishing such information.

(2) The Board—

- (a) may cease to make legal aid available to that person in the matter or proceedings;
- (b) shall have the right to recover from that person the amount paid out of the Fund in respect of the fees and outlays of his solicitors and counsel less any amount received from him by way of contribution.

(3) The person—

- (a) shall be deemed, for the purposes of section 18 and 19 of the Act, never to have been an assisted person;
- (b) shall not be entitled to avail himself of the provisions of regulation 18 in respect of any later stages of the same proceedings in the same court or any court to which those proceedings may be remitted;
- (c) shall not be entitled to legal aid in relation to any later stages of the same proceedings in the same court or any court to which those proceedings may be remitted; and
- (d) shall not be entitled to legal aid in any appellate proceedings in relation to the same action, cause or matter, unless the Board considers that there is special reason to make legal aid available for such appellate proceedings.”.

6. Regulation 32(a)(v) of the principal Regulations shall be amended by inserting after the words “by way of”, the words “disability working allowance under section 20(6A) of the Social Security Act 1986(4)”.

7. Regulation 36 of the principal Regulations shall be deleted.

8. In paragraph 6 of Schedule 2 to the principal Regulations there shall be substituted for sub-paragraphs (a) and (b) the following sub-paragraphs:—

“(a) disability living allowance paid to those who become disabled before their 65th birthday under section 37ZA of the Social Security Act 1975(5) or attendance allowance paid to those who become disabled after their 65th birthday under the Social Security Acts 1975-1986;

(b) disability living allowance paid, in place of mobility allowance, under section 37ZA of the Social Security Act 1975;”.

9. In paragraph 13A of Schedule 3 to the principal Regulations(6) there shall be substituted for the table the following table:—

“Annual disposable income (excluding net income derived from capital)	Amount of capital disregarded
Up to £350	£35,000
£ 351 — £ 800	£30,000
£ 801 — £1,200	£25,000
£1,201 — £1,600	£20,000
£1,601 — £2,050	£15,000
£2,051 — £2,450	£10,000
£2,451 and above	£ 5,000”.

St Andrew’s House,
Edinburgh
8th March 1992

James Douglas-Hamilton
Parliamentary Under Secretary of State, Scottish
Office

(4) 1986 c. 50; section 20(6A) was inserted by section 6 of the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21).

(5) 1975 c. 14; section 37ZA was inserted by section 1 of the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21).

(6) Paragraph 13A was inserted by S.I. 1990/631.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Legal Aid (Scotland) Regulations 1987 by—

- (a) increasing the disposable income and disposable capital limits for persons who apply for legal aid in respect of claims for personal injuries (regulation 2);
- (b) correcting and clarifying the occasions upon which legal aid may be made available for specially urgent work undertaken before an application for legal aid is determined (regulation 3);
- (c) requiring prior approval of the Board when an unusually large expenditure is anticipated in a case (regulation 4);
- (d) altering the grounds upon which cessation of legal aid applies and extending the grounds upon which there may be termination of entitlement to legal aid when the Board is satisfied that the assisted person has acted in specified ways and correcting and extending the occasions upon which the Board may recover amounts paid from the Fund (regulation 5);
- (e) inserting a reference to disability working allowance among specified exceptions to the right to prior payment out of property recovered or preserved (regulation 6);
- (f) deleting spent provisions with regard to the liability for expenses of an assisted person who is a child (regulation 7);
- (g) inserting references to disability living allowance in addition to or in substitution for allowances payable or once paid under the Social Security Acts 1975-1986 (regulation 8); and
- (h) substituting a new table of annual disposable income which is to assist in calculating the amount of capital to be disregarded in calculating the resources of pensioners (regulation 9).