
STATUTORY INSTRUMENTS

1993 No. 1895

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

**The Legal Aid in Criminal and Care Proceedings
(General) (Amendment) (No. 2) Regulations 1993**

<i>Made</i>	- - - -	<i>26th July 1993</i>
<i>Laid before Parliament</i>		<i>27th July 1993</i>
<i>Coming into force</i>	- -	<i>1st September 1993</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 23(3), 34 and 43 of the Legal Aid Act 1988 (1), 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 (General) (Amendment) (No. 2) Regulations 1993 and shall come into force on 1st September 1993.

Interpretation

2. In these Regulations a regulation or Schedule or Form referred to by number alone means a regulation or Schedule or Form so numbered in the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989(2).

Amendment of the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989

3. Regulation 12(1) shall be amended by substituting for the words from “namely” to “ineligible for legal aid” the following:—

“namely that it does not appear to the court or the justices' clerk—

(a) desirable to make an order in the interests of justice; or

(1) 1988 c. 34; sections 34 and 43 were amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraphs 60 and 63. Section 43 is an interpretation provision and is cited because of the meanings assigned to the words “prescribed” and “regulations”.

(2) S.I. 1989/344, as amended by S.I. 1990/489, S.I. 1991/637 and 1925, S.I. 1992/720 and S.I. 1993/789.

- (b) that the applicant's disposable income and disposable capital are such that, in accordance with regulation 26(1), he is eligible for legal aid,".
4. Regulation 19(1) shall be amended by substituting for the words from "namely" to "ineligible for legal aid" the following:—
- “namely that it does not appear to the officer, the court or the justices' clerk—
- (a) desirable to make an order in the interests of justice; or
- (b) that the applicant's disposable income and disposable capital are such that, in accordance with regulation 26(1), he is eligible for legal aid,".
5. In regulation 23—
- (a) for paragraphs (1) and (2) there shall be substituted:—
- “(1) A statement of means submitted by an applicant or an appropriate contributor shall be in Form 5 and shall be accompanied by supporting documentary evidence in respect of such matters as may be specified in that Form.
- (2) Subject to paragraphs (3) and (4), where an applicant does not submit a statement of means and supporting documentary evidence when he applies for legal aid, the proper officer or the court to which the application is being made shall—
- (a) require him to do so;
- (b) in the case of failure to submit supporting documentary evidence, require him either to do so or to provide an explanation in writing of the reasons why it is not reasonably practicable to do so.”;
- (b) paragraph (3) shall be amended by inserting after “statement of means” the words “and supporting documentary evidence”.
6. In regulation 24—
- (a) paragraph (1) shall be amended by adding after “to provide” the word “further”;
- (b) for paragraph (2) there shall be substituted the following paragraphs:—
- “(2) Where representation is granted to an applicant who provided a reasonable explanation of why, at the time of submission of the statement of means, he was unable to provide documentary evidence, the court or proper officer may subsequently require the assisted person to provide documentary evidence where it appears that he is no longer unable to do so.
- (3) Where, pursuant to paragraph (2), documentary evidence is provided, the determination or redetermination of any contribution payable or the amount of any contribution order, shall be in accordance with regulations 32 and 33.”.
7. Regulation 26 shall be amended—
- (a) by inserting in paragraph (2)(a) after “statement of means” the words “and supporting documentary evidence”;
- (b) by substituting in paragraph (2)(b) for the words “paragraph (3)” the words “paragraphs (2A) and (3)”;
- (c) by inserting after paragraph (2) the following new paragraph:—
- “(2A) Where the documentary evidence or information which an applicant or legally assisted person or appropriate contributor is required to produce under regulations 23 or 24(1) is deficient and no reasonable explanation is given for the deficiency, the court or proper officer may—

- (a) refuse representation if the court or proper officer considers, on the basis of the information available, that the applicant's financial resources are not such that he requires assistance; or
- (b) deem his disposable income and disposable capital as exceeding the limits below which no contribution is payable by virtue of Schedule 4, and fix the contribution payable by him at such an amount as the court or the proper officer may determine or (in the case of a legally assisted person) redetermine.”.

8. Regulation 41(1) shall be amended by adding at the end of sub-paragraph (c) the following sub-paragraph:—

- “(d) where further evidence required under regulation 24(2) is not provided or, when provided, it appears to the court or proper officer that the legally assisted person's resources are not such that he requires assistance.”.

9. After regulation 55 there shall be inserted the following new regulation:—

“Duty to report abuse of legal aid

56. Notwithstanding the relationship between or rights of a legal representative and client or any privilege arising out of such relationship, where the legal representative for an applicant or legally assisted person knows that that person has intentionally failed to comply with any provision of regulations made under the Act concerning the information to be furnished by him or in furnishing such information has knowingly made a false statement or false representation, the legal representative shall forthwith report the fact to the proper officer.”.

