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STATUTORY INSTRUMENTS

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**1995 No. 1065 (S.91)**

**LEGAL AID AND ADVICE, SCOTLAND**

**The Civil Legal Aid (Scotland) Amendment Regulations 1995**

<i>Made</i>	- - - -	<i>11th April 1995</i>
<i>Laid before Parliament</i>		<i>13th April 1995</i>
<i>Coming into force</i>	- -	<i>5th May 1995</i>

The Secretary of State, in exercise of the powers conferred on him by sections 36(1) and (2)(a) and (g), 37(1) and 42(3) of the Legal Aid (Scotland) Act 1986<sup>(1)</sup> and of all other powers enabling him in that behalf, and with the concurrence of the Treasury, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Civil Legal Aid (Scotland) Amendment Regulations 1995 and shall come into force on 5th May 1995.

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

**Application**

2.—(1) Regulation 3 shall apply only in relation to any case where an application for civil legal aid is made to the Scottish Legal Aid Board on or after 5th May 1995.

(2) Regulation 4 shall apply only in relation to any case where money is received by the Scottish Legal Aid Board in pursuance of regulation 40 of the principal Regulations on or after 5th May 1995.

**Amendment of the principal Regulations**

3. After regulation 11 of the principal Regulations there shall be inserted—

**“Resources of cohabittees**

**11A.** A man and a woman who are not married to each other and who are living together in the same household as husband and wife shall be treated for the purposes of section 42 of the Act as if they were spouses of each other.”

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(1) 1986 c. 47.

(2) S.I.1987/381, as amended by 1988/490, 1171 and 1891, 1989/505, 1990/631, 1991/745 and 1904, 1992/753, 1993/535 and 818 and 1994/1049.

4. In regulation 40 of the principal Regulations (recovery of payments out of property recovered or preserved)—

(a) after paragraph (4)(c) there shall be inserted—

“(cc) the Board shall deposit money paid to it in one general account with a bank or building society; and”;

(b) after paragraph (4)(d)(ii) there shall be inserted—

“(iii) subject to paragraph (5) below, pay to the party or to such person a sum representing the gross interest earned on the money held for the party in accordance with this paragraph.

(5) The Board shall not be required to pay interest where the money held for the party does not exceed £500 or where the period during which it is held by the Board is less than 28 days.

(6) In this regulation— “general account” means an interest bearing account opened in the name of the Board, the title of which does not identify any assisted person.”.

St Andrew’s House,  
Edinburgh  
5th April 1995

*Fraser of Carmyllie*  
Minister of State, Scottish Office

We concur,

11th April 1995

*A J B Mitchell*  
*Kenneth Clark*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

## **EXPLANATORY NOTE**

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

These Regulations amend the Civil Legal Aid (Scotland) Regulations 1987. The regulations provide for the aggregation of the resources of a man and a woman living together as husband and wife who are not married to each other (regulation 3) and place on a regulatory footing the payment of interest earned on money held by the Scottish Legal Aid Board as property recovered or preserved for an assisted person pending determination of that person's net liability to the Scottish Legal Aid Fund (regulation 4).