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STATUTORY INSTRUMENTS

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**1993 No. 789**

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

**The Legal Aid in Criminal and Care Proceedings  
(General) (Amendment) Regulations 1993**

<i>Made</i>	- - - -	<i>17th March 1993</i>
<i>Laid before Parliament</i>		<i>18th March 1993</i>
<i>Coming into force</i>	- -	<i>12th April 1993</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 21(5), 23, 24, 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) Regulations 1993 and shall come into force on 12th April 1993.

**Interpretation**

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

**Transitional provisions**

3. These Regulations shall apply to applications for legal aid made on or after 12th April 1993 and applications made before that date shall be treated as if these Regulations had not come into force.

**Amendments to the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989**

4. In regulation 3—

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(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 and S.I. 1992/720.

- (a) the definition of “contribution period” shall be omitted;
- (b) the definition of disability living allowance shall be amended by substituting for “section 37ZA of the Social Security Act 1975”, the words “the Social Security Contributions and Benefits Act 1992”(3);
- (c) the definition of disability working allowance shall be amended by substituting for “section 20(6A) of the Social Security Act 1986” the words “the Social Security Contributions and Benefits Act 1992”;
- (d) the definition of family credit shall be amended by substituting for “the Social Security Act 1986” the words “the Social Security Contributions and Benefits Act 1992”;
- (e) the definition of income support shall be amended by substituting for “the Social Security Act 1986” the words “the Social Security Contributions and Benefits Act 1992”;
- (f) after the definition of “Area Director” there shall be inserted the following new definition:

—  
“attendance allowance” means an allowance paid under section 64 of or Schedule 8 paragraphs 4 or 7(2) to the Social Security Contributions and Benefits Act 1992;

- (g) after the definition of “legal aid order” there shall be inserted the following new definition:—

“period of computation” means the period of 3 months next ensuing from the date of the application for a legal aid order.

- 5. Regulation 28 shall be omitted.
- 6. Regulation 29 shall be amended as follows:—
  - (a) in paragraph (1) for the words “within a period not exceeding the contribution period” there shall be substituted “for the period during which a legal aid order is in force”;
  - (b) after paragraph (3) there shall be inserted the following paragraph:—
    - “(4) The period referred to in paragraph (1) above means the period from the grant of the legal aid order to—
      - (a) the conclusion of the proceedings covered by the legal aid order (whether in the court in which the legal aid order was made or in another court following a committal for trial or sentence or remittal); or
      - (b) where the legal aid order is withdrawn or revoked, the date of such withdrawal or revocation.”.

7. Regulations 32(1)(b) and 33(b) shall be amended by substituting for “within the contribution period” where those words appear, the words “during the period in which the legal aid order was in force”.

- 8. For regulation 35 there shall be substituted the following:—

“35.—(1) At the conclusion of the proceedings the court in which those proceedings are concluded may, if it thinks fit—

- (a) remit any sum due under a contribution order which falls to be paid after the conclusion of the proceedings; or
- (b) remit or order the repayment of any sum due or paid under a contribution order where the legally assisted person has been acquitted.

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(3) 1992 c. 4. The Social Security (Consequential Provisions) Act 1992 (c. 6), section 2, makes provision for the continuation in effect of provisions consolidated by the Social Security Contributions and Benefits Act 1992.

(2) Where the legal aid order in connection with which a contribution order was made is revoked, paragraph (1) shall apply as if the proceedings had been concluded.

(3) Where a legally assisted person—

(a) successfully appeals against his conviction; or

(b) is respondent to an appeal which is unsuccessful,

the court hearing the appeal may remit or order the repayment of any sum due or paid under a contribution order.

(4) Where a contribution order has been varied and the sum of the total contributions paid up to the conclusion of the proceedings exceeds the amount which was due taking into account the variation, the court or the proper officer shall order repayment of an amount equal to the difference between the sums paid and the amount due.

(5) Where—

(a) a contribution order is varied to an amount greater than that which was previously payable; or

(b) a contribution order is made after a determination under regulation 32,

the payment of any contributions shall be made in accordance with the provisions of regulation 29, save that in respect of payments to be made out of disposable income, the court or the proper officer may extend the period within which such payment is to be made beyond the conclusion of the proceedings.”.

9. Regulation 37 shall be amended as follows:—

(a) in paragraph (1)—

(i) for the words “Where the contribution period has not ended” there shall be substituted “Where a legal aid order is still in force”;

(ii) for the words “the contribution period shall be deemed to have ended” there shall be substituted “the liability to pay further contributions shall end”;

(b) in paragraph (2) for the words “that the contribution period is to be deemed to have ended” there shall be substituted “that the liability to pay further contributions ended”.

10. In regulation 38(1) for the words “relevant proceedings” there shall be substituted “proceedings and any extension of the period for the purposes of regulation 35(5)”.

11. In Form 5 for the word “rates” where it appears in the section relating to Allowances and Deductions, there shall be substituted “Council tax”(4).

