
STATUTORY INSTRUMENTS

1993 No. 790

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

**The Legal Advice and Assistance
(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 9, 34 and 43 of the Legal Aid Act 1988(1), and with the consent of the Treasury, hereby makes the following Regulations:—

Citation, commencement and transitional provisions

1.—(1) These Regulations may be cited as the Legal Advice and Assistance (Amendment) Regulations 1993 and shall come into force on 12th April 1993.

(2) These Regulations shall apply to applications for advice and assistance made on or after 12th April 1993.

(3) Applications for advice and assistance made before 12th April 1993 shall be treated as if these Regulations had not come into force.

Interpretation

2. In these Regulations a regulation or Schedule referred to by number alone means a regulation or Schedule so numbered in the Legal Advice and Assistance Regulations 1989(2).

Amendment of the Legal Advice and Assistance Regulations 1989

3. In the Arrangement of Regulations for the heading to regulation 12 there shall be substituted “Contributions”.

4. In regulation 3—

(1) 1988 c. 34; sections 9, 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. 1989/340 as amended by S.I. 1989/560, S.I. 1990/486, S.I. 1991/636 and 2305, S.I. 1992/591, 719 and 2654.

- (a) 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”(3);
 - (b) 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”;
 - (c) 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”.
5. In regulation 11—
- (a) for the words in paragraph (1) from “the highest” to “Schedule 3” there shall be substituted “£61”;
 - (b) for the words in paragraph (2) from “the highest” to “Schedule 3” there shall be substituted “£147”.
6. For regulation 12 there shall be substituted the following regulation:—

“Contributions

12.—(1) A client shall be liable to pay weekly contributions towards the cost of ABWOR if his weekly disposable income exceeds £61 but does not exceed £147.

(2) The amount of any contribution under paragraph (1) shall be one third of the amount by which his weekly disposable income exceeds £61.

(3) The period during which contributions shall be payable shall start on the date of approval of ABWOR and shall continue until the conclusion of the proceedings to which ABWOR related or until ABWOR is withdrawn.

(4) For ABWOR to which Part III of the Act applies by virtue of regulation 7(1)(b) or 8 of the Scope Regulations, a client shall be liable (subject to paragraphs (1), (2) and (5) of this regulation) to pay one week’s contribution towards the cost of ABWOR.

(5) A client whose weekly disposable income does not exceed £61 is not liable to pay any contribution under section 9(6) of the Act.”.

7. In regulation 13—
- (a) the heading to the regulation shall be amended by deleting the word “maximum”;
 - (b) for the words in paragraph (2) from “the lowest sum” to “Schedule 3” there shall be substituted “the sum for the time being specified in regulation 11(1)”;
 - (c) for paragraph (4) there shall be substituted the following paragraph:—
 - “(4) The solicitor shall also determine in accordance with the provisions of regulation 12 the weekly contribution, if any, payable to him by the client under section 9(6) of the Act.”.
8. In regulation 28—
- (a) for paragraph (1) there shall be substituted the following paragraphs:—
 - “(1) Where a client is required to pay contributions, the solicitor may collect them in weekly instalments or by such other periodic instalments as may be agreed between him and the client.

(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.

(1A) Where the total contribution is likely to exceed the cost of giving ABWOR, the solicitor shall not require the client to pay a sum higher than would be expected to defray his reasonable costs.”;

(b) in paragraph (2) for “advice and assistance” there shall be substituted “ABWOR”.

9. In Schedule 2 paragraph 9—

(a) in paragraph (i) of sub-paragraph (b) 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)(4), 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 (b) the words “25 per cent. above” shall be omitted.

10. In Schedule 2 immediately after paragraph 9 there shall be inserted the following paragraph:

—
“9A. 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 paid under section 64 or Schedule 8 paragraphs 4 or 7(2);

(c) constant attendance allowance paid under section 104 as an increase to a disablement pension; or

(d) any payment made out of the social fund.”.

11. In Schedule 2 paragraph 11 the word “maximum” in both places in which it appears shall be omitted.

12. Schedule 3 shall be omitted.

Dated 11th March 1993

Mackay of Clashfern, C.

We consent,

Tim Wood

Irvine Patnick

Two of the Lords Commissioners of Her Majesty’s Treasury

Dated 17th March 1993

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 Legal Advice and Assistance Regulations 1989.

- (1) They abolish contributory advice and assistance except for ABWOR.
- (2) Where contributions to ABWOR are payable, the fraction of disposable income which is payable is increased from one quarter to one third and liability to contribute will continue throughout the period in which ABWOR is given.
- (3) The limit for free advice and assistance and the disregards of certain benefits are aligned with those which apply in civil legal aid.
- (4) 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 person aged 25 or over. A deduction is also made where an allowance is paid for a dependant child or relative.