10. Form 2 shall be amended by inserting at the beginning of (b) the words “from the evidence available as to your financial resources”.

11. For Form 5 there shall be substituted the Form contained in the Schedule to these Regulations.

Dated 26th July 1993

Mackay of Clashfern, C.

We consent,

Tim Kirkhope

Tim Wood

Two of the Lords Commissioners of Her Majesty's Treasury

Dated 26th July 1993

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

SCHEDULE

Regulation 11

SCHEDULE

Regulation 11

Statement of Means by Applicant or Appropriate Contributor for Legal Aid purposes

Form 5

Regulation 23

To apply for criminal legal aid you must complete this form. If you are not yet sixteen, then your mother or father may also be asked to complete one. If you have applied for legal aid for a child of yours who is aged sixteen or over you do not need to fill in this form. Your child should complete it, giving details of his or her own income.

To avoid delay in your application being considered please complete the form as fully and carefully as possible and provide the information and documentary evidence the form requires. If you cannot provide the documentary evidence you must explain why at Section 6.

1 Personal details (please use BLOCK letters)

1. Surname [input] Mr [input] Mrs [input] Miss [input] Ms [input]

2. Forenames [input]

3. Date of birth [input]

4. Home address [input]

5. Marital status (please tick one box) Single [input] Married [input] Single and living together [input] Married but separated [input] Widow(er) [input] Divorced [input]

6. Are you claiming legal aid for a dependent child who is not yet sixteen? YES [input] NO [input] (go to Section 2)

If YES, give the following details about the child

Surname [input]

Forenames [input]

Date of birth [input]

Home address (if different from yours) [input]

Your relationship to the child (e.g. father) [input]

2 Whether you are entitled to free legal aid

1. Do you receive Income Support, Family Credit or Disability Working Allowance? (You may also answer YES if your spouse or partner is, providing that you are living together).

YES [input] Give (a) The address of the Social Security office dealing with the benefit.

[input]

(b) Your National Insurance number.

[input]

(c) Which benefit do you receive?

[input]

You should produce documentary evidence (e.g. order book). If you cannot produce evidence you should explain why at Section 6.

Now sign the Declaration at Section 7. You do not need to answer any more questions.

NO [input] Please go to Section 3, even if you are receiving other state benefits.

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

3 Financial details - Part A : Income

In this section you are asked to give details of the money you receive. If you are living together then you must provide details of the income of your spouse or partner as well. The details will be used to work out whether you have to pay a contribution towards legal aid and if so how much. The assessment is based on weekly income so your answers must show the amount you get **each week**. If any of the sections do not apply, write NONE in the space.

Work.	Employer's name and address	Amount received		Official use
		Your income	Income of spouse or partner	
<p>Enter gross earnings per week (before tax and insurance), including overtime, commission or bonuses. You must attach documentary evidence of the pay you have received over the past 13 weeks. Three monthly or 13 weekly wage slips would be the best evidence.</p> <p>If you are self employed write SELF EMPLOYED. Show your gross earnings and attach the most recent accounts, showing gross income.</p>		£	£	
		£	£	
<p>Part time work</p> <p>Enter gross earnings per week (before tax and insurance) from any part time job not included above and attach documentary evidence.</p>		£	£	
<p>State Benefits</p> <p>Enter weekly amounts, e.g. from unemployment benefit, child benefit etc. Say which benefit(s) you get in the space provided. You should produce evidence of the benefit payment (e.g. order book).</p>	Types of benefit	£	£	
	£	£	
	£	£	
<p>Money from property</p> <p>Enter weekly amounts (before any deductions) of money from sub-letting a house or rooms and attach documentary evidence.</p>		£	£	
<p>Any other income</p> <p>Please give details and weekly amounts and attach documentary evidence.</p>		£	£	

Important: If the information you have given above is going to change soon, please give details of the changes in Section 5 of this form.

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

3 Financial details – Part B: Capital and Savings

Please give details of all your capital and savings.
If you are also living with your spouse or partner you must also give details of their capital and savings.

		Amount		Official use
		You	Spouse or Partner	
Property				
Do you own a house or property other than your main or only dwelling?		YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	
If YES, state the value (approximate selling price)		£ <input type="text"/>	£ <input type="text"/>	
and				
amount of any outstanding mortgage.		£ <input type="text"/>	£ <input type="text"/>	
Savings		£	£	
Give details of where your savings are, and the amounts. Include money in any bank, building society, National Savings Certificates, cash, stocks and shares or any other investments. You should produce pass books etc.				
Articles of value		£	£	
Give details of any articles of value that you own (e.g. jewellery, furs, paintings) with their approximate value. You may be asked to produce valuation certificates.				

