
STATUTORY INSTRUMENTS

1994 No. 1823

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

**The Legal Advice and Assistance
(Amendment) (No. 2) Regulations 1994**

<i>Made</i>	- - - -	<i>5th July 1994</i>
<i>Laid before Parliament</i>		<i>11th July 1994</i>
<i>Coming into force</i>	- -	<i>1st August 1994</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 34 and 43 of the Legal Aid Act 1988(1), having had regard to the matters specified in section 34(9) and consulted the General Council of the Bar and the Law Society, and with the consent of the Treasury, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Legal Advice and Assistance (Amendment) (No. 2) Regulations 1994 and shall come into force on 1st August 1994.

Interpretation

2. In these Regulations a regulation referred to by number alone means a regulation 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, after the reference to regulation 3 there shall be inserted the following:—

“**3A.** Exercise of Area Directors functions by franchisee.”.

4. Regulation 3 (Interpretation) shall be amended by inserting—

(a) after the definition of “client” the following definition:—

(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 meaning assigned to the word “regulations”.
(2) S.I.1989/340 as amended by 1989/560, 1991/636 and 2305, 1992/591, 719 and 2654 and 1993/790.

““contract” means a contract entered into by the Board with other persons or bodies pursuant to its powers under section 4 of the Act;”;

(b) after the definition of “family credit” the following definition:—

““franchisee” means a person or body (other than the Board) acting under the terms of a franchising contract;”.

5. After regulation 3 there shall be inserted the following regulation:—

“Exercise of Area Directors functions by franchisee

3A. Where and to the extent that a franchising contract so provides, any functions of an Area Director are conferred on a franchisee, the functions may be exercised by the franchisee on the Area Directors behalf.”.

6. Regulation 9 shall be amended by inserting—

(a) in paragraph (3) after “Subject to” the words “paragraph (3A) and”;

(b) after paragraph (3) the following paragraph:—

“(3A) Where a franchising contract so provides and subject to compliance with any provisions specified in the contract, an application for advice and assistance may be made by telephone or by post.”.

7. Regulation 30 shall be amended—

(a) by substituting in paragraph (1) for “and (3)” the words “, (3) and (4)”;

(b) by inserting after paragraph (3) the following paragraph:—

“(4) Where advice and assistance is provided under a franchising contract, regulations 29 and 30 shall apply except to the extent that the contract makes different express provision.”.

8. Regulation 30A shall be amended by inserting after paragraph (1) the following:—

“(1A) Where ABWOR is provided under a franchising contract, the franchisee may apply to the Area Director for the payment of a sum on account of his charges and fees.

(1B) Where advice and assistance (other than ABWOR)

is provided under a franchising contract, the franchisee may apply to the Area Director for the payment of a sum on account of his costs.”.

Dated 1st July 1994

Mackay of Clashfern, C.

We consent,

Tim Wood

Andrew Mackay

Two of the Lords Commissioners of Her
Majestys Treasury

Dated 5th July 1994

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Legal Advice and Assistance Regulations 1989 to take account of the Legal Aid Boards franchising scheme. The Board has power under section 4 of the Legal Aid Act 1988 to enter into contracts for the provision of advice and assistance. Where a franchising contract applies, functions of the Boards Area Director may be exercised by a franchisee. Special contractual provisions relevant to payments and payments on account will apply to franchisees instead of the provisions contained in the regulations, and applications for advice and assistance may be made by telephone or by post.