12. Form 6 shall be amended—

(a) by substituting for the words from “In accordance with” to “from 26 to ” the following:—

In accordance with the provisions of section 23(1) of the Legal Aid Act 1988 the Court/area committee (a) orders you to contribute towards the costs of representation to be provided for you under a legal aid order:—

The contribution required is:—

\* a contribution from disposable capital payable in one lump sum of £ . This must be paid on or before

\* contributions from disposable income payable at the rate of £ per week/per month (a) for so long as the legal aid order is in force. The first instalment must be paid on or before

(b) in Part Two for the words—

(4) Council tax was introduced by the Local Government Finance Act 1992 (c. 14).

(2) Contribution\* is  
\*as calculated in accordance with Schedule 4

there shall be substituted:—

Contribution is Disposable Income—£44,  
divided by 3 = £

(c) in Part Three after the words “Your contribution from INCOME is £ ” there shall be added “per week/month”.

13. For Form 8 there shall be substituted the Form contained in the Schedule to these Regulations.

14. Forms 11, 11A, 12 and 13 shall be amended by substituting for the words “A contribution order of £ was made in respect of this order” in the place where the words appear in each of the forms the words “A contribution order was made in respect of this order as follows.”.

15. In Schedule 3 paragraphs 4 and 5 for “contribution period” in each of the places in which those words appear there shall be substituted “period of computation”.

16. In Schedule 3, for paragraph 6 there shall be substituted the following:—

“6. In computing disposable income the following payments made under the Social Security Contributions and Benefits Act 1992 shall be disregarded:—

- (a) disability living allowance;
- (b) attendance allowance;
- (c) constant attendance allowance paid under section 104 as an increase to a disablement pension;
- (d) housing benefit;
- (e) any payment made out of the social fund.”.

17. In Schedule 3—

- (a) paragraph 7 shall be amended by substituting in sub-paragraph (b) for “the Social Security Acts 1975–1988” the words “the Social Security Contributions and Benefits Act 1992”;
- (b) paragraphs 8 and 16(c) shall be amended by substituting for “Social Security Act 1986” where those words occur the words “the Social Security Contributions and Benefits Act 1992”;
- (c) paragraph 9 shall be amended by omitting the words from “including any net sum” to the end of the paragraph.

18. For paragraph 7A of Schedule 3 there shall be substituted the following:—

“7A. In computing the income of the person concerned, there shall be deducted any sums payable (net of council tax benefit) by the person concerned in respect of the council tax to which he is liable by virtue of section 6 of the Local Government Finance Act 1992.”.

19. Schedule 3 paragraph 10 shall be amended as follows:—

- (a) in paragraph (i) of sub-paragraph (1) for the words from “25 per cent.” to “pension” there shall be substituted “the difference between the income support allowance for a couple where both members are aged not less than 18 (which is specified in column 2 of paragraph 1(3)(c) of Schedule 2 Part I of the Income Support (General) Regulations 1987)(5), and the allowance for a single person aged not less than 25, (which is specified in column 2 of paragraph 1(1)(e) of Schedule 2 Part I of those Regulations)”;

(b) in paragraph (ii) of sub-paragraph (1) the words “25 per cent. above” shall be omitted.

**20.** Schedule 4 shall be amended by substituting from the beginning down to “disposable income exceeds £89” the following:—

“The weekly instalment of contribution payable by the applicant or the appropriate contributor shall be £1 for each £3 or part of £3 by which his average weekly disposable income exceeds £44; but any applicant or appropriate contributor whose weekly disposable income does not exceed £45 shall not be liable to pay a contribution.”.

Dated 11th March 1993

*Mackay of Clashfern, C.*

We consent,

Dated 17th March 1993

*Tim Wood*  
*Irvine Patnick*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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SCHEDULE

FORM

Form 8 **Variation or Revocation of Contribution Order**

Regulation 13

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To

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In accordance with the provisions of regulation 33 or 34 of the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989, your means have been reassessed.

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\* Your contribution order has been varied. The revised amount you must pay is:

- \* £                    on or before                    (contribution from disposable capital)
- \* £                    at the rate of £    per week/month (contribution from disposable income) for as long as the legal aid order is in force. The first instalment at the revised rate must be paid to the Clerk to the Justices at                    on or before

NOTE: If your instalments have now increased, and you do not want legal aid on these terms, you must inform the Court IMMEDIATELY.

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\* The court hereby revokes the contribution order made on

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\* Should your means change again, you MUST inform this court, which will then determine whether you should start to pay instalments again.

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\* If at the conclusion of the proceedings the total contributions paid exceed your liability for contributions, taking into account this variation, the excess will be returned to you by the Clerk to the Justices at

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\* Delete as appropriate

Signed

Date

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989.

(1) The financial limits relating to the eligibility of a person to receive free legal aid and the assessment of disposable income (which determines whether contributions are payable towards the cost of providing representation) are to be more closely linked to the personal allowances applicable for income support. The free limit is linked to the weekly income support allowance for a single person aged 25 or over, contained in the Income Support (General) Regulations 1987.

(2) The deduction made where an assisted person has a spouse is the difference between the income support allowance for a couple and the allowance which would have been payable to a single

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person aged 25 or over. A deduction is also made where an allowance is paid for a dependant child or relative.

(3) The fraction of disposable income which is payable by way of contribution is increased from one quarter to one third.

(4) Contributions will continue to be payable for as long as the legal aid order is in force.