4 Allowances and Deductions

1. Enter Tax and National Insurance Contributions deducted from your earnings **per week**.

You		Spouse or Partner	
Tax	<input type="text"/>	Tax	<input type="text"/>
N.I.	<input type="text"/>	N.I.	<input type="text"/>

2. Enter the NUMBER of dependents **who are living with you**. If you are claiming legal aid for a child, please include that child. **N.B. Dependents are the people you and your spouse or partner look after financially.**

Spouse or Partner	<input type="text"/>	Children 18 and over	<input type="text"/>	Children 16 and 17	<input type="text"/>	Children 11 to 15	<input type="text"/>	Children under 11	<input type="text"/>
-------------------	----------------------	----------------------	----------------------	--------------------	----------------------	-------------------	----------------------	-------------------	----------------------

Others (please say who)

3. If you pay maintenance to any dependent who does **NOT** live with you, please give details of the amounts you, or your spouse or partner, pay.

Age(s) of dependent(s)	Your relationship to the dependent	Amount per week	£
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

You should supply copies of agreements or court orders.

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

Allowances and Deductions (continued)

4. Give the amounts of Council Tax which you **and** your spouse or partner pay.

(a) The amount of Council Tax paid. You must provide evidence of this (e.g. the demand from the local authority).

£	<input type="checkbox"/> a week <input type="checkbox"/> a month <input type="checkbox"/> a year
---	--

(b) Is Council Tax benefit received? YES NO
(please say how much)

£	<input type="checkbox"/> a week <input type="checkbox"/> a month <input type="checkbox"/> a year
---	--

5. Give the following details of housing expenses of you and your spouse/partner. If you own more than one house only give details for the house in which you live. If you are paying the expenses of a dependent who is not living with you, enter the details in the spaces on the right. You should produce rent books, evidence of mortgage instalments, and evidence of water and sewerage charges. It is in your interests to provide evidence of any other expenses claimed and you may be required to provide this.

	£	/week	Amount for dependent(s)	£	/week
Rent	£	/week		£	/week
Mortgage payment	£	/week		£	/week
Ground rent	£	/week		£	/week
Service charge	£	/week		£	/week
Water and sewerage charges	£	/week		£	/week
Board and lodging	£	/week		£	/week
Bed and Breakfast	£	/week		£	/week

6. How much does it cost you and your spouse or partner **each week** to travel to and from work?

	You	Your Spouse or Partner
£		

7. Give details of any other expenses which you think the court should know about. You may include any payments on court orders, and contributions to approved pension schemes, **but not**: money for food, clothing or heating. You should produce documentary evidence of the payments.

	£	£
--	---	---

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

5. Further Information

This part of the form is for you to give any financial information that you think the court should have when deciding upon your application for legal aid. You may also use this part of the form to tell the court of any future changes in circumstances that might alter your position.

- 6.** If you have not produced documentary evidence of all income/benefits that you receive and each allowance you have claimed, you must explain why you cannot do so.

7. Declaration

If you knowingly make a statement which is false, or knowingly withhold information, you may be prosecuted. If convicted, you may be sent to prison for up to three months, or be fined, or both. After your application has been considered by the court, you may be asked to give further information or to clarify information or to provide further proof of the information that you have given. If you stop receiving Income Support, Family Credit, Disability Working Allowance or if your financial position changes in any way after you have submitted this form, you must tell the court. This is a requirement of the Legal Aid Regulations.

I declare that to the best of my knowledge and belief, I have given a complete and correct statement of my income, savings and capital (and that of my spouse or partner)* (and that of my child).** I authorise the court to make such enquiries of the Benefits Agency as it considers necessary and I consent to the disclosure of information to confirm that I am in receipt of benefit.

Signed

Date

* Delete if you are single or if you are not living with your spouse or partner.
** Delete if legal aid is not sought for your child.

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations amend the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989 to increase the financial information available when applications for criminal legal aid are being considered. The main changes are as follows.

(1) Applications for legal aid must be accompanied by supporting documentary evidence of the information contained in the statement of means, or an explanation why the applicant is unable to provide such documentary evidence.

(2) Legal aid may be withdrawn or contribution orders made or amended in the light of documentary evidence provided after the legal aid order has been made.

(3) A legal representative is required to report abuse of legal aid by an applicant or legally assisted person who intentionally fails to comply with regulations requiring him to provide information, or who furnishes false information.

(4) Form 5 (the statement of means) is revised, giving further details of the matters in respect of which documentary evidence